

Oscar Leeser
Mayor

Cary Westin
Interim City Manager



CITY COUNCIL
Brian Kennedy, District 1
Josh Acevedo, District 2
Cassandra Hernandez, District 3
Joe Molinar, District 4
Isabel Salcido, District 5
Art Fierro, District 6
Henry Rivera, District 7
Chris Canales, District 8

AGENDA FOR THE REGULAR COUNCIL MEETING

April 23, 2024

**COUNCIL CHAMBERS, CITY HALL, 300 N. CAMPBELL AND VIRTUALLY
9:00 AM**

Teleconference phone number: 1-915-213-4096

Toll free number: 1-833-664-9267

Conference ID: 732-094-383#

AND

**AGENDA REVIEW MEETING
COUNCIL CHAMBERS, CITY HALL
300 N. CAMPBELL AND VIRTUALLY**

April 22, 2024

9:00 AM

Teleconference phone number: 1-915-213-4096

Toll free number: 1-833-664-9267

Conference ID: 295-806-98#

Notice is hereby given that an Agenda Review Meeting will be conducted on April 22, 2024 at 9:00 A.M. and a Regular Meeting of the City Council of the City of El Paso will be conducted on April 23, 2024 at 9:00 A.M. Members of the public may view the meeting via the following means:

Via the City's website: <http://www.elpasotexas.gov/videos>

Via television on City15,

YouTube: <https://www.youtube.com/user/cityofelpasotx/videos>

In compliance with the requirement that the City provide two-way communication for members of the public, members of the public may communicate with Council during public comment, and regarding agenda items by calling the following number:

1-915-213-4096 or Toll free number: 1-833-664-9267

At the prompt please enter the corresponding Conference ID:

Agenda Review, April 22, 2024 Conference ID: 295-806-98#

Regular Council Meeting, April 23, 2024 Conference ID: 732-094-383#

The public is strongly encouraged to sign up to speak on items on this agenda before the start of this meeting on the following links:

For Call to the Public:

<https://app.smartsheet.com/b/form/dfad29e838da41fd86052bb264abd397>

To Speak on Agenda Items:

<https://app.smartsheet.com/b/form/7086be5f4ed44a239290caa6185d0bdb>

The following member(s) of City Council will be present via video conference:

Art Fierro

A quorum of City Council must participate in the meeting.

ROLL CALL

INVOCATION BY EL PASO POLICE CHAPLAIN JOE MARATTA

PLEDGE OF ALLEGIANCE

Scotsdale Elementary School

**Mia Daniela Aguilera
Riley Jude Akers
Luis Enrique Alonso, Jr.
Vada Emmalyn Campero
Abraham Ignacio Dominguez
Gabriel Duran IV
Idaly Karina Echavarria
Emmett Kyle Groover
Genesis Vianey Gurrola
Jordan Josiah Herrera
Mila Rei Leggett
Nathan Jacob Maldonado Gonzalez
Skylar Renea Papaleo-Edmonds
Alyssa Fuentes Ramirez
Emilio Rocha
Arrek Leonardo Valenzuela
Dominic Gabriel Varela
Shane Mathew Adolfo Zavala**

MAYOR'S PROCLAMATIONS

National Infant Immunization Week

Día de los Niños, Día de los Libros

El Paso Fashion Month

Economic Development Week

NOTICE TO THE PUBLIC

All matters listed under the CONSENT AGENDA, including those on the Addition to the Agenda, will be considered by City Council to be routine and will be enacted by one motion unless separate discussion is requested by Council Members. Prior to the vote, members of the audience may ask questions regarding items on the consent agenda. When the vote has been taken, if an item has not been called out for separate discussion, the item has been approved. Council may, however, reconsider any item at any time during the meeting.

CONSENT AGENDA - APPROVAL OF MINUTES:

Goal 6: Set the Standard for Sound Governance and Fiscal Management

1. Approval of the Minutes of the Agenda Review Meeting and the Work Session of April 8, 2024. [24-547](#)

All Districts

City Clerk's Office, Laura D. Prine, (915) 212-0049

CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:

2. REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS [24-54](#)

CONSENT AGENDA - RESOLUTIONS:

Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

3. A Resolution that the City Manager, or designee, be authorized to make necessary budget transfers and sign an Event Support Contract between the Valley AIDS Council ("Valley AIDS") and the City of El Paso ("City") in order for the City to host the 2024 National LatinX Conference on HIV HCV SUD on May 2, 2024 through May 4, 2024 including a \$35,000.00 Site Fee and Miscellaneous Expenses not to exceed \$10,000.00. [24-541](#)

All Districts

Destination El Paso, Jose Garcia, (915) 534-0600

City Manager's Office, Dionne Mack, (915) 212-0033

4. A Resolution that the City Manager, or designee, be authorized to sign a Concession License Agreement between the City of El Paso ("City") and SWYFT ("Concessionaire") to allow Concessionaire to operate automated retail machines at the El Paso International Airport, with Concessionaire's payment to the City being the greater of an amount based on the square footage of the concession site or a percentage of the revenues derived from the automated retail machines, for a one year term, with an option to renew the Agreement for four (4) additional one-year terms. [24-506](#)
- District 3**
Airport, Sam Rodriguez, (915) 212-7301
5. A Resolution that the City Manager, or designee, be authorized to sign an El Paso International Airport Concession License Agreement between the City of El Paso and E&F Enterprises, LLC dba Melek Multicenter, to provide automated banking, currency exchange and travel services in the concession site, located at the El Paso International Airport, 6701 Convair Rd., El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each. [24-546](#)
- District 3**
Airport, Sam Rodriguez, (915) 212-7301
6. A Resolution that the City Manager, or designee, be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and SPS ARS, LLC, a Texas limited liability company ("Lessee"), for warehouse and office space, vehicle parking, loading dock at 6411 Convair Road, El Paso, Texas, in Air Cargo Center Building #2, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each. [24-537](#)
- District 3**
Airport, Sam Rodriguez, (915) 212-7301
7. A Resolution that the City Manager, or designee, be authorized to sign a First Amendment of Ground Lease between the City of El Paso, Texas ("Lessor"), and Exeter 50 Walter Jones, L.P. ("Lessee"), in conjunction with Lessee's first lien financing for the airport ground Lease dated May 12, 2020 for 50 Walter Jones Blvd., which amendment (1) provides that a receivership by the lender does not constitute a Lessee default under the Lease, (2) provides that if the Lease is rejected in bankruptcy while the mortgage is still outstanding, such lender has the option to lease the premises for the remainder of the term; (3) incorporates the new Federal Aviation Administration required lease provisions. [24-544](#)
- District 3**
Airport, Sam Rodriguez, (915) 212-7301
8. A Resolution that the Director of Aviation, or designee, be authorized to sign on behalf of the City of El Paso, the Airline Operating Agreement and Terminal Building Lease, and Non-Signatory Airline Operating Agreement, which shall be in the formats attached to the Resolution. All such agreements shall be approved "As to Form" by the City Attorney prior to execution. [24-565](#)

District 3

Airport, Sam Rodriguez, (915) 212-7301

9. A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement, granting an easement to the El Paso Electric Company to provide electrical power to property located in the vicinity of El Paso International Airport, said easement more particularly described as:

[24-531](#)

A portion of Tracts 1C and 1C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys, El Paso County, Texas, as further described in the real property records of Clerk of El Paso County in the State of Texas in Book 123, Page 398 and Document No. 20220086561 and more particularly described on Exhibit "A" of the agreement, more commonly referred to as 8915 Montana Avenue, El Paso Texas.

All Districts

Airport, Sam Rodriguez, (915) 212-7301

10. A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement to accommodate an electrical transmission line to provide electrical power to property in the vicinity of the El Paso International Airport, said easement more particularly described as:

[24-545](#)

All of Lot 2, Block, 15, El Paso International Airport Tracts, Unit 11, City of El Paso, El Paso County, Texas, more commonly referred to as 1749 Hawkins, El Paso, Texas.

District 3

Airport, Sam Rodriguez, (915) 212-7301

Goal 2: Set the Standard for a Safe and Secure City

11. That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

[24-550](#)

All Districts

Fire, Chief Jonathan P. Killings, (915) 212-5665

Goal 3: Promote the Visual Image of El Paso

12. That the Solid Waste liens on the attachment posted on this agenda be approved (See Attachment A).

[24-533](#)

Districts 2, 3, 4, 6, 7

Goal 6: Set the Standard for Sound Governance and Fiscal Management

13. Approve a Resolution that in conformity with Section 3.5 of the City Charter, the Work Session and Regular City Council meetings scheduled for June 17, 2024, and June 18, 2024, are hereby rescheduled for Monday, June 10, 2024, and Tuesday, June 11, 2024. [24-530](#)

All Districts

City Clerk's Office, Laura D. Prine, (915) 212-0049

Goal 7: Enhance and Sustain El Paso's Infrastructure Network

14. A Resolution to authorize the City Manager, or designee, to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the design and construction of the Congestion Mitigation Air Quality Program grant improvements generally described as Bicycle and Pedestrian Improvements along Playa Drain, from Yarbrough Drive to Midway Drive, for a total estimated project cost of \$5,893,398.00 of which the estimated local government participation amount is estimated at \$458,049.58 plus any cost overruns. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement [24-536](#)

Districts 3, 7

Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

CONSENT AGENDA - BOARD RE-APPOINTMENTS:

Goal 3: Promote the Visual Image of El Paso

15. Elizabeth Thurmond-Bengtson to the Zoning Board of Adjustment as a Regular Member by Mayor Oscar Leeser. [24-599](#)

Members of the City Council, Mayor Oscar Leeser, (915) 212-2001

16. Alfredo Borrego to the City Plan Commission by Representative Josh Acevedo, District 2. [24-607](#)

Members of the City Council, Representative Josh Acevedo, (915) 212-0002

Goal 6: Set the Standard for Sound Governance and Fiscal Management

17. Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees by Mayor Oscar Leeser. [24-590](#)

Members of the City Council, Mayor Oscar Leeser, (915) 212-2001

Goal 8: Nurture and Promote a Healthy, Sustainable Community

18. Michael Bray to the Regional Renewable Energy Advisory Council by Representative Joe Molinar, District 4. [24-567](#)
Members of the City Council, Representative Joe Molinar, (915) 212-0004
19. Silvia Torezani to the Fair Housing Task Force by Representative Chris Canales, District 8. [24-591](#)
Members of the City Council, Representative Chris Canales, (915) 212-0008

CONSENT AGENDA - BOARD APPOINTMENTS:

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

20. Maria Zampini to the Museums and Cultural Affairs Advisory Board by Representative Brian Kennedy, District 1. [24-597](#)
Members of the City Council, Representative Brian Kennedy, (915) 212-0001

Goal 8: Nurture and Promote a Healthy, Sustainable Community

21. Gilberto Lopez to the City Accessibility Advisory Committee by Representative Isabel Salcido, District 5. [24-595](#)
Members of the City Council, Representative Isabel Salcido, (915) 212-0005

CONSENT AGENDA - APPLICATIONS FOR TAX REFUNDS:

Goal 6: Set the Standard for Sound Governance and Fiscal Management

22. A refund to Tax Star Escrow, in the amount of \$3,919.93 for an overpayment made on January 24, 2024 of 2023 taxes, Geo. # H413-999-0040-1900. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00. [24-543](#)

All Districts

Tax Office, Maria O. Pasillas, (915) 212-1737

CONSENT AGENDA - NOTICE FOR NOTATION:

Goal 6: Set the Standard for Sound Governance and Fiscal Management

23. For notation only, the P-Card Transactions for the period of February 21, 2024 - March 20, 2024 for Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff.

[24-551](#)

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

CONSENT AGENDA - NOTICE OF CAMPAIGN CONTRIBUTIONS:

Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

24. For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions by Representative Joe Molinar in the amount of \$2,500.00 from the El Paso Fire Fighters Association, Local 51.

[24-523](#)

Members of the City Council, Representative Joe Molinar, (915) 212-0004

CONSENT AGENDA - REQUEST FOR PROPOSAL:

Goal 2: Set the Standard for a Safe and Secure City

25. The linkage to the Strategic Plan is subsection: 2.3 Increase public safety operational efficiency.

[24-553](#)

Award Summary:

That the City Manager is authorized to execute the Design-Build documents considered to be the agreement ("Contract") between the City of El Paso and Jordan Foster Construction, LLC ("Design-Builder"), for the project known as the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R in an initial amount of two hundred seventy six thousand five hundred seventy four and 73/100 dollars (\$276,574.73) for work prior to the execution of the Design-Build Amendment; and that the City Engineer is authorized to approve additional preconstruction services in the amount of \$50,000.00 if the services are necessary for the proper execution of the project.

Department:	Capital Improvement
Award to:	Jordan Foster Construction, LLC
City & State:	El Paso, TX
Item(s):	Pre-Construction Services
Total Estimated Award:	\$276,574.73
Account(s):	190-4820-29090-580270
	PCP20PDTRAINING/PCP20FDTRAINING
Funding Source(s):	2019 Safety Bond
District(s):	4

This was a Design-Build Procurement - Service Contract

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to Jordan Foster Construction, LLC. The Design-build team offering the best value on the basis of the published selection criteria and on its ranking evaluations.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Additionally, it is requested that the City Attorney's Office review and that the City Manager or designee be authorized to execute any related contract documents and agreements necessary to effectuate this award.

District 4

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092
Capital Improvement Department, Yvette Hernandez, (915) 212-1860

REGULAR AGENDA - MEMBERS OF THE CITY COUNCIL

Goal 2: Set the Standard for a Safe and Secure City

26. Discussion and action to approve a Resolution that declares the fourth Saturday of April as "Celebrate Trails Day" and urges all residents to participate in this observance by exploring and supporting our local trails. [24-602](#)

All Districts

Members of the City Council, Representative Cassandra Hernandez, (915) 212-0003

27. Discussion and action to direct the City Attorney to draft an ordinance amendment to the Sound Amplification Permit to include the Downtown District. [24-592](#)

All Districts

Members of the City Council, Representative Brian Kennedy, (915) 212-0001

28. Discussion and action to approve a Resolution that declares that the expenditure of District 7 discretionary funds, in an amount not to exceed \$5,500.00, to purchase two (2) radar-based traffic data collectors to be utilized by El Paso Police Department, this expenditure serves the municipal purpose of increasing public safety operation efficiency. [24-603](#)

All Districts

Members of the City Council, Representative Henry Rivera, (915) 212-0007

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

29. Discussion and action to authorize the expenditure of District 4 discretionary funds, in an amount not to exceed \$60,000.00, to supplement the cost of Playground Equipment, Option #1, for the sole installation and use at Arlington Park located at 10360 Pasadena Circle located on District 4, serves the municipal purpose of fostering community pride, improving the visual [24-605](#)

impression of the community, creating innovative recreational programs, and aligning and implementing key investment strategies sustaining and enhancing park system operations and outdoor offerings.

District 4

Members of the City Council, Representative Joe Molinar, (915) 212-0004

Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community

30. Discussion and action to direct the City Manager and the City Attorney to eliminate City Council regularly scheduled Executive Sessions and make all items part of the public City Council meeting, so that El Pasoans receive the same access to information that special interest groups are receiving from members attending Executive Session.

[24-572](#)

All Districts

Members of the City Council, Mayor Oscar Leeser, (915) 212-0021

REGULAR AGENDA - OPERATIONAL FOCUS UPDATES

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

31. Management update on Enhanced Library Card.

24-573

All Districts

Libraries, Norma Martinez, (915) 212-3200

Goal 6: Set the Standard for Sound Governance and Fiscal Management

32. Presentation and discussion by the El Paso Central Appraisal District's Executive Director and Chief Appraiser Dinah Kilgore on the City of El Paso's 2024 Pre-Preliminary Values and Protest Period.

[24-467](#)

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

CALL TO THE PUBLIC – PUBLIC COMMENT:

Call to the Public will begin at 12:00 p.m. Requests to speak must be received by 9:00 a.m. on the date of the meeting. Sixty minutes in total will be devoted for Call to the Public. This time is reserved for members of the public who would like to address the City Council on items that are not on the City Council Agenda.

Members of the public may communicate with Council during public comment, and regarding agenda items by calling 1-915-213-4096 or toll free number 1-833-664-9267 at the prompt please enter the following Conference ID: 732-094-383#

A sign-up form is available on line for those who wish to sign up in advance of the meeting at:
<https://app.smartsheet.com/b/form/dfad29e838da41fd86052bb264abd397>

REGULAR AGENDA - PUBLIC HEARING:

Goal 3: Promote the Visual Image of El Paso

33. A Public Hearing to discuss and review a proposed ordinance amending Land Use Assumptions, Capital Improvements Plan, and Impact Fees. [24-556](#)

All Districts

Planning and Inspections, Philip F. Etiwe, (915) 212-1553
Planning and Inspections, Kevin Smith, (915) 212-1566
El Paso Water, Adriana Castillo, (915) 594-5538

REGULAR AGENDA - FIRST READING OF ORDINANCES:

INTRODUCTION OF ORDINANCES PURSUANT TO SECTION 3.9 OF THE EL PASO CITY CHARTER:

Public comment typically is not taken during the first reading of ordinances. Public comments are invited at the date of the scheduled public hearing.

Public Hearings will be held as part of the regular City Council meeting that begins at approximately 9:00 a.m. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances; no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk's office, 300 N. Campbell, Monday through Thursday, 7:00 a.m. to 6:00 p.m.

Goal 3: Promote the Visual Image of El Paso

34. An Ordinance amending the following provisions of the El Paso City Code Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees): Section 15.22.060 (Land Use Assumptions and Service Area) and Section 15.22.070 (Capital Improvement Plan) to update dates; Section 15.22.100 (Maximum Fee and Actual Fee to be Assessed) to update water and wastewater impact fee per service unit; and Appendix B (Impact Fee Assessment Schedules) to update the water and wastewater schedule. [24-561](#)

All Districts

Planning and Inspections, Philip Etiwe, (915) 212-1553
Planning and Inspections, Kevin Smith, (915) 212-1566
El Paso Water, Adriana Castillo, (915) 594-5538

PUBLIC HEARING WILL BE HELD ON MAY 7, 2024

35. An Ordinance granting Special Permit No. PZST23-00012, to allow for infill development with reductions to minimum lot area and minimum average lot [24-542](#)

width on the property described as Lot 42, Block 20, Sun Valley Addition Section Three, 5204 Sun Valley Drive, City of El Paso, El Paso County, Texas, pursuant to section 20.10.280 Infill Development of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code.

The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 5204 Sun Valley Dr.
Applicant: Goal Development Group, PZST23-00012

District 4

Planning and Inspections, Philip F. Etiwe, (915) 212-1553
Planning and Inspections, Nina Rodriguez, (915) 212-1561

PUBLIC HEARING WILL BE HELD ON MAY 21, 2024

Goal 4: Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

36. An Ordinance amending Ordinance No. 16143 relating to Fines, Fees and Penalties in effect in the El Paso City Code to add authorization for a fee for Library Cards and Enhanced Library Cards.

[24-566](#)

All Districts

Libraries, Norma Martinez, (915) 212-3200

PUBLIC HEARING WILL BE HELD ON MAY 7, 2024

Goal 6: Set the Standard for Sound Governance and Fiscal Management

37. An Ordinance approving the adoption of an ad valorem property tax exemption for qualified commercial child-care facilities and amending Title 3 (Revenue and Finance) of the El Paso Municipal Code, Chapter 3.04 (Property Taxes) by adding section 3.04.042 (Exemption- Child-care facilities) for entities that qualify under the current code. This Ordinance shall be effective January 1, 2024 upon adoption by the City Council of the City of El Paso.

[24-594](#)

All Districts

City Manager's Office, Robert Cortinas, (915) 212-1067

PUBLIC HEARING WILL BE HELD ON MAY 7, 2024

REGULAR AGENDA – OTHER BIDS, CONTRACTS, PROCUREMENTS:

Goal 2: Set the Standard for a Safe and Secure City

38. Discussion and action on the award of Task Order #1 for solicitation 2022-0678, Fire Station 15 (FS 15) Renovation to Keystone Contractors & Engineers for a total estimated award of \$1,451,588.63.

[24-540](#)

District 1

Capital Improvement Department, Yvette Hernandez, (915) 212-0065

39. The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency

[24-555](#)

Award Summary:

Discussion and action on the award of Solicitation 2023-0278R Prisoner Transport Security to Universal Protection Service, LP dba Allied Universal Security Services for a three (3) year term for an estimated amount of \$5,644,812.33. The award also includes a two (2) year option for an estimated amount of \$4,009,896.22. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$9,654,708.55. This contract will provide prisoner booking, transportation, and watch services for the El Paso Police Department.

Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$312,123.31 annually, which represents a 19.89%, increase due to the current market conditions.

Department:	Police
Award to:	Universal Protection Service, LP dba Allied
Universal	
	Security Services
City & State:	Pasadena, CA
Item(s):	All
Initial Term:	3 Years
Option Term:	2 Years
Total Contract Time:	5 Years
Annual Estimated Award:	\$1,881,604.11
Initial Term Estimated Award:	\$5,644,812.33
Option Term Estimated Award:	\$4,009,896.22
Total Estimated Award	\$9,654,708.55
Account(s)	321 - 521150 - 1000 - 21100
Funding Source(s):	General Funds
District(s):	All

This was a Request for Proposals Procurement - service contract.

The Purchasing & Strategic Sourcing Department and Police Department recommend award as indicated to Universal Protection Service, LP dba Allied Universal Security Services the highest ranked bidder based on the evaluation factors established in the evaluation criteria for this procurement.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

All Districts

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092
Police, Chief Peter Pacillas, (915) 212-4305

REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:

Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

40. An Ordinance amending Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits) to add new uses for the Sidewalk Cafe and Parking Parklet Programs and adopt the Right-Of-Way Cafe Design Guidelines. The penalty is as provided in Section 15.08.125. [24-489](#)

All Districts

Capital Improvement Department, Daniela Quesada, (915) 212-1826

41. An Ordinance of the City Council of the City of El Paso, Texas, approving amendment number twenty-three to the Project and Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas, amending the plan to update the projected tax increment reinvestment zone revenue and establishing project cost categories. [24-499](#)

District 8

Economic and International Development, Karina Brascalla, (915) 212-0094

42. An Ordinance amending Ordinance No. 016528 to modify requirements for membership on the Board of Directors of the Tax Reinvestment Zone Number Five, City of El Paso, Texas. [24-500](#)

District 8

Economic and International Development, Karina Brascalla, (915) 212-0094

Goal 2: Set the Standard for a Safe and Secure City

43. An Ordinance Amending Title 9 (Health and Safety) Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.060 (Franchise - Application - Contents) to add a process for Denial of Franchise application; Section 9.85.070 (Franchise - Application; Review; Hearing) To add factors considered for Public convenience and necessity; Section 9.85.130 (Violation - Penalty) to move to Section 9.85.140 and be replaced with (Suspension; Revocation: Appeal) Giving Due Process after suspension or revocation, of the El Paso City Code. [24-471](#)

All Districts

Fire, Chief Jonathan P. Killings, (915) 212-5665

Goal 3: Promote the Visual Image of El Paso

44. An Ordinance changing the zoning of the property described as a portion of Lots 20 and 21, Block 92, Bassett Addition, 2607 Montana Avenue, City of El Paso, El Paso County, Texas from A-2 (Apartment) to S-D (Special Development), pursuant to section 20.04.360, and approving a detailed site development plan pursuant to section 20.04.150 and 20.10.360 of the El Paso City Code to allow for a business office as permitted in the S-D (Special Development) Zone District. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

[24-393](#)

The proposed rezoning and detailed site development plan meet the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 2607 Montana Ave.

Applicant: Carlos Estrello Jr., PZRZ23-00040

District 8

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Nina Rodriguez, (915) 212-1561

45. An Ordinance changing the zoning of a parcel of land being a portion of Tract 1, now known as Track 1B1 and Portion of Track 1B, now known as Tract 1B, Block 8, Ysleta Grant, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to C-1 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

[24-397](#)

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 319 and 323 N. Zaragoza Rd.

Applicant: Albert Nabhan, PZRZ23-00014

District 7

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Juan C. Naranjo, (915) 212-1604

46. An Ordinance restating a Special Privilege License granted to the County of El Paso by Ordinance 019432 that authorized the construction, installation, future maintenance, use and repair of 540 linear feet of all necessary, desirable, subsurface wires, cables, underground conduit, manholes or other related infrastructure. Additionally, this ordinance will allow for the expansion of the infrastructure to include an additional 635 linear feet of 3" conduit for fiber optic cable and the addition of one more manhole for a term of five (5) years with two (2) renewable five (5) year terms.

[24-482](#)

Location: generally, along a portion of Ochoa Street, First Avenue and South Florence Street

Applicant: County of El Paso, PSPN23-00008

District 8

Goal 6: Set the Standard for Sound Governance and Fiscal Management

- 47.** An Ordinance amending Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), to amend Section 2.92.020 Definition of Candidate and 2.92.080(E) to include a requirement for candidates to provide notice of contributions of \$500 or more for notation on the City Council Agenda in the same manner as Members of City Council.

[24-507](#)

All Districts

City Attorney's Office, Karla M. Nieman, (915) 212-0033

REGULAR AGENDA - OTHER BUSINESS:

Goal 1: Create an Environment Conducive to Strong, Sustainable Economic Development

- 48.** Discussion and action on a Resolution that the City Manager, or designee, be authorized to sign the Peer-To-Peer Car Sharing Company Operating Agreement between the City of El Paso and Turo, Inc., to which Owners provide Vehicles to Airport Customers through the Operator's proprietary website, mobile application, and/or other platform, located at the El Paso International Airport, 6701 Convair Rd. El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

[24-558](#)

District 3

Airport, Sam Rodriguez, (915) 212-7301

- 49.** Discussion and action on a Resolution authorizing the submission of an application to the Office of Congressman Tony Gonzales requesting funds from the Community Project Funding program in the amount of \$8,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project; and authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said application; authorizing the City Manager, or designee, to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, and revisions that increase, decrease or de-obligate program funds; and to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

[24-534](#)

District 2

City Manager's Office, Omar Martinez, (915) 479-0341

City Manager's Office, Ian Voglewede, (915) 212-0065

- 50.** Discussion and action on a Resolution authorizing the submission of applications to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program, in the amounts so specified, for the following Projects:

[24-535](#)

Ysleta Port of Entry Developmental Study Project. Requesting funding in the amount of \$4,000,000.00, with no matching funds from the City;

Innovation Factory-Phase II Project: Requesting funding in the amount of \$3,000,000.00, with no matching funds from the City;

Aerospace and Defense Technology Training Center Design Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

Advanced Manufacturing District Project: Requesting funding in the amount of \$5,000,000.00, with no matching funds from the City;

Union Plaza Renovation Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

and authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said applications; authorizing the City Manager, or designee, to sign any documents necessary to accept grants resulting from said applications, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to grants resulting from the applications, including, but not limited to, revisions to project scopes, and revisions that increase, decrease or de-obligate program funds; and to explore funding sources and partnerships that leverage the strength of said applications and any grants resulting from said applications.

All Districts

City Manager's Office, Omar Martinez, (915) 479-0341

City Manager's Office, Ian Voglewede, (915) 212-0065

51. Discussion and action on a Resolution authorizing the submission of an application to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program in the amount of \$1,744,000.00, with a 20% match of \$436,000.00 from the City, for the Sun Metro Electric Vehicle (EV) Charging Station Network Project; and authorizing the City Manager, or designee, to make any budget transfer necessary in regards to the City's matching project funds in the amount of \$436,000.00 from Sun Metro's Fund Balance in order to effectuate the Sun Metro Electric Vehicle (EV) Charging Station Network Project; authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said application; authorizing the City Manager, or designee, to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, revisions that increase, decrease or de-obligate program funds, revisions to the operation plan, and documents to reject, amend, correct, and/or terminate the grant; and to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

[24-539](#)

All Districts

City Manager's Office, Omar Martinez, (915) 479-0341

Goal 6: Set the Standard for Sound Governance and Fiscal Management

- 52.** Discussion and action that the City Manager, or designee, be authorized to effectuate the listed budget transfers, attached to the Resolution as Exhibit A, for El Paso Zoo and Botanical Garden as necessary to execute the approved Capital Improvement Plan in FY 2024.

[24-552](#)

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

Capital Improvement Department, Yvette Hernandez, (915) 212-0065

Zoo, Joe Montisano, (915) 212-0966

Goal 7: Enhance and Sustain El Paso's Infrastructure Network

- 53.** Discussion and action on the Frontera Road Traffic Study and recommended treatments.

[24-557](#)

District 1

Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

EXECUTIVE SESSION

The City Council of the City of El Paso may retire into EXECUTIVE SESSION pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the City Council of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act and the Rules of City Council.) The City Council will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

Section 551.071	CONSULTATION WITH ATTORNEY
Section 551.072	DELIBERATION REGARDING REAL PROPERTY
Section 551.073	DELIBERATION REGARDING PROSPECTIVE GIFTS
Section 551.074	PERSONNEL MATTERS
Section 551.076	DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS
Section 551.087	DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
Section 551.089	DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING

Goal 6: Set the Standard for Sound Governance and Fiscal Management

Discussion and action on the following:

- EX1.** Discussion on potential economic development opportunities in Northeast El Paso, Texas. HQ#23-1857 (551.072) (551.087)

[24-609](#)

Economic and International Development, Karina Brasgalla, (915) 212-0065

ADJOURN

NOTICE TO THE PUBLIC:

Sign Language interpreters are provided for Regular City Council Meetings. If you need Spanish Interpretation Services, please email CityClerk@elpasotexas.gov by 12:00 p.m. on the Friday before the meeting.

Si usted necesita servicios de interpretación en español, favor de enviar un correo electrónico a CityClerk@elpasotexas.gov a mas tardar a las 12:00 p.m. del viernes previo a la fecha de la junta.

ALL REGULAR CITY COUNCIL AGENDAS ARE PLACED ON THE INTERNET ON THURSDAY PRIOR TO THE MEETING AT THE ADDRESS BELOW:

<http://www.elpasotexas.gov/>



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-547, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

All Districts

City Clerk's Office, Laura D. Prine, (915) 212-0049

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Approval of the Minutes of the Agenda Review Meeting and the Work Session of April 8, 2024.

OSCAR LEESER
MAYOR

CARY WESTIN
INTERIM CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
JOSH ACEVEDO, DISTRICT 2
CASSANDRA HERNANDEZ DISTRICT 3
JOE MOLINAR, DISTRICT 4
ISABEL SALCIDO, DISTRICT 5
ART FIERRO DISTRICT 6
HENRY RIVERA, DISTRICT 7
CHRIS CANALES, DISTRICT 8

**AGENDA REVIEW MINUTES
COUNCIL CHAMBERS AND VIRTUALLY
CITY HALL, 300 N. CAMPBELL
April 8, 2024
9:00 A.M.**

.....
The City Council met at the above place and date. Meeting was called to order at 2:03 p.m. Mayor Oscar Leeser was present and presiding. The following Council Members answered roll call: Brian Kennedy, Josh Acevedo, Joe Molinar, Art Fierro, Henry Rivera, and Chris Canales. Late arrival: Isabel Salcido at 2:06 p.m. Cassandra Hernandez requested to be excused.

The agenda items for the April 9, 2024 Regular City Council and Mass Transit Department Board Meetings were reviewed.

.....
4. CONSENT AGENDA - RESOLUTIONS

A Resolution authorizing the Mayor to sign an Interlocal Cooperation Agreement between the Department of Public Safety of the State of Texas ("DPS") and the City of El Paso ("City") to provide and establish an automated Failure to Appear ("FTA") system in the City of El Paso, El Paso County, Texas. This resolution is an amendment to add contract changes by the Department of Public Safety that were mandated in the 88th Legislative Session. Changes include: 1) Inclusion of indigency as mandated by House Bill 291, 88th Legislative Session, 2) Option to acquire occupational license while license on hold for 2 years plus additional 2 years, 3) change to provide clarity regarding specific responsibilities held by each party, and 4) language to account for future changes to the current statute ensuring agreement remains in compliance with the latest legal requirements.

Mayor Leeser and Representative Canales questioned the following City staff member:

- Ms. Annabelle Casas, Assistant Municipal Court Clerk

Ms. Laura Prine, City Clerk, commented.

.....
6. CONSENT AGENDA - RESOLUTIONS

A Resolution that the City Manager be authorized to sign Amendment No. 1 to the Articles of Agreement between the City of El Paso and the El Paso Municipal Police Officers' Association ("EPMPOA") for the contract period covering September 1, 2023 through August 31, 2027.

Representative Canales questioned the following City staff member:

- Assistant Police Chief Humberto Talamantes

.....
18. CONSENT AGENDA – BOARD APPOINTMENTS

Ofelia Mletzko to the Museums and Cultural Affairs Advisory Board by Representative Henry Rivera, District 7.

Representative Rivera commented.

Ms. Laura Prine, City Clerk, commented.

.....
34. REGULAR AGENDA - FIRST READING OF ORDINANCES

An Ordinance amending Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), to amend Section 2.92.020 Definition of Candidate and 2.92.080(E) to include a requirement for candidates to provide notice of contributions of \$500 or more for notation on the City Council Agenda in the same manner as Members of City Council.

Mayor Leeson and Representatives Kennedy and Canales questioned the following City staff member:

- Ms. Karla Nieman, City Attorney

.....
38. REGULAR AGENDA – OTHER BUSINESS

Discussion and action on a Resolution approving an alternative site for the Multipurpose Cultural and Performing Arts Center and directing the Interim City Manager to take necessary steps in preparation and support of the project.

Mayor Leeson questioned the following City staff member:

- Ms. Daniela Quesada, City Architect

Ms. Laura Prine, City Clerk, commented.

.....
39. REGULAR AGENDA – OTHER BUSINESS

Discussion and action approving a Resolution that the City Council of the City of El Paso supports the tenets of the Supply El Paso Procurement Playbook, attached to the Resolution as Exhibit A, including the creation of the Supply El Paso Board as a collective body comprised of City of El Paso leadership and representatives from other local governmental entities, financial and banking institutions, private agencies, businesses, chambers of commerce, and other key stakeholders that endeavors to bridge gaps between procurement opportunities, support organizations and regional vendors by fostering a strong marketplace for local firms.

Mayor Leeson commented.

Ms. Nicole Cote, Purchasing and Strategic Sourcing Managing Director, commented.

.....
Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** this meeting at 2:27 p.m.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representative Hernandez

.....

APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk

OSCAR LEESER
MAYOR

CARY WESTIN
INTERIM CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
JOSH ACEVEDO, DISTRICT 2
CASSANDRA HERNANDEZ, DISTRICT 3
JOE MOLINAR, DISTRICT 4
ISABEL SALCIDO, DISTRICT 5
ART FIERRO, DISTRICT 6
HENRY RIVERA, DISTRICT 7
CHRIS CANALES, DISTRICT 8

CITY COUNCIL WORK SESSION MINUTES
April 8, 2024
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY*
9:05 A.M.

.....
The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:18 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Brian Kennedy, Josh Acevedo, Joe Molinar, Isabel Salcido, Art Fierro, Henry Rivera, and Chris Canales. Cassandra Hernandez requested to be excused.

*The Work Session convened in the Main Conference Room due to technical issues. Council immediately retired into Executive Session and reconvened in Council Chambers thereafter.

.....
AGENDA

.....
1. Presentation update on Aerospace, Defense, and Advanced Manufacturing Strategic Plan, Key Partners, and Target Industries.

The following City staff members presented a PowerPoint presentation (copy on file in the City Clerk's Office):

- Mr. Sam Rodriguez, Chief Operations Officer
- Ms. Karina Brasgalla, Economic and International Development Interim Director
- Mr. Omar De La Rosa, Redevelopment Manager

Dr. Ahsan Choudhury, Professor of Aerospace Engineering at the University of Texas at El Paso, presented a PowerPoint presentation related to the topic.

Mayor Leeser and Representative Salcido commented.

Ms. Lisa Turner, citizen, commented.

NO ACTION was taken on this item.

.....
EXECUTIVE SESSION

Motion made by Representative Salcido, seconded by Representative Rivera, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 9:21 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the following:

Section 551.071 CONSULTATION WITH ATTORNEY
Section 551.072 DELIBERATION REGARDING REAL PROPERTY
Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales

NAYS: Representative Kennedy
ABSENT: Representative Hernandez

Motion made by Representative Rivera, seconded by Representative Salcido, and unanimously carried to **ADJOURN** the Executive Session at 10:19 a.m. and **RECONVENED** the meeting of the City Council in Council Chambers at which time motions were made.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX1. Claim of Mr. Ricardo Leon; Claim No. 158 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Molinar, and unanimously carried that the City Attorney's Office, in consultation with the City Manager, be authorized to **DENY** the Claim of Mr. Ricardo Leon, in HQ Matter Number 158, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX2. Anna Barnes v. City of El Paso, Texas, et al; USDC; Case No. 3:22-CV-161; (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Rivera, and unanimously carried that the City Attorney's Office be authorized to **HIRE** and **RETAIN** the services of necessary experts in the matter of *Anna Barnes v. City of El Paso, Texas et al.*, in HQ Matter Number 3:22-cv-161-KC, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX3. William C. Haywood v. City of El Paso; Gregory Allen, Officer Otero; McKinney; Guevara; Escajeda; Dela Paz; Case No. 3:20-cv-00114 Matter 20-1026-11325 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Molinar, and unanimously carried that the City Attorney's Office be authorized to **HIRE** and **RETAIN** the services of necessary experts in the matter of *William C Haywood v. City of El Paso, et al.*, in HQ Matter Number 3:20-cv-00114, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX4. Application of El Paso Electric Company to Update Schedule No. Covid-19 in Compliance with Docket No. 52195 - PUC#56422; HQ#UTILITY-35 (551.071)

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Rivera, and unanimously carried that the City Attorney in consultation with the City Manager be authorized to **HIRE** and **RETAIN** outside counsel and any other necessary consultants, and to file an intervention in the *Application of El Paso Electric Company to Update Schedule No. Covid-19 in Compliance with Docket No. 52195*, under the Texas Public Utility Commission, Docket No. 56422, in Matter Number HighQ Utility-35, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX5. Application of El Paso Electric Company for Approval of a Distribution Cost Recovery Factor - PUC# 56425; HQ#UTILITY-37 (551.071)

Representative Acevedo verbally disclosed a \$750 campaign contribution from El Paso Electric Employee Political Action Committee (PAC).

Motion made by Mayor Pro Tempore Kennedy, seconded by Representative Molinar, and unanimously carried that the City Attorney in consultation with the City Manager be authorized to **HIRE** and **RETAIN** outside counsel and any other necessary consultants, and to file an intervention in the *Application of El Paso Electric Company for Approval of a Distribution Cost Recovery Factor*, under the Texas Public Utility Commission, Docket No. 56425, in Matter Number HighQ Utility-37, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
EX6. Discussion on potential economic development opportunities in Northeast El Paso, Texas. HQ#23-1857 (551.072) (551.087)

NO ACTION was taken on this item.

.....
Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the meeting at 11:19 a.m.

AYES: Representatives Kennedy, Acevedo, Molinar, Salcido, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representative Hernandez

.....
APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-54, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS



Legislation Text

File #: 24-541, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Destination El Paso, Jose Garcia, (915) 534-0600

City Manager's Office, Dionne Mack, (915) 212-0033

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to make necessary budget transfers and sign an Event Support Contract between the Valley AIDS Council ("Valley AIDS") and the City of El Paso ("City") in order for the City to host the 2024 National LatinX Conference on HIV HCV SUD on May 2, 2024 through May 4, 2024 including a \$35,000.00 Site Fee and Miscellaneous Expenses not to exceed \$10,000.00.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Destination El Paso

AGENDA DATE: April 9, 2024

PUBLIC HEARING DATE: n/a

CONTACT PERSON NAME AND PHONE NUMBER: Tracey Jerome and Jose Garcia, 505-573-0757

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 1

SUBGOAL: Enhance Visitor Revenues – Convention / Sport Development

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? **Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

Approve a resolution authorizing the City Manager or designee to make necessary budget transfers and to sign the Event Support Contract with Valley AIDS for the City of El Paso to host the National Latinx Conference on HIV HCV SUD on May 2-4, 2024.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

El Paso was selected through a competitive process to host the Conference and the event will bring an estimated economic impact of roughly \$900,000.

The city has committed to support the event with a \$35,000 site fee required to successfully and safely conduct the event. The payment will be made no later than August 31, 2024.

The City has applied to and been accepted by the State of Texas Event Trust Fund to seek reimbursement for the city's financial obligations under the Event Support Contract for the total of \$35,000.

SELECTION SUMMARY:

PROTESTS:

☒ No protest received for this requirement.

COUNCIL REPRESENTATIVE BRIEFING:

Was a briefing provided: ☐ Yes or ☒ No

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

City Council has approved Event Support Contracts for past events such as the 2019 Triple-A All Star Game, 2021 Sun City CRIT, and the Tony the Tiger Sun Bowl held in 2019, 2021, 2022 and 2023.

AMOUNT AND SOURCE OF FUNDING:

What is the source of funding? What is the amount? Is there a current appropriation? Does it require a budget transfer? Are there continuing costs? How long and for what amount?

The City of El Paso would transfer 35,000.00 from the account referenced below which will be reimbursed by State of Texas Event Trust Fund.

Fund: 2326
Dept: 457
Division: 57000
Account: 460230- Civic Center Revenue

*******REQUIRED AUTHORIZATION*******

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

WHEREAS, Visit El Paso/Destination El Paso, the City of El Paso (the “City”) was selected to host the 2024 National LatinX Conference on HIV HCV SUD on May 2-4, 2024; and

WHEREAS, the City desires to support the event by entering into a contract (“Event Support Contract”) with Valley AIDS Council (“Valley AIDS”) including a \$35,000.00 site fee (“Site Fee) and other miscellaneous expenses not to exceed \$10,000.00 (“Miscellaneous Expenses”) to be paid to Valley AIDS.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That, the City Manager is authorized to make necessary budget transfers and sign the Event Support Contract between the City and Valley AIDS in order for the City to host the 2024 National LatinX Conference on HIV HCV SUD including a \$35,000.00 Site Fee and Miscellaneous Expenses not to exceed \$10,000.00.

APPROVED this ____ day of _____, 2024.

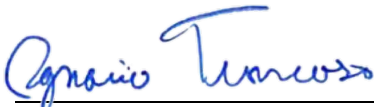
CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Ignacio R. Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:



Jose Garcia
Destination El Paso

THE STATE OF TEXAS
COUNTY OF EL PASO

§
§
§

EVENT SUPPORT CONTRACT

This Event Support Contract (the “Contract”) is between the City of El Paso, a Texas home rule municipality (“**City**”) and Valley AIDS Council (“**Valley AIDS**”), a 501 c 3 Texas non-profit organization located at 2306 Camelot Plaza, Harlingen, TX 78550.

WHEREAS, the City of El Paso has been designated as the host for the National Latinx Conference on HIV HCV SUD on May 2-4, 2024.
(the “Event”); and

WHEREAS, the parties to the present agreement wish to describe the City’s financial commitment in support of the Event and the responsibilities of the City and VALLEY AIDS to organize the Event.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to the following:

I. General Obligations of the Parties

- A. The City has been designated as the host for 2024 National Latinx Conference on HIV HCV SUD on May 2-4, 2024 with setup and teardown on Wednesday, May 1st and Sunday May 5th respectively (the “Event”).
- B. The City is obligated to perform functions necessary to host the Event as outlined in Exhibit A as “City Responsibilities.” These functions will result in City expenses to include:
 - 1. To pay a site fee of \$35,000 no later than August 31, 2024.
 - 2. Other expenses required to successfully and safely conduct the Event as mutually agreeable between the parties and to not exceed \$10,000.
- C. Valley AIDS is obligated to perform functions necessary to organize and execute the Event as outlined in Exhibit A as “VALLEY AIDS Responsibilities.”
- D. If said Event is not held, the City is not obligated to expend the monies described in I.B. of this Contract.

II. Term & Termination

- A. The term of this Contract shall begin on April 24, 2024 and shall continue until all payments required pursuant to this Contract have been made, documentation of payment to VALLEY AIDS is received by the City, all reimbursement from the Texas Events Trust Fund have been made to the City or until terminated by either party in accordance with the provisions of this Contract or until such time as the parties mutually agree to terminate this Contract.
- B. Termination
 - 1. This Contract shall be terminated if the Event does not take place in El Paso, Texas.
 - 2. The obligations of the parties for all costs incurred under this Contract prior to such termination notice, shall survive such termination, as well as any other obligation incurred under this Contract, until performed.

III. GOVERNMENTAL FUNCTION AND IMMUNITY.

- A. Governmental Function. The parties expressly agree that, in all things relating to this Contract, the City enters into this Contract for the purpose of performing governmental functions and are performing governmental functions, as defined by the Texas Tort Claims Act. The parties further expressly agree that every act or omission of the City, which in any way pertains to or arises out of this Contract, falls within the definition of governmental function.
- B. Sovereign Immunity. The City reserves, and does not waive, its right of sovereign immunity and similar rights and does not waive its rights under the Texas Tort Claims Act. The parties expressly agree that the City does not waive, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

IV. Miscellaneous

- A. Liability. This Contract is not intended to alter or reallocate any defense or immunity authorized or available to either party by law.
- B. Compliance with Laws. In the performance of their obligations under this Contract, the parties shall comply with all applicable federal, state or local laws, ordinances and regulations.
- C. Governing Law. This Contract shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law, the City Charter and/or any ordinance of the City.

- D. Venue. The parties hereto agree that this Contract shall be enforceable in El Paso, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in El Paso County, Texas. Should the need for dispute resolution arise, venue is in the El Paso County, Texas.
- E. Current Revenues. Pursuant to Section 791.001(d)(3), Texas Government Code, the City will make all payments from current revenues.
- F. No Waiver. The failure of any party at any time to require performance by the other party of any provision of this Contract shall in no way affect the right of such party to require performance of that provision. Any waiver by a party of any breach of any provision of this Contract shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under this Contract.
- G. Notice. All notices provided for herein shall be sufficient if sent by certified mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following address:
- City: City of El Paso
Attn: City Manager
P.O. Box 1980
El Paso, TX 79950-1890
- VALLEY AIDS:
Attn: Wally Cantu, Executive Director
2306 Camelot Plaza,
Harlingen, TX 78550
- H. Severability. Every provision of this Contract is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.
- I. Any amendments to this Contract shall be in writing and signed by all parties.
- J. This constitutes the entire agreement of the parties.

(Signatures follow on next page)

THE STATE OF TEXAS §
COUNTY OF EL PASO §

EVENT SUPPORT CONTRACT

Signature Page

IN WITNESS WHEREOF, City of El Paso, and VALLEY AIDS have entered into this Contract.

CITY OF EL PASO

Cary Westin
City Manager

VALLEY AIDS COUNCIL.

Wally Cantu
Name Printed: Wally Cantu

Title: Executive Director

APPROVED AS TO FORM:

Ignacio R. Troncoso
Ignacio R. Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:

J. Garcia 3/22/2024
Jose Garcia
President and CEO, Destination El Paso

Exhibit A
Event Support Contract
Valley AIDS
May 2-4, 2024

City Responsibilities:

- Sponsor room rental and other related expenses up to \$47,380 contingent upon minimum hotel rooms utilized in the area.
- To pay a site fee of \$35,000 by August 31, 2024

VALLEY AIDS Responsibilities:

- Host a National Convention, attracting visitors from across the nation May 2-4, 2024
- Contribute roughly 2,200 hotel room nights to area hotels
- Develop a city-wide HIV/HCV prevention campaign for the community of El Paso
- Develop a city-wide U= U campaign for the community of El Paso
- Increase medical provider awareness on HIV prevention methods such as PrEP and nPEP and on harm reduction methods in regards to opioid overdose.
- Collaborate with local HIV/HCV and harm reduction organizations to expand their reach in the community.
- Collaborate with local Medical School (Texas Tech University) to provide learning opportunities to current medical residents.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

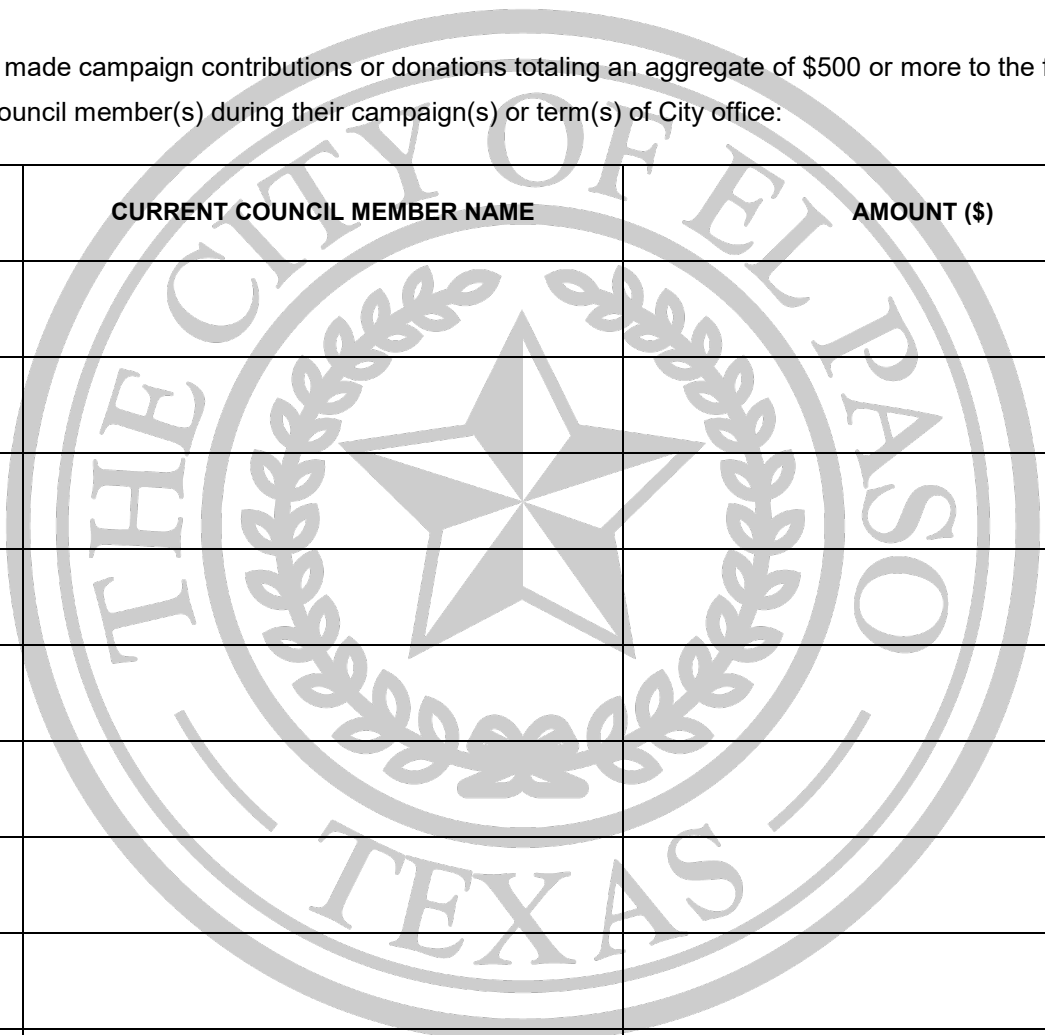
Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:



OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: _____ Date: _____



Legislation Text

File #: 24-506, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign a Concession License Agreement between the City of El Paso ("City") and SWYFT ("Concessionaire") to allow Concessionaire to operate automated retail machines at the El Paso International Airport, with Concessionaire's payment to the City being the greater of an amount based on the square footage of the concession site or a percentage of the revenues derived from the automated retail machines, for a one year term, with an option to renew the Agreement for four (4) additional one-year terms.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT:

A resolution that the City Manager, or designee, be authorized to sign a Concession License Agreement between the City of El Paso ("City") and SWYFT ("Concessionaire") to allow Concessionaire to operate automated retail machines at the El Paso International Airport, with Concessionaire's payment to the City being the greater of an amount based on the square footage of the concession site or a percentage of the revenues derived from the automated retail machines, for a one year term, with an option to renew the Agreement for four (4) additional one-year terms.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval of this item to allow SWYFT, Inc. to provide automated retail services at the El Paso International Airport. SWYFT, Inc., concession will include I-Store electronics located in Concourse B.

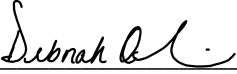
The initial lease with SWYFT, Inc., expired on February 27, 2024 and requires a new lease.

PRIOR COUNCIL ACTION:

February 28, 2023 – Concession License Agreement

AMOUNT AND SOURCE OF FUNDING:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: for 
Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign a Concession License Agreement between the City of El Paso ("City") and SWYFT ("Concessionaire") to allow Concessionaire to operate automated retail machines at the El Paso International Airport, with Concessionaire's payment to the City being the greater of an amount based on the square footage of the concession site or a percentage of the revenues derived from the automated retail machines, for a one year term, with an option to renew the Agreement for four (4) additional one-year terms.

APPROVED this ____ day of _____, 2024.


CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

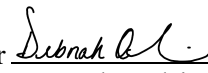
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Ignacio Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:

for 

Samuel Rodriguez, P.E.
Director of Aviation

STATE OF TEXAS) EL PASO INTERNATIONAL AIRPORT
) CONCESSION LICENSE AGREEMENT
COUNTY OF EL PASO) (AUTOMATED RETAIL)

This Concession License Agreement (“Agreement”) is made this _____ day of _____, 2024 (“Effective Date”) between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas (“City”) and SWYFT, Inc. (“Concessionaire”). For the convenience of the parties, all defined terms appear in bold print when first defined.

WHEREAS, the City owns and operates the El Paso International Airport located in El Paso County, Texas ("Airport"); and

WHEREAS, Chapter 22 of the Texas Transportation Code authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports; and

WHEREAS, Concessionaire is qualified to provide automated retail services at the Airport; and

WHEREAS, the City deems it advantageous to the City and the Airport to grant a Concession License to Concessionaire, subject to the covenants, promises, and terms contained herein;

NOW, THEREFORE, the parties agree as follows:

For, and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

ARTICLE I – PURPOSE OF LICENSE AGREEMENT

1.01 PURPOSE

The City grants to Concessionaire license and permission to occupy and use the areas described in this Agreement for the following purpose only: to provide automated retail services through placement of Concessionaire's automated retail machine ("ARM") in the permitted areas.

ARTICLE II – DESCRIPTION OF AR MACHINE AND LOCATION

2.01. DESCRIPTION OF ARM

Concessionaire's ARM sells and dispenses the following type of products or services: consumer electronics as an Apple reseller and Benefit Cosmetics from the following branded retailer: LVMH. For purposes of this Agreement, Concessionaire shall only sell products listed on the Products List attached as Exhibit "A".

2.02 LOCATION AND SIZE OF CONCESSION SITE

- A. ARM shall be located in the following area of the Airport (“**Concession Site**”), which shall be of the following size:
 - 1. Concession Site 1: I-Store is located in Concourse B at gate B1 consisting of 40 square feet.
- B. The location(s) of the Concession Site is shown on the Airport terminal map, attached hereto as Exhibit “B” (“**Concession Site(s)**”).
- C. The total square footage of all Concession Sites is 40 square feet.

ARTICLE III - PRIVILEGES, USES AND RIGHTS

3.01 DESCRIPTION OF PRIVILEGES, USES AND RIGHTS

The City grants to Concessionaire the following privileges, uses, and rights, all of which shall be subject to the terms, conditions, and covenants set forth in this Agreement:

- A. The non-exclusive right, license and privilege to locate, maintain and operate its ARM in the Airport terminal building for the purpose of providing products for purchase by the public on behalf of a branded retailer, as described in Paragraph 2.01, above. Selling products not specified in this Agreement is a material breach of the Agreement. If Concessionaire offers products not in the scope of this Agreement, the Director of Aviation (“Director”), or designee, will notify Concessionaire in writing, and Concessionaire will have 24 hours to remedy the breach. Failure to remedy will result in the City’s right to terminate this Agreement.
- B. The right, license, and privilege granted pursuant to Paragraph 3.01 (A), above, shall be subject to all applicable laws, ordinances, rules and regulations.
- C. The right of ingress to, and egress from, the Concession Site by Concessionaire, its officers, employees, agents, patrons, and invitees. Said rights shall be subject to such ordinances, rules and regulations relating to the use and operations at the Airport and subject further at all times, to the Director’s approval and control.
- D. Concessionaire’s employees working at the Airport Terminal will be provided vehicular parking facilities, if available, in common with other employees. Such facilities shall be located in an area designated by the Director. The Director reserves the right to assess a reasonable charge to Concessionaire or its employees for such parking facilities.

ARTICLE IV - CONDITIONS AND TERMS

4.01 CONDITIONS AND TERMS

This Agreement is entered into subject to the following conditions and terms:

- A. Concessionaire shall not alter Concession Site in any manner without the Director's prior written approval.
- B. Concessionaire's activities shall be limited to the operation and maintenance of the permitted ARM.
- C. Prior to placement of ARM at the Airport, Concessionaire shall coordinate with the Director, or designee, to ensure placement at the correct Concession Site.
- D. The Director, from time to time, may require Concessionaire to relocate its ARM to another location in or around the Airport terminal building. The Director will determine the location of any temporary Concession Site and provide Concessionaire written notice of any requirement that Concessionaire relocate its ARM. Such written notice from the Director shall include a reasonable deadline by which Concessionaire must complete the relocation. Concessionaire shall be responsible for relocating its ARM by the specified deadline. Should Concessionaire fail to relocate its ARM by the specified deadline, the Airport or a third party contracted by the Airport, may relocate the ARM and the Airport shall bill Concessionaire for the cost of relocating Concessionaire's ARM. The Airport shall not be responsible for any damage to the Concessionaire's ARM or Concessionaire's products that may result from the Airport relocating Concessionaire's ARM pursuant to this Paragraph 4.01 (D).
- E. Concessionaire's right to use public Airport facilities in common with other authorized parties shall be exercised only subject to, and in accordance with, the laws of the United States of America and the State of Texas; the rules and regulations promulgated under their authority with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of City now in force or hereafter prescribed or promulgated by Charter authority or by law.
- F. Concessionaire shall provide a high-quality ARM that has up-to-date technology; is of recent, modern design; and is clean, fully operational, efficient, and user-friendly.
- G. Concessionaire will utilize only the roadways, pathways, routes, or forms of travel City may designate, from time to time, for Concessionaire's operation and movement on or about the Airport.
- H. Other than the ARM, Concessionaire may install or place improvements, decorations, fixtures, equipment, or supplies on the Concession Site only with Director's written approval. Any installation or placement of improvements, decorations, fixtures, equipment, or supplies on the Concession Site without Director's written approval shall be

considered a material breach of this Agreement, and City may terminate this agreement in accordance with the provisions set forth in Article X. Any installation or placement of improvements, decorations, fixtures, equipment, or supplies on the Concession Site shall be removed by Concessionaire within five (5) calendars of the termination of this Agreement. Should Concessionaire fail to remove any improvements, decorations, fixtures, equipment, or supplies on the Concession Site within five (5) calendar days of the termination of this Agreement, the Airport or a third party contracted by the Airport, may remove such items and the Airport shall bill Concessionaire for the cost of removal. The Airport shall not be responsible for any damage to the Concessionaire's property that may result from the Airport removing items pursuant to this Paragraph 4.01 (H).

- I. The Director must approve, in writing, any temporary signs or advertising on the Concession Site prior to placement by Concessionaire. Any placement of temporary signs or advertising on the Concession Site made without the Director's approval shall be considered a material breach of this Agreement, and City may terminate this agreement in accordance with the provisions set forth in Article X. Any temporary signs or advertising on the Concession Site shall be removed by Concessionaire within five (5) calendars of the termination of this Agreement. Should Concessionaire fail to remove temporary signs or advertising on the Concession Site within five (5) calendar days of the termination of this Agreement, the Airport or a third party contracted by the Airport, may remove such items and the Airport shall bill Concessionaire for the cost of removal. The Airport shall not be responsible for any damage to the Concessionaire's property that may result from the Airport removing items pursuant to this Paragraph 4.01 (I).

ARTICLE V – CITY AND CONCESSIONAIRE OBLIGATIONS AND WARRANTIES

5.01 CITY'S OBLIGATIONS

- A. The City shall provide:
 - (1) Customer access to the Concession Site, subject to any necessary, temporary interruptions that may occur from time to time.
 - (2) Existing lighting, air conditioning, and electrical service at the Concession Site.
- B. The City warrants:
 - (1) Concession Site complies with the requirements of all applicable governmental authorities in effect as of the Effective Date. During the Term, City shall take appropriate and timely action to maintain the terminal in compliance with all applicable governmental regulations, including without limitation, the Americans with Disabilities Act, hereafter imposed by order of any governmental agency or any other authority, at its sole cost and expense and without reimbursement from Concessionaire; provided, however, that if any requirement is imposed solely as a result of the specific and unique use of the Concession Site by Concessionaire, then Concessionaire shall bear the cost of compliance.

- (2) All systems and equipment that are the responsibility of City are in good operating condition as of the Effective Date. If any of the existing systems or equipment that are the City's responsibility should fail during the Term, the City shall rectify such failure at its sole cost and expense, except for any failures caused by Concessionaire.

5.02 CONCESSIONAIRE'S OBLIGATIONS

A. Concessionaire shall provide:

- (1) Installation, operation, and regular maintenance of the ARM.
- (2) All equipment necessary to properly conduct Concessionaire's business.
- (3) A sufficient amount of merchandise stocked in the ARM to ensure that merchandise is available for customers. Fees or charges to customers must be reasonable, and not unjustly discriminatory, provided that Concessionaire is allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- (4) Installation of additional outlets or circuits or telecommunications equipment if necessary for proper functioning of the ARM, with the prior written approval of the Director, or designee.

B. Concessionaire warrants:

- (1) Concessionaire understands the restrictions imposed on City by 49 CFR Part 1540 and 1542 as amended and agrees to assume responsibility for compliance with said regulations as they relate to access and identification procedures on the Premises. Concessionaire recognizes that all persons in or on the Concession Site must comply with federal safety and security requirements and agrees that all employees shall, as a condition of being on the Concession Site, be badged by the Airport and that all other persons shall be escorted in accordance with Airport requirements. Concessionaire shall also require that all personnel of any subcontractor shall also be similarly badged and/or escorted.
- (2) Concessionaire understands that all of its agents, employees, or independent contractors must be authorized by City to enter restricted areas as defined in Title 14 of the El Paso City Code as amended. Concessionaire understands that no person authorized to enter a restricted area by virtue of this Agreement may permit any other person who is not otherwise authorized to enter a restricted area unless such person is, at all times while in the restricted area, in the company of an authorized person as required.

ARTICLE VI - SERVICES TO BE PERFORMED BY CONCESSIONAIRE

6.01 HOURS OF OPERATION

The ARM will be available, operable and continuously open for business to the public seven (7) days a week, 24 hours per day.

6.02 TYPE OF OPERATION

- A. Concessionaire shall ensure that service is available on a fair, reasonable and non-discriminatory basis to the public. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for service at the Airport.
- B. Concessionaire shall maintain and operate the ARM in a clean, functional, user-friendly, and up-to-date manner and shall keep the Concession Site in a safe, clean, and orderly condition at all times, satisfactory to the City.
- C. Concessionaire shall maintain any necessary licenses or permits at its sole expense.
- D. Concessionaire shall place a phone number on the ARM for customers to call for assistance should the ARM malfunction.
- E. Concessionaire shall obtain any necessary Airport badges for its employees if such badges are required to access secured areas in the Airport for purposes of installing, maintaining or stocking ARM.

6.03 COMPLIANCE WITH LAWS

- A. Concessionaire agrees that all activities related to the Concession Site and the ARM shall be, at Concessionaire's sole expense, conducted in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the City or Concessionaire. By way of example and not in limitation of the foregoing, the execution of this Agreement shall not preclude the requirement that the Concessionaire obtain all other approvals necessary for development of Concessionaire's project such as, but not limited to, all permits, franchises, licenses, certificates and other authorizations required by law and shall pay all special fees or charges legally levied or assessed.
- B. Concessionaire agrees to comply with the Americans with Disabilities Act; make or cause to be made all such alterations to the Concession Site, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to use or occupation of the Concession Site.

- C. Concessionaire shall, at Concessionaire's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Concessionaire's use, operation, or occupation of the Concession Site including any improvements thereon.

6.04 SOLICITATION AND CONDUCT

- A. Concessionaire shall prohibit its agents, attendants, and employees from engaging in the solicitation of its services on or about the Airport in a loud, boisterous, offensive or objectionable manner. In the event of questionable conduct in such solicitation, the Director, or designee, shall be sole judge in determining if said conduct is a violation of this paragraph. Upon receipt of notice from the Director, or designee, the Concessionaire shall immediately take all steps necessary to eliminate the undesirable condition.
- B. Concessionaire, its agents, attendants, and employees shall strive to maintain cooperative relationships with other companies engaged in business at the Airport. Concessionaire shall not engage in open public disputes, disagreements or conflicts that would tend to deteriorate the quality of the ARM service or that would be incompatible with the best interest of the public at the Airport. The Director, or designee, shall have the right, but not the requirement, to resolve all such disputes, disagreements or conflicts; and the Director's (or designee's) determination shall be binding upon Concessionaire.

6.05 TRASH, GARBAGE, REFUSE

Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Any cardboard boxes must be removed from the Airport or may be disposed of in the Airport's recycling bin should Airport provide access.

6.06 COST OF CONCESSION

Concessionaire shall bear, at its sole expense, all costs of operating the ARM at the Concession Site and shall pay, in addition to the rent, all other costs connected with the use of the Concession Site and facilities, including, but not limited to, maintenance, insurance, any and all taxes, and all permits and licenses required by law. Concessionaire shall have the right, however, at the Concessionaire's sole cost and expense, to contest the legality of any tax, levy or assessment but shall not allow disputed amounts to remain unpaid during such contest. Failure to pay any taxes or assessments in a timely manner may result in termination of this Agreement.

6.07 MAINTENANCE AND DAMAGE TO CITY PROPERTY

- A. Concessionaire shall, at its sole cost and expense, maintain the Concession Site and every part thereof in good order and repair and in good and safe condition; repair all damages caused by its employees, patrons, customers or its operation of said service; and maintain and repair all equipment on said Concession Site.

- B. Concessionaire understands and agrees that the Director, or designee, shall be the sole judge of the quality of maintenance of the Concession Site. If an ARM fails to operate or provide adequate service to the customers, upon written notice by the Director or designee to Concessionaire, Concessionaire shall be required to repair the ARM to working order. If said repair is not undertaken by Concessionaire within twenty-four (24) hours after receipt of written notice, the City will have the right to perform the necessary repair through an appropriate contractor, the cost of such repairs and maintenance shall be borne by Concessionaire.
- C. Concessionaire understands and agrees that, if Concessionaire, its agents, employees, or contractors causes any damage to Airport or City property, Concessionaire shall, at its own cost, repair all such damage without delay in a diligent and professional manner to the reasonable satisfaction of the Director or designee.

ARTICLE VII - TERM OF AGREEMENT

7.01 TERM AND OPTION TO RENEW

- A. The term of this Agreement shall be one (1) year, commencing on the Effective Date, and terminating one year from the Effective Date ("**Term**"), unless terminated earlier in accordance with this Agreement or renewed pursuant to Paragraph 7.01 (B) below.
- B. Provided Concessionaire is not in default hereunder, Concessionaire has the option to renew the Agreement, for four (4) additional terms of one (1) year each, to commence at the end of the prior term of this Agreement. The renewal shall be upon the same terms and conditions as contained in this Agreement. Concessionaire's option to renew this Agreement is expressly conditioned upon **1) Concessionaire delivering to the Airport a written notice, provided by certified mail, return receipt requested, at least ninety (90) days prior to the date fixed for termination of the then existing Agreement term; and 2) the Airport providing written acceptance of Concessionaire's request for renewal of Agreement by the date fixed for the termination of the then existing Agreement term.** Under no circumstances is the Airport required to agree to the renewal of the Agreement. Should both parties agree to a renewal of the Agreement for an additional one (1) year term, the MAG for the new term will be adjusted to equal the per square foot terminal rate as charged by the City as approved by City Council for its non-signatory agreements, as amended or revised from time to time. The adjustment to the MAG shall be done administratively, through written notice of Director when agreeing to renewal, and without the necessity of amending this Agreement.

7.02 NATIONAL EMERGENCY

In the event the rights and privileges hereunder are suspended by reason of change in airport security regulations, war or other national emergency, the parties will negotiate in good faith a reasonable resolution of this Agreement under the circumstances.

**ARTICLE VIII – CONCESSION FEE, MINIMUM ANNUAL GUARANTEE
AND PERCENTAGE FEES**

8.01 CONCESSION FEE

Concessionaire agrees to pay either \$60.53 per square foot for the Concession Site per annum (the “**Minimum Annual Guarantee**” or “**MAG**”) or pay the Gross Revenues Percentage (“**Percentage Rent**”), whichever is greater. The amount that Concessionaire is required to pay, is the “**Concession Fee**”).

8.02 MINIMUM ANNUAL GUARANTEE

- A. The parties agree that the Concession Site contains 40square feet of space. Therefore, the MAG is \$2,421.20 per year (\$60.53 per sq. ft. x 40 sq. ft.).
- B. The MAG shall be paid in equal monthly installments of \$201.76.
- C. Concessionaire shall pay the MAG monthly installment amount of \$201.76 on or before the 1st day of each month, in advance, without invoice. Because the MAG monthly installment amount is due on or before the 1st day of each month, Concessionaire’s initial MAG monthly installment amount is due prior to Concessionaire installing its ARM. Any portion of a month of operation will be pro-rated.
- D. The balance of the Concession Fee, if any, will be due along with the report for the immediately preceding month on the 20th day of each month. Whether there is a balance due, is dependent on the calculation of Percentage Rent for the month.
- E. For the initial month in the Term of this Agreement, Concessionaire shall pay only the MAG monthly installment amount and no report shall be due for the immediately preceding month.

8.03 PERCENTAGE RENT

- A. Percentage Rent is calculated as follows:
 - Twelve percent (12%) of Gross Revenue derived from the ARM on consumer electronic concepts.
 - Nine and one half percent (9.5%) of Gross Revenue derived from the ARM on products other than consumer electronic concepts.
- B. The term “**Gross Revenue**” whenever used herein, shall mean the following:
 - 1. Gross Revenue is the total dollar amount derived or received by Concessionaire as the total price of merchandise and service as a result of its operation under this Agreement whether for cash or credit and whether collected or uncollectable.
 - 2. Concessionaire has the right to make credit sales, but solely bears the risk.

3. Gross Revenue excludes retail sales taxes, excise taxes or related direct taxes upon the consumer which are collected by Concessionaire as such and paid to the taxing entity.
- C. On the 20th day of each month, Concessionaire will submit to the City a statement of Gross Revenue derived from its operations at the Airport based on the Concessionaire's Gross Revenue for the previous month. (See Paragraph "E", below.) Such statement will be certified by an officer of Concessionaire as being correct and true. The statement will include a calculation of the Percentage Rent due the City. Concessionaire will remit, at the same time, its balance of Concession Fee due to the City. For example, if the Percentage Rent is greater than the monthly MAG amount, Concessionaire shall submit the difference between the Percentage Rent and the MAG, so that City receives, in total, the Percentage Rent amount for the month. If the Percentage Rent is less than the monthly MAG amount, Concessionaire is not obligated to pay any amount in addition to the MAG amount for that month.
- D. The statements submitted must be submitted on forms which are approved by the City's designated representative. Any late payments of rent shall bear interest at the highest rate allowed by law.
- E. In regards to the statement of Gross Revenue required pursuant to Paragraph "C", above, Concessionaire shall submit to the City a report showing all transactions resulting from the operation of the ARM, the amount of the Concession Fee, the amount owed to the City (the greater of the Rental Fee or one-twelfth of the Concessionaire's Minimum Annual Guarantee), and the amount Concession Fee remitted, from the operation of the ARM for the preceding calendar month. These reports shall be submitted on a form that is acceptable to the Director. The monthly report be submitted electronically, in Excel format or PDF format, to the following email address: ELPreports@elpasotexas.gov. Failure to comply with the reporting requirements as stated above will constitute an Event of Default under this Agreement by the Concessionaire.

8.04 ADMINISTRATIVE ADJUSTMENTS

- A. If the Concession Site is expanded to include additional locations, the Minimum Annual Guarantee will be adjusted to include the additional square footage. The inclusion of additional locations and square footage to the Concession Site shall be done administratively, without the necessity of amending this Agreement, through written approval of the Director, wherein the adjusted square footage and Minimum Annual Guarantee shall be specified.
- B. The Director has the authority to administratively amend the type of products that Concessionaire is permitted to sell and dispense pursuant to Article II, above.

8.05 RECORDS OF CONCESSIONAIRE

- A. For purposes of this Section 8.05, the term "Contract Year" means the twelve (12) month period during the term of the contract commencing on the Effective Date.

- B. With respect to business done by Concessionaire pursuant to this Agreement, Concessionaire shall keep true and accurate amounts, records, books, and data which shall show all sales made, and services performed for cash, credit, or otherwise, without regard to whether paid or not, and all transactions of Concessionaire.
- C. Concessionaire agrees to operate its business at the Airport in such a manner that a receipt, if applicable, shall be issued with each transaction, and to deliver these documents to the Airport within twenty (20) days and at no cost to the City after a request for the documents has been made by the Director. Concessionaire agrees to keep books and records, in accordance with generally accepted accounting practices, and such other records as the City may request. The receipts, if applicable, and all other books and records of Concessionaire, in paper form or in electronic form, as referenced in this Agreement, shall be available for inspection or audit by authorized City representatives at all reasonable times during business hours for a minimum of one (1) year after each Contract Year and a minimum of one (1) year after any holdover period, if any. If an audit is required, appropriate records will be maintained legally for a period of sixty (60) days after completion of the audit.
- D. Within ninety (90) days following the last day of each Contract Year of each Term of the Agreement, a statement showing Gross Revenues for the preceding Contract Year shall be submitted and certified from the Concessionaire's records by an officer of the corporation ("Annual Statement"). The Annual Statement shall be signed and notarized by an officer of the corporation as an accurate report of the Concessionaire's Gross Revenues for the preceding Contract Year. The Annual Statement is to be accompanied by the Concessionaire's payment covering any deficiency between payment made during the preceding Contract Year and the payment due for the Contract Year as identified in the Annual Statement certified by the certified public accountant. If the Annual Statement indicates that the amounts due to the City is less than the payments made for the preceding year, then the City will reimburse to the Concessionaire the excess amount without interest.
- E. If, after the submission of the Concessionaire's Annual Statement, the City has reasonable questions about the accuracy of the Annual Statement, the City shall have the right, at its sole option, to require Concessionaire to submit at Concessionaire's sole cost, a certified statement of Gross Revenues prepared by an independent certified public accountant acceptable to the City. "Independent" shall mean a certified public accountant who is not affiliated in fact or appearance in any manner with the Concessionaire, its parent company or any subsidiaries. Any failure of the City to request a certified statement of Gross Revenues by an independent certified public accountant in any Contract Year shall not operate to bar or destroy the right of the City to request such a certified statement in any subsequent Contract Year. The submission of such certified statement of Gross Revenues by the Concessionaire shall not be construed to limit the City's right to request audits as set forth in this Agreement. The Concessionaire, at its own expense, shall supply all records in a type, style and form satisfactory to the Director of Aviation. The Concessionaire shall maintain monthly statements of Gross Revenues for a minimum of one (1) year at a place of business accessible to the City in El Paso, Texas. The Concessionaire shall maintain annual statements of Gross Revenues, as required hereunder, at its principal place of business, for a minimum of five (5) years, and shall forward same to the City during that time, if requested by the City. The Concessionaire shall maintain monthly

statements, as required hereunder, for a minimum of one (1) year at a place of business accessible to the City. The Concessionaire shall also maintain annual statements, as required hereunder, for a minimum of five (5) years at a place of business accessible to the City.

8.06 AUDIT

- A. For the purpose of determining accuracy of reporting Gross Revenues, the City may make a spot test audit and base its findings for the entire period upon such spot test; provided however, that such a spot test shall include at least twenty-five percent (25%) of the total time of the period being audited.
- B. Concessionaire further grants to the City or its designee the right, upon ten (10) days' written notice to Concessionaire, to examine, audit, or inspect books, records, and accounts of Concessionaire pertinent to the purpose of verifying the accuracy of the reports and statements furnished to the City, and for checking the amount of rental or other payments lawfully due the City under the terms of this Agreement. Upon receipt of the written notice, Concessionaire shall bring to a place in El Paso which has been selected by the City all books and records, together with all appropriate backup documentation, necessary for the City to effectively monitor the appropriateness of all rental and other fees paid or to-be-paid by Concessionaire under this Agreement. If, following any such audit, any element of rental or fees changes by more than five percent (5%), all costs of such audit, including counsel, accounting or expert fees, shall be paid by Concessionaire to the City within thirty (30) days of the City submitting a bill to Concessionaire. Otherwise, the cost of the audit will be borne by the City.
- C. Failure of the City to exercise its right to audit Concessionaire, as set forth herein, shall in no way be construed as a waiver of any right to payment by the City of any rental or fees due the City under the terms of this Agreement, and the City hereby expressly reserves its rights under common or statutory law, or otherwise, to enforce all terms of this Agreement, including any right to payment hereunder.

8.07 INTEREST

Without waiving any other right of action available to the City, any installment of rent, fees, or other monies accruing under the provisions of this Agreement that are not paid by the due date, shall bear interest at the maximum rate allowed by law from the date when same was due by the terms hereof, until the same has been paid by Concessionaire.

8.08 PLACE OF PAYMENT

All rent payments required herein shall be paid to the City at the following address:

Accounting Division
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278

Payment via electronic funds transfer is encouraged provided that it is made through a system approved by the Director.

8.09 DEFAULT FOR FAILURE TO PAY RENT, FEES OR CHARGES

Concessionaire's failure to pay any part of the rental, fees, or charges agreed upon hereunder within thirty (30) days after the due date set forth herein shall be considered an event of default. If Concessionaire is in default for failure to pay amounts due in a timely manner, the City shall have the right to proceed with a contractual lien pursuant to Paragraph 8.10, below, without further notice to Concessionaire or opportunity to cure.

8.10 CONTRACTUAL LIEN

- A. It is expressly agreed that in the event of default for failure to pay rent or any other sum due from Concessionaire to City under the terms of this Agreement, City shall have the right to resume possession of the Concession Site and to remove Concessionaire's ARM, without being guilty of any manner of trespass or conversion and without prejudice to any other remedies, which might be used by the City.
- B. It is expressly agreed that in the event of default in the payment of rent or any other sum due from Concessionaire to City under the terms of this Agreement, City shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Concessionaire which are placed in, or become a part of, the Concession Site, as security for rent due and to become due for the remainder of the Agreement term, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, but shall be in addition to that lien, and Concessionaire grants to City a security interest in all of Concessionaire's personal property placed in or on the Concession Site for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission or its successor agency, and any other laws pertaining thereto and the Railroad Commission of the State of Texas. City agrees that it will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Concessionaire, or any assignee of the Concessionaire. In the event City exercises the option to terminate the leasehold as provided herein, the City, after providing reasonable notice to Concessionaire of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Concessionaire's property on the Premises and sell it at public or private sale after giving Concessionaire reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as City deems best. The proceeds of the sale shall be applied first to the necessary proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this Agreement, with the balance, if any, to be paid to Concessionaire.

ARTICLE IX - INSURANCE AND INDEMNIFICATION

9.01 LIABILITY INSURANCE

- A. Concessionaire, and any contractor or subcontractor that performs any service on behalf of Concessionaire under the terms of this Agreement, shall obtain, provide proof of, and maintain for the Term of this Agreement, the following:
1. Commercial General Liability Insurance for the benefit of City and Concessionaire, as their respective interests may appear, including all the usual coverage known as: (a) Premises/operations liability, (b) Products/completed operations, and (c) Personal/advertising injury for minimum limits of Two Million Dollars (\$2,000,000.00) for bodily injury to one person for each occurrence, and One Million Dollars for property damage arising out of each occurrence, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.
 2. Commercial Automobile Liability with Minimum Limits of \$1,000,000 Bodily Injury/\$500,000 Property Damage Liability per occurrence.
 3. Statutory Workers' Compensation Insurance and Employers Liability Insurance with Minimum Limits of \$1,000,000 per occurrence.
- B. City, its officials, employees, agents and contractors shall be named as an Additional Insured on all insurance policies, either in the policy itself and shall be reflected on the certificate of insurance or through an endorsement attached to the policy and the policies must contain a "blanket waiver of subrogation" clause in favor of the City.
- C. Concessionaire and their subcontractors' insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents and contractors shall be in excess of the Concessionaire's or Concessionaire's subcontractors' insurance and shall not contribute to the Concessionaire's or Concessionaire's subcontractor's insurance.
- D. All policies shall provide either in the policy itself and have reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without fifteen (15) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums. All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by City.
- E. Prior to undertaking any work under this Agreement, the Concessionaire, at no expense to the City, shall furnish to the City a certificate of insurance with original endorsements

affecting coverage for each of the insurance policies provided in this Agreement. Any deductibles or self-insured retentions shall be declared to, and approved by the City.

9.02 INDEMNIFICATION

WITHOUT LIMITING THE GENERALITY OF ANY OTHER INDEMNITY CONTAINED IN THIS AGREEMENT, CONCESSIONAIRE AGREES TO INDEMNIFY AND HOLD CITY AND ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF CONCESSIONAIRE'S ACTIVITIES ON THE CONCESSION SITE, ITS USE OF THE CONCESSION SITE, OR FROM ANY BREACH ON THE PART OF CONCESSIONAIRE OF ANY TERMS OF THIS AGREEMENT, OR FROM ANY ACT OR NEGLIGENCE OF CONCESSIONAIRE, ITS AGENTS, CONTRACTORS, EMPLOYEES, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF CITY. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST CITY BY REASON OF ANY SUCH CLAIM, CONCESSIONAIRE, UPON RECEIPT OF WRITTEN NOTICE FROM CITY, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO CITY. THE OBLIGATIONS OF CONCESSIONAIRE UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR SOONER TERMINATION OF THE AGREEMENT.

ARTICLE X - TERMINATION OF AGREEMENT, CANCELLATION, ASSIGNMENT AND TRANSFER

10.01 TERMINATION

This Agreement shall terminate at the expiration of the Term, or sooner as provided in this Agreement, and Concessionaire shall thereafter have no further interest or right in the Concession Site.

10.02 CANCELLATION BY CITY

A. This Agreement shall be subject to cancellation by the City in the event Concessionaire:

1. Is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of thirty (30) days from the date said payments are due.
2. Files a petition in bankruptcy or insolvency.
3. Makes an assignment of any interest in this Agreement for the benefit of creditors.

4. Is adjudged as bankrupt in involuntary bankruptcy proceedings.
 5. Is made a party to a receivership proceeding in which a receiver or trustee is appointed for the property or affairs of the Concessionaire.
 6. Abandons the Concession Site for ten (10) days.
 7. Fails to perform or keep any term, covenant, or condition required of Concessionaire pursuant to this Agreement (except rental payments); and such failure continues for a period of twenty (20) calendar days after receipt of written notice from the City of said failure.
 8. Violates any applicable laws, statutes or ordinances.
- B. In any of the aforesaid events, the City may immediately cancel this Agreement and take immediate possession of the Concession Site and remove Concessionaire's effects forcibly, if necessary, without being deemed guilty of trespassing and Concessionaire shall cease all operation at the Airport immediately.
- C. The City's failure to declare this Agreement terminated pursuant to this Paragraph 10.02 shall not operate to bar or destroy the right of City to cancel this Agreement for any subsequent violation of the terms of this Agreement.

10.03 ASSIGNMENT AND TRANSFER

Concessionaire shall not transfer, or sublease its rights granted hereunder without the prior written approval of the City. No sub-concession agreements shall be permitted.

ARTICLE XI – REDELIVERY

11.01 REDELIVERY

Concessionaire shall make no unlawful or offensive use of the Concession Site and will at the expiration of the Term or upon any sooner termination, without notice, quit and deliver up said Concession Site to the City peaceably, quietly and in as good order and condition, reasonable use and wear excepted, as the same now are or may hereafter be improved by Concessionaire or the City.

ARTICLE XII - GENERAL PROVISIONS

12.01 TIME IS OF THE ESSENCE

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

12.02 NOTICES

All notices required to be given under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid, or by overnight or express carrier with proof of delivery, addressed to the proper party at the following addresses:

CITY: City Clerk
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

COPY TO: El Paso International Airport
Attn: Director of Aviation
6701 Convair Road
El Paso, Texas 79925-1099

CONCESSIONAIRE: SWYFT, Inc.
1763 Timothy Drive
San Leandro, CA 94577

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

12.03 ATTORNEY'S FEES

If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

12.04 AGREEMENT MADE IN TEXAS

The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas.

12.05 GENERAL CIVIL RIGHTS PROVISION

Concessionaire agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the transferor. This provision obligates the Concessionaire for the period during which the property is used or possessed by the Concessionaire and the Airport

remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

12.06 COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, Concessionaire, for itself, its assignees, and successors in interest (for purposes of this Section 12.06 hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

- b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

12.07 AFFIRMATIVE ACTION

Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Concessionaire assures that it will require that its covered sub-organizations (subconcessionaires) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (subconcessionaires) to the same effect.

12.08 FAA ORDER 1400.11

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following (except as Concessionaire is mandated by security requirements imposed by Concessionaire's federal government customers):

- 1. A. Concessionaire for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this License for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Concessionaire will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the License, in the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate the License and to enter or re-enter and repossess said premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. Concessionaire for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

B. With respect to the License, in the event of breach of any of the above nondiscrimination covenants, City will have the right to terminate the Agreement and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the Term of this License, Concessionaire for itself, its successors in interest, and assigns, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities

(42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). Grantee shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this section 3, City shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

12.09 CUMULATIVE RIGHTS AND REMEDIES

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

12.10 INTERPRETATION

- A. City and Concessionaire agree that this License has been freely negotiated by both parties and that in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this License or any of its terms or conclusion there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this License or any portion thereof.
- B. Words of gender used in this Agreement shall be held and construed to include any other gender.
- C. Words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

12.11 AGREEMENT MADE IN WRITING

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

12.12 PARAGRAPH HEADINGS

The captions of the various articles and sections of this Agreement are for convenience and reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

12.13 SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12.14 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon City and Concessionaire and their successors, assigns, legal representatives, heirs, executors and administrators.

12.15 TAXES AND OTHER CHARGES

Concessionaire shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Concessionaire or City, with respect to the Concession Site, any improvements, equipment, personal property or inventory thereon or Concessionaire's use and/or occupancy of the Concession Site, during the term of this Agreement including any extensions or option periods granted thereto. City is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Concessionaire's use of the property or possession of the Concession Site. Concessionaire in good faith may contest any tax or governmental charge; provided that Concessionaire may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom.

12.16 WAIVER OF WARRANTY OF SUITABILITY

CITY DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. EXCEPT AS OTHERWISE PROVIDED IN THIS LICENSE, CONCESSIONAIRE LICENSES THE CONCESSION SITE "AS-IS" AND CITY DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL TO CONCESSIONAIRE'S USE OF THE CONCESSION SITE FOR THEIR INTENDED COMMERCIAL PURPOSE.

12.17 SURVIVAL OF CERTAIN PROVISIONS

All provisions of this Agreement which expressly or impliedly contemplate or require performance after the expiration or termination of this Agreement hereunder shall survive such expiration or termination of this Agreement.

12.18 SUBORDINATION OF AGREEMENT

All rights granted in this Agreement shall be subordinate to the rights in any deed from the United States to the City of El Paso. This License shall further be subordinate to the provisions of any existing or future agreements between City and the United States relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Concession Site, Concessionaire may cancel this Agreement in its entirety.

12.19 FORCE MAJEURE

Neither party to this Agreement is responsible to the other party for non-performance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

12.20 AUTHORIZATION TO ENTER AGREEMENT

If Concessionaire signs this Agreement as a corporation, Concessionaire warrants to City that Concessionaire is a duly authorized and existing corporation, that Concessionaire is qualified to do business in the State of Texas, that Concessionaire has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Concessionaire is authorized to do so. Upon City's request, Concessionaire will provide evidence satisfactory to City confirming these representations.

(Signatures begin on the following page)


CITY'S SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have hereunto set their hands as of this _____ day of _____, 2024.

CITY OF EL PASO:

Cary Westin
City Manager

APPROVED AS TO FORM:



Ignacio R. Troncoso
Assistant City Attorney

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2024 by **Cary Westin**, as **Interim City Manager** of the City of El Paso, Texas ("Lessor").

Notary Public, State of Texas

My commission Expires:

(Signatures continue on the following page)

CONCESSIONAIRE'S SIGNATURE AND ACKNOWLEDGMENT

SWYFT, INC.

DocuSigned by:
Signature: Gower Smith
Printed Name: GOWER SMITH
Title: President & Co-founder

ACKNOWLEDGMENT

THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

This instrument was acknowledged before me on this 11 day of March, 2024 by Gower Smith, as officer of SWYFT, Inc. (Concessionaire).

[Signature]
Notary Public, State of Texas

My Commission Expires:

[Signature]



EXHIBIT A
PERMITTED PRODUCTS LIST

ELP – El Paso International Airport

iStore



81" X 40" X 78"

Price List For iStore Swyft

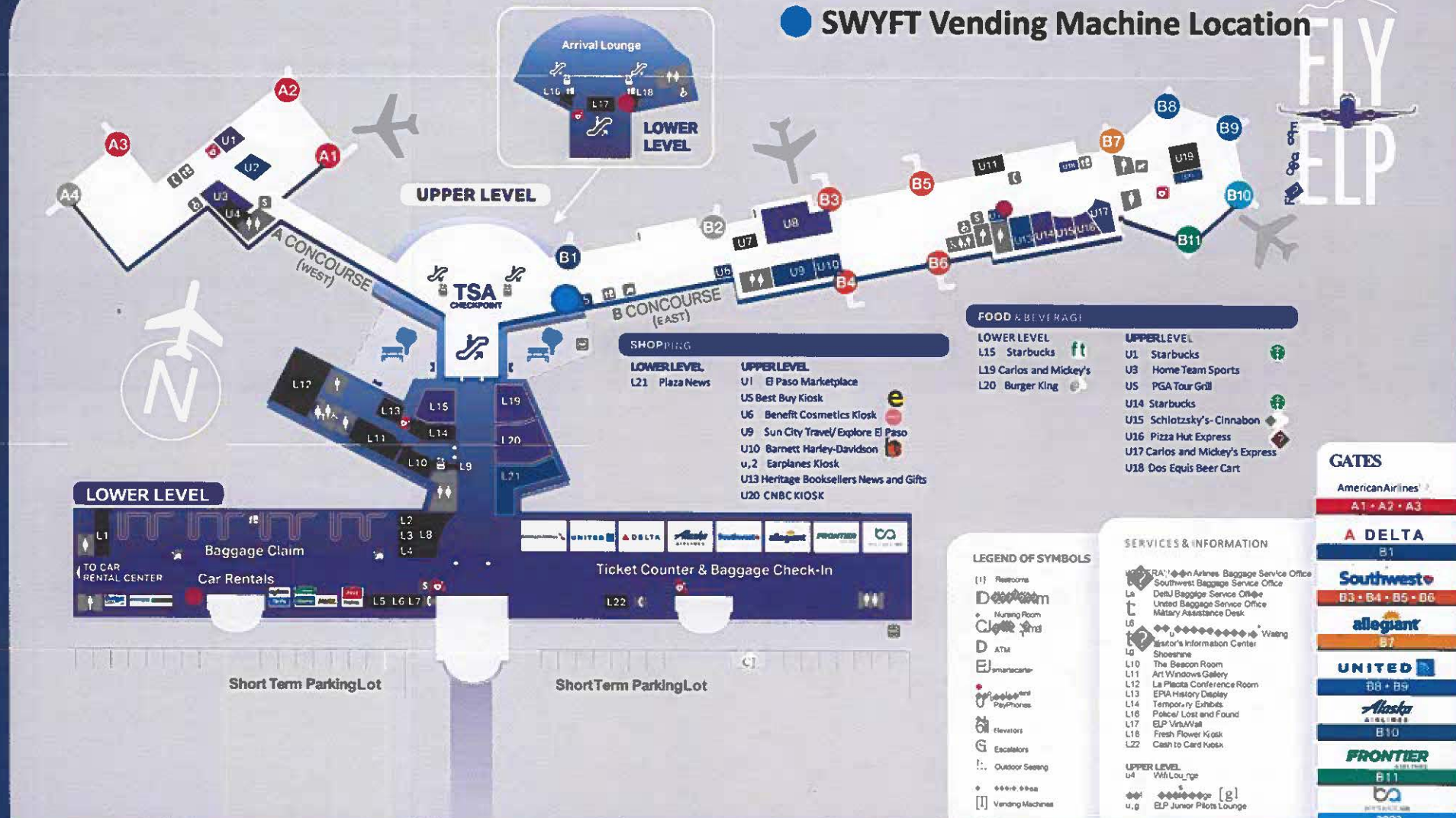
Effective Date : 2023-08-01 09:53:00.0
Products iStore R1 4.3.6 Core Bose

SKU	UPC	Product Name	List Price (\$) Default
02PM58	017817838320	Bose QuietComfort Earbuds II, Triple Black	\$ 299.00
06KM59	017817844857	Bose QuietComfort Earbuds II, Soapstone	\$ 299.00
15458	633755154584	Hypergear 20000mAh 20W USB-C PD Fast Charge Power	\$ 49.99
15652	633755156526	HyperGear ChargePad Pro 15W Wireless Fast Charger	\$ 39.99
6PG574	017817796163	Bose 700 Noise Cancelling Headphones - Black	\$ 379.99
99MO022174	888112006185	Moshi Qubit USB-C Wall Charger 45W	\$ 39.99
99MO035231	888112004808	Moshi Orbito BT Wireless Transmitter Adapter, Gold	\$ 59.99
99MO084214	810648018547	Moshi USB-C to Dual USB-A Adapter, Space Grey	\$ 24.99
99MO084249	888112001661	Moshi USB-C Digital Audio Adapter with Charging	\$ 39.99
99MO123032	888112003443	Moshi Pebbo Case AirPods Pro, Black	\$ 29.99
9JN780	017817835015	Bose QC 45 Over Ear - Black	\$ 329.00
9JN781	017817835022	Bose QC 45 Over Ear - White Smoke	\$ 329.00
A2PNK	817427028360	Sudio A2 Pink	\$ 49.99
EBEAIINCRBLK82	812887019309	JLab Epic Air ANC True Wireless Earbuds, Black	\$ 99.99
EBJBAIRPRORBLK82	812887017411	JLab JBuds Air Pro True Wireless Earbuds	\$ 59.99
EBJBUDSAIREXECR	812887018623	JLab JBuds Air Executive True Wireless, Black	\$ 79.99
EBJBUDSAIRSPRTR	812887018630	JLab JBuds Air Sport True Wireless, Black	\$ 69.99
IST-09991	776704099915	iStore Magnetic Wireless Power Bank 5000 mAh	\$ 49.99
IST-20014	776704098987	iStore Power Cube Duo 24W 2 Ports, Foldable Prongs	\$ 24.99
IST-20105	633755143663	iStore Metallic Earbuds, Gold 3.5mm	\$ 21.99
IST-20106	633755143670	iStore Metallic Earbuds, Rose Gold 3.5mm	\$ 21.99
IST-20125	776704099212	iStore Classic Fit Lightning Earbuds w/Mic, SPC, W	\$ 34.99
IST-20142	776704099397	iStore Classic Fit Lightning Earbuds w/Mic, Black	\$ 39.99
IST-20143	776704099403	iStore Classic Fit Lightning Earbuds w/Mic, Dusty	\$ 39.99
IST-20162	776704099564	iStore Classic Fit USB-C Earbuds w/Mic, White	\$ 29.99
IST-20163	776704099571	iStore Classic Fit USB-C Earbuds w/Mic, Matte Grey	\$ 29.99
IST-20166	776704099557	iStore 20W USB-C Power Adapter, White	\$ 24.99
IST-20168	776704099588	iStore Classic Fit Earbuds w/Mic 3.5mm, M. White	\$ 21.99
IST-20169	776704099595	iStore Classic Fit Earbuds w/Mic 3.5mm, Matte Grey	\$ 21.99
IST-20173	776704099632	iStore Lightning to USB-C Charge Cable, (3.3 ft.)	\$ 29.99
IST-20174	776704099649	iStore Lightning Charge Cable, (1.6 ft.), White	\$ 21.99
IST-20175	776704099656	iStore Lightning Charge Cable, (3.3 ft.), White	\$ 24.99
IST-20176	776704099663	iStore Lightning Charge Cable, (6.6 ft.), White	\$ 29.99
IST-20177	776704099670	iStore Headphones Splitter, Black	\$ 17.99
IST-20178	776704099687	iStore Lightning to 3.5mm Adapter Braided, White	\$ 19.99
IST-20179	776704099762	iStore USB-C to USB-A Cable (0.5M), Black	\$ 21.99
IST-20180	776704099786	iStore 3-in-1 cable (1.0M), SPC, Braided White	\$ 34.99
IST-20181	776704099793	iStore USB C to USB-C Cable (1.0M) SPC Braid Bl	\$ 19.99
IST-20186	776704099731	iStore Comfort Fit Lightning Earbuds w/Mic, White	\$ 39.99
IST-20187	776704099724	iStore Comfort Fit Lightning Earbuds w/Mic, Grey	\$ 39.99
IST-20190	776704099748	iStore Lightning to USB-C Charge Cable 6.6ft.	\$ 32.99
MDRX110NC/B	027242879362	Sony ZX110NC Noise-Canceling Over-Ear Headphones	\$ 49.99
MHJA3AM/A	194252156940	Apple 20W USB-C Power Adapter, White	\$ 29.99
MHXH3AM/A	194252192375	Apple MagSafe Charger, White	\$ 49.99
MJ4X3LL/A	194252388297	Beats Studio Buds TW ANC In-Ear, Black	\$ 169.99
MJ503LL/A	194252388495	Beats Studio Buds TW ANC In-Ear, Red	\$ 169.99
MK2F3LL/A	194252484296	Beats Fit Pro True Wireless Earbuds — Beats Black	\$ 229.99
MK2H3LL/A	194252484494	Beats Fit Pro True Wireless Earbuds — Stone Purple	\$ 229.99
MM0A3AM/A	194252750841	Apple USB-C to Lightning Cable, (3.3 ft.) (1 m)	\$ 29.99
MMTN2AM/A	190198001696	Apple EarPods Lightning, White	\$ 38.99
MMX62AM/A	190198001757	Apple Lightning to 3.5 mm Headphone Jack Adapter	\$ 14.99
MQD83AM/A	194253397168	Apple AirPods Pro (2nd Gen)	\$ 299.99
MQGH2AM/A	190198496164	Apple USB-C to Lightning Cable, (6.6 ft.) (2 m)	\$ 49.99
MQKJ3AM/A	194253494829	Apple USB-C Charge Cable, (3.3 ft.) (1 m)	\$ 29.99
MV7N2AM/A	190199098428	Apple AirPods (2nd Gen), White	\$ 179.99
NK2E2AM/A	190199291027	Apple Watch Magnetic Charging Cable, (3.3 ft.)	\$ 38.99
MXLY2AM/A	190199534827	Apple Lightning to USB Cable, (3.3 ft.) (1 m)	\$ 29.99
MYMC2LL/A	190199801561	Beats Flex All-Day Wireless Earphones, Black	\$ 79.99
N2BLK	817427028742	Sudio N2 Black	\$ 59.99
N2WHT	817427028995	Sudio N2 White	\$ 59.99
WF1000XM4/B	027242921085	Sony WF1000XM4 TWS In-Ear Headphones, Black	\$ 279.99
WH1000XM4/B	027242919419	Sony 1000XM4 Wireless Noise Cancelling OverEar (B)	\$ 349.99
WHCH520/B	027242925205	Sony CH520 Wireless Headphones On-Ear, Black	\$ 59.99
WHCH720N/B	027242925397	Sony CH720N Wireless Noise Canceling Over Ear	\$ 169.99

EXHIBIT B
CONCESSION SITE(S)

SWYFT Vending Machine Location

FLY
ELP



DIGITAL EL PASO

WiFi

FREE WI-FI PROVIDED BY DIGITAL EL PASO • AVAILABLE IN ALL AREAS

#flyelp



Legislation Text

File #: 24-546, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign an El Paso International Airport Concession License Agreement between the City of El Paso and E&F Enterprises, LLC dba Melek Multicenter, to provide automated banking, currency exchange and travel services in the concession site, located at the El Paso International Airport, 6701 Convair Rd., El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT:

A Resolution that the City Manager, or designee, be authorized to sign an El Paso International Airport Concession License Agreement between the City of El Paso and E&F Enterprises, LLC dba Melek Multicenter, to provide automated banking, currency exchange and travel services in the concession site, located at the El Paso International Airport, 6701 Convair Rd., El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

BACKGROUND / DISCUSSION:

E&F Enterprises, LLC dba Melek Multicenter is entering into a Concession License Agreement to provide automated banking services, currency exchange and travel services to the traveling public. The agreement is for a one-year term from May 1, 2024 through April 30, 2025 with automatic renewal for four (4) additional terms of one (1) year each.

Concessionaire pays the greater of a minimum annual guarantee of \$3,631.80 per year (\$60.53 per sq. ft. x 60 sq. ft.) or \$1.00 per transaction.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: for 
Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign an El Paso International Airport Concession License Agreement between the City of El Paso and E&F Enterprises, LLC dba Melek Multicenter, to provide automated banking, currency exchange and travel services in the concession site, located at the El Paso International Airport, 6701 Convair Rd., El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

APPROVED this ____ day of _____, 2024.

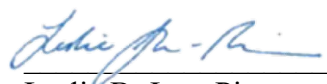
CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

for 

Samuel Rodriguez, P.E.
Director of Aviation

STATE OF TEXAS)
)
COUNTY OF EL PASO) **EL PASO INTERNATIONAL AIRPORT
CONCESSION LICENSE AGREEMENT
(TRAVEL SERVICES, CURRENCY EXCHANGE &
AUTOMATED BANKING SERVICES)**

This Concession License Agreement (“**Agreement**”) is made this _____ day of _____, 2024 (“**Effective Date**”) between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas (“**City**”) and **E&F Enterprises, LLC dba Melek Multicenter**, (“**Concessionaire**”). For the convenience of the parties, all defined terms appear in **bold print** when first defined.

WHEREAS, the City owns and operates the El Paso International Airport located in El Paso County, Texas (“**Airport**”); and

WHEREAS, Chapter 22 of the Texas Transportation Code authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports; and

WHEREAS, Concessionaire is qualified to provide travel services, currency exchange and automated banking services at the Airport; and

WHEREAS, the City deems it advantageous to the City and the Airport to grant a Concession License to Concessionaire, subject to the covenants, promises, and terms contained herein;

NOW, THEREFORE, the parties agree as follows:

For, and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

ARTICLE I – PURPOSE OF LICENSE AGREEMENT

1.01 PURPOSE

The City grants to Concessionaire license and permission to occupy and use the areas described in this Agreement for the following purpose only: to provide automated banking , currency exchange and travel services (ATM) in the concession site.

ARTICLE II – DESCRIPTION OF ATM MACHINE AND LOCATION

2.01. DESCRIPTION OF ARM

Concessionaire sells and dispenses the following type of products or services: Provide travel services, currency exchange and automated banking. For purposes of this Agreement, Concessionaire shall only provide services listed on this agreement.

2.02 LOCATION AND SIZE OF CONCESSION SITE

A. Counter Space and ATM shall be located in the lower level of the terminal in front of the

lost baggage office (Exhibit A), which shall be of the following size:

- 1) Concession Site: Counter Space and ATM Services are located in the lower level of the terminal in front of the lost baggage office
- B. The location(s) of the Concession Site is shown on the Airport terminal map, attached hereto as Exhibit “A” (“Concession Site(s)”).
- C. The total square footage of the Concession Site is **60** square feet.

ARTICLE III - PRIVILEGES, USES AND RIGHTS

3.01 DESCRIPTION OF PRIVILEGES, USES AND RIGHTS

The City grants to Concessionaire the following privileges, uses, and rights, all of which shall be subject to the terms, conditions, and covenants set forth in this Agreement:

- A. The non-exclusive right, license and privilege to locate, maintain and operate in the Airport terminal building for the purpose of providing ATM, currency exchange and travel services. Selling services not specified in this Agreement is a material breach of the Agreement. If Concessionaire offers services not in the scope of this Agreement, the Director of Aviation (“**Director**”), or designee, will notify Concessionaire in writing, and Concessionaire will have 24 hours to remedy the breach. Failure to remedy will result in the City’s right to terminate this Agreement.
- B. The right, license, and privilege granted pursuant to Paragraph 3.01 (A), above, shall be subject to all applicable laws, ordinances, rules and regulations.
- C. The right of ingress to, and egress from, the Concession Site by Concessionaire, its officers, employees, agents, patrons, and invitees. Said rights shall be subject to such ordinances, rules and regulations relating to the use and operations at the Airport and subject further at all times, to the Director’s approval and control.
- D. Concessionaire’s employees working at the Airport Terminal will be provided vehicular parking facilities, if available, in common with other employees. Such facilities shall be located in an area designated by the Director. The Director reserves the right to assess a reasonable charge to Concessionaire or its employees for such parking facilities.

ARTICLE IV - CONDITIONS AND TERMS

4.01 CONDITIONS AND TERMS

This Agreement is entered into subject to the following conditions and terms:

- A. Concessionaire shall not alter Concession Site in any manner without the Director’s prior written approval.
- B. Concessionaire’s activities shall be limited to the operation and maintenance of the

permitted travel services, currency exchange and ATM services.

- C. Prior to placement of an ATM at the Airport, Concessionaire shall coordinate with the Director, or designee, to ensure placement at the correct Concession Site.
- D. The Director, from time to time, may require Concessionaire to relocate to another location in or around the Airport terminal building. The Director will determine the location of any temporary Concession Site and provide Concessionaire written notice of any requirement that Concessionaire relocate its operation. Such written notice from the Director shall include a reasonable deadline by which Concessionaire must complete the relocation. Concessionaire shall be responsible for relocating by the specified deadline. Should Concessionaire fail to relocate by the specified deadline, the Airport or a third party contracted by the Airport, may relocate the Concession and ATM and the Airport shall bill Concessionaire for the cost of relocating the Concession and ATM. The Airport shall not be responsible for any damage to the Concessionaire's ATM that may result from the Airport relocating Concessionaire's ATM pursuant to this Paragraph 4.01 (D).
- E. Concessionaire's right to use public Airport facilities in common with other authorized parties shall be exercised only subject to, and in accordance with, the laws of the United States of America and the State of Texas; the rules and regulations promulgated under their authority with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of City now in force or hereafter prescribed or promulgated by Charter authority or by law.
- F. Concessionaire shall provide a high-quality ATM that has up-to-date technology; is of recent, modern design; and is clean, fully operational, efficient, and user-friendly.
- G. Concessionaire will utilize only the roadways, pathways, routes, or forms of travel City may designate, from time to time, for Concessionaire's operation and movement on or about the Airport.
- H. Other than the ATM, Concessionaire may install or place improvements, decorations, fixtures, equipment, or supplies on the Concession Site only with Director's written approval. Any installation or placement of improvements, decorations, fixtures, equipment, or supplies on the Concession Site without Director's written approval shall be considered a material breach of this Agreement, and City may terminate this agreement in accordance with the provisions set forth in Article X. Any installation or placement of improvements, decorations, fixtures, equipment, or supplies on the Concession Site shall be removed by Concessionaire within five (5) calendars of the termination of this Agreement. Should Concessionaire fail to remove any improvements, decorations, fixtures, equipment, or supplies on the Concession Site within five (5) calendar days of the termination of this Agreement, the Airport or a third party contracted by the Airport, may remove such items and the Airport shall bill Concessionaire for the cost of removal. The Airport shall not be responsible for any damage to the Concessionaire's property that may

result from the Airport removing items pursuant to this Paragraph 4.01 (H).

- I. The Director must approve, in writing, any temporary signs or advertising on the Concession Site prior to placement by Concessionaire. Any placement of temporary signs or advertising on the Concession Site made without the Director's approval shall be considered a material breach of this Agreement, and City may terminate this agreement in accordance with the provisions set forth in Article X. Any temporary signs or advertising on the Concession Site shall be removed by Concessionaire within five (5) calendars of the termination of this Agreement. Should Concessionaire fail to remove temporary signs or advertising on the Concession Site within five (5) calendar days of the termination of this Agreement, the Airport or a third party contracted by the Airport, may remove such items and the Airport shall bill Concessionaire for the cost of removal. The Airport shall not be responsible for any damage to the Concessionaire's property that may result from the Airport removing items pursuant to this Paragraph 4.01 (I).

ARTICLE V – CITY AND CONCESSIONAIRE OBLIGATIONS AND WARRANTIES

5.01 CITY'S OBLIGATIONS

- A. The City shall provide:
 - (1) Customer access to the Concession Site, subject to any necessary, temporary interruptions that may occur from time to time.
 - (2) Existing lighting, air conditioning, and electrical service at the Concession Site.
- B. The City warrants:
 - (1) Concession Site complies with the requirements of all applicable governmental authorities in effect as of the Effective Date. During the Term, City shall take appropriate and timely action to maintain the terminal in compliance with all applicable governmental regulations, including without limitation, the Americans with Disabilities Act, hereafter imposed by order of any governmental agency or any other authority, at its sole cost and expense and without reimbursement from Concessionaire; provided, however, that if any requirement is imposed solely as a result of the specific and unique use of the Concession Site by Concessionaire, then Concessionaire shall bear the cost of compliance.
 - (2) All systems and equipment that are the responsibility of City are in good operating condition as of the Effective Date. If any of the existing systems or equipment that are the City's responsibility should fail during the Term, the City shall rectify such failure at its sole cost and expense, except for any failures caused by Concessionaire.

5.02 CONCESSIONAIRE'S OBLIGATIONS

- A. Concessionaire shall provide:

- (1) Installation, operation, and regular maintenance of the ATM.
- (2) All equipment necessary to properly conduct Concessionaire's business.
- (3) Cash and cash replenishment services to the ATM in amounts and on a regular basis to insure that ATM is in functional condition for use by customers, and such cash replenishments services shall be arranged with the Director or Designee. Fees and charges to the customers must be reasonable, and not unjustly discriminatory, prices for each unit or service, provided that Concessionaire may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.
- (4) Installation of additional outlets or circuits or telecommunications equipment if necessary for proper functioning of the ATM, with the prior written approval of the Director, or designee.

B. Concessionaire warrants:

- (1) Concessionaire understands the restrictions imposed on City by 49 CFR Part 1540 and 1542 as amended and agrees to assume responsibility for compliance with said regulations as they relate to access and identification procedures on the Premises. Concessionaire recognizes that all persons in or on the Concession Site must comply with federal safety and security requirements and agrees that all employees shall, as a condition of being on the Concession Site, be badged by the Airport and that all other persons shall be escorted in accordance with Airport requirements. Concessionaire shall also require that all personnel of any subcontractor shall also be similarly badged and/or escorted.
- (2) Concessionaire understands that all of its agents, employees, or independent contractors must be authorized by City to enter restricted areas as defined in Title 14 of the El Paso City Code as amended. Concessionaire understands that no person authorized to enter a restricted area by virtue of this Agreement may permit any other person who is not otherwise authorized to enter a restricted area unless such person is, at all times while in the restricted area, in the company of an authorized person as required.

ARTICLE VI - SERVICES TO BE PERFORMED BY CONCESSIONAIRE

6.01 HOURS OF OPERATION.

The ATM will be available, operable and continuously open for business to the public seven (7) days a week, 24 hours per day.

6.02 TYPE OF OPERATION.

A. Concessionaire shall ensure that service is available on a fair, reasonable and non-discriminatory basis to the public. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for service at the Airport.

- B. Concessionaire shall maintain and operate the ATM in a clean, functional, user-friendly, and up-to-date manner and shall keep the Concession Site in a safe, clean, and orderly condition at all times, satisfactory to the City.
- C. Concessionaire shall maintain any necessary licenses or permits at its sole expense.
- D. Concessionaire shall place a phone number on the ATM for customers to call for assistance should the ATM malfunction.
- E. Concessionaire shall obtain any necessary Airport badges for its employees if such badges are required to access secured areas in the Airport for purposes of installing, maintaining or stocking ATM.

6.03 COMPLIANCE WITH LAWS.

- A. Concessionaire agrees that all activities related to the Concession Site and the ATM shall be, at Concessionaire's sole expense, conducted in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the City or Concessionaire. By way of example and not in limitation of the foregoing, the execution of this Agreement shall not preclude the requirement that Concessionaire obtain all other approvals necessary for development of Concessionaire's project such as, but not limited to, all permits, franchises, licenses, certificates and other authorizations required by law and shall pay all special fees or charges legally levied or assessed.
- B. Concessionaire agrees to comply with the Americans with Disabilities Act; make or cause to be made all such alterations to the Concession Site, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to use or occupation of the Concession Site.
- C. Concessionaire shall, at Concessionaire's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Concessionaire's use, operation, or occupation of the Concession Site including any improvements thereon.

6.04 SOLICITATION AND CONDUCT.

- A. Concessionaire shall prohibit its agents, attendants, and employees from engaging in the solicitation of its services on or about the Airport in a loud, boisterous, offensive or objectionable manner. In the event of questionable conduct in such solicitation, the Director, or designee, shall be sole judge in determining if said conduct is a violation of this paragraph. Upon receipt of notice from the Director, or designee, the Concessionaire shall immediately take all steps necessary to eliminate the undesirable condition.

- B. Concessionaire, its agents, attendants, and employees shall strive to maintain cooperative relationships with other companies engaged in business at the Airport. Concessionaire shall not engage in open public disputes, disagreements or conflicts that would tend to deteriorate the quality of the ATM service or that would be incompatible with the best interest of the public at the Airport. The Director, or designee, shall have the right, but not the requirement, to resolve all such disputes, disagreements or conflicts; and the Director's (or designee's) determination shall be binding upon Concessionaire.

6.05 TRASH, GARBAGE, REFUSE.

Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Any cardboard boxes must be removed from the Airport or may be disposed of in the Airport's recycling bin should Airport provide access.

6.06 COST OF CONCESSION.

Concessionaire shall bear, at its sole expense, all costs of operating the ATM at the Concession Site and shall pay, in addition to the rent, all other costs connected with the use of the Concession Site and facilities, including, but not limited to, maintenance, insurance, any and all taxes, and all permits and licenses required by law. Concessionaire shall have the right, however, at the Concessionaire's sole cost and expense, to contest the legality of any tax, levy or assessment but shall not allow disputed amounts to remain unpaid during such contest. Failure to pay any taxes or assessments in a timely manner may result in termination of this Agreement.

6.07 MAINTENANCE AND DAMAGE TO CITY PROPERTY.

- A. Concessionaire shall, at its sole cost and expense, maintain the Concession Site and every part thereof in good order and repair and in good and safe condition; repair all damages caused by its employees, patrons, customers or its operation of said service; and maintain and repair all equipment on said Concession Site.
- B. Concessionaire understands and agrees that the Director, or designee, shall be the sole judge of the quality of maintenance of the Concession Site. If an ATM fails to operate or provide adequate service to the customers, upon written notice by the Director or designee to Concessionaire, Concessionaire shall be required to repair the ATM to working order. If said repair is not undertaken by Concessionaire within twenty-four (24) hours after receipt of written notice, the City will have the right to perform the necessary repair through an appropriate contractor, the cost of such repairs and maintenance shall be borne by Concessionaire.
- C. Concessionaire understands and agrees that, if Concessionaire, its agents, employees, or contractors causes any damage to Airport or City property, Concessionaire shall, at its own cost, repair all such damage without delay in a diligent and professional manner to the reasonable satisfaction of the Director or designee.

ARTICLE VII - TERM OF AGREEMENT

7.01 TERM AND AUTOMATIC RENEWAL.

- A. The term of this Agreement shall be one (1) year, commencing on May 1, 2024, regardless of the date signed, and terminating one year from the Effective Date unless terminated earlier in accordance with this Agreement or renewed pursuant to Paragraph 7.01 (B) below.
- B. Provided that Concessionaire is not in default and there is no condition or event which, with notice from the City, would become an event of default under this Agreement, this Agreement shall automatically renew for four (4) one-year renewal periods upon the expiration of the Initial Term (for the first renewal period to commence) and then upon the expiration of the first, second and third renewal period (for the second , third and fourth renewal period to commence), on the same terms and conditions as the Agreement, unless Concessionaire provides the City with written notice of Concessionaire's intent to terminate the Agreement at least sixty (60) days prior to the end of the Initial Term or the first renewal period. Should notice of intent to terminate the Agreement be provided by Concessionaire to the City, the termination shall be effective on the last day of the Initial Term; and for the notice of intent to terminate be provided by Concessionaire during the first renewal period, the termination shall be effective on the last day of the first renewal period.

7.02 NATIONAL EMERGENCY.

In the event the rights and privileges hereunder are suspended by reason of change in airport security regulations, war or other national emergency, the parties will negotiate in good faith a reasonable resolution of this Agreement under the circumstances.

ARTICLE VIII – CONCESSION FEE, MINIMUM ANNUAL GUARANTEE AND PERCENTAGE FEES

8.01 CONCESSION FEE.

Concessionaire agrees to pay either \$60.53 per square foot for the Concession Site per annum (the “Minimum Annual Guarantee” or “MAG”) or pay \$1.00 per transaction (“Transaction Rent”), whichever is greater commencing on the effective date.

8.02 MINIMUM ANNUAL GUARANTEE

- A. The parties agree that the Concession Site contains 60 square feet of space. Therefore, the MAG is \$3,631.80 per year (\$60.53 per sq. ft. x 60 sq. ft.). Beginning with the second Agreement Year and ever Agreement Year thereafter, the MAG will be adjusted to equal the per square foot terminal rate as charged by the City as approved by City Council for its non-signatory agreements, as amended or revised from time to time.
- B. The MAG shall be paid in equal monthly installments of \$ 302.65.
- C. Concessionaire shall pay the MAG monthly installment amount of \$302.65 on or before the 1st day of each month, in advance, without invoice. Because the MAG monthly installment

amount is due on or before the 1st day of each month, Concessionaire's initial MAG monthly installment amount is due prior to Concessionaire installing its ARM. Any portion of a month of operation will be pro-rated.

- D. The balance of the Transaction Fee, if any, will be due along with the report for the immediately preceding month on the 20th day of each month. Whether there is a balance due, is dependent on the calculation of Percentage Rent for the month.
- E. For the initial month in the Term of this Agreement, Concessionaire shall pay only the MAG monthly installment amount and no report shall be due for the immediately preceding month.

8.03 TRANSACTION FEE.

- A. Transaction Fee is \$1.00 per transaction derived from:
 - Cardless Cash ATM.
 - Ticketing purchasing services
 - Licensed Custom Broker Export Certifications
 - FedEx Shipping Services
 - Travel Services
 - Wire transfers service (excluding copies).
- B. The term "Transaction" is defined as use of any services by any customer whereby Concessionaire charges a fee to the customer. It shall be all-inclusive whether or not said income is made by cash or credit, or whether the income is collected or uncollected. Transactions made from the Concession Site shall include items ordered in the Concession Site, whether in person or by computer or telephone and items which will be delivered to a customer as a result of a sale on the Concession Site.
- C. On the 20th day of each month, Concessionaire will submit to the City a statement of Revenue derived from its transactions at the Airport based on the Concessionaire's Revenue for the previous month. (See Paragraph "E", below.) Such statement will be certified by an officer of Concessionaire as being correct and true. The statement will include a calculation of the Transaction Rent due the City. Concessionaire will remit, at the same time, its balance of Concession Fee due to the City. For example, if the Transaction Rent is greater than the monthly MAG amount, Concessionaire shall submit the difference between the Transaction Rent and the MAG, so that City receives, in total, the Transaction Rent amount for the month. If the Transaction Rent is less than the monthly MAG amount, Concessionaire is not obligated to pay any amount in addition to the MAG amount for that month.
- D. The full Rent due, whether the MAG or the \$1 per Transaction, and a monthly report showing the number of Transactions are due no later than the 20th day of each month for the prior months' activity. On or before the 20th day of each month, the Concessionaire must submit to the City a detailed statement showing the Transactions generated from the concession during the immediately preceding calendar month and shall simultaneously pay

to the City the Greater of one-twelfth of the Concessionaire's MAG or the Concession Fee as defined herein for the immediately preceding calendar month. The Monthly report must be submitted electronically to ELPreports@elPASOTexas.gov . The statements submitted must be submitted on forms which are approved by the City's designated representative. Any late payments of rent shall bear interest at the highest rate allowed by law.

- E. In regards to the statement of Gross Revenue required pursuant to Paragraph "C", above, Concessionaire shall submit to the City a report showing all transactions, the Transaction Fee, the amount owed to the City (the greater of the Transaction Fee or one-twelfth of the Concessionaire's Minimum Annual Guarantee), and the amount Transaction Fee remitted, from transactions for the preceding calendar month. These reports shall be submitted on a form that is acceptable to the Director. The monthly report be submitted electronically, in Excel format or PDF format, to the following email address: ELPreports@elPASOTexas.gov. Failure to comply with the reporting requirements as stated above will constitute an Event of Default under this Agreement by the Concessionaire.

8.04 ADMINISTRATIVE ADJUSTMENTS.

- A. If the Concession Site is expanded to include additional locations, the Minimum Annual Guarantee will be adjusted to include the additional square footage. The inclusion of additional locations and square footage to the Concession Site shall be done administratively, without the necessity of amending this Agreement, through written approval of the Director, wherein the adjusted square footage and Minimum Annual Guarantee shall be specified.
- B. The Director has the authority to administratively amend the type of products that Concessionaire is permitted to sell and dispense pursuant to Article II, above.

8.05 RECORDS OF CONCESSIONAIRE.

- A. For purposes of this Section 8.05, the term "**Contract Year**" means the twelve (12) month period during the term of the contract commencing on the Effective Date.
- B. With respect to business done by Concessionaire pursuant to this Agreement, Concessionaire shall keep true and accurate amounts, records, books, and data which shall show all sales made, and services performed for cash, credit, or otherwise, without regard to whether paid or not, and all transactions of Concessionaire.
- C. Concessionaire agrees to operate its business at the Airport in such a manner that a receipt, if applicable, shall be issued with each transaction, and to deliver these documents to the Airport within twenty (20) days and at no cost to the City after a request for the documents has been made by the Director. Concessionaire agrees to keep books and records, in accordance with generally accepted accounting practices, and such other records as the City may request. The receipts, if applicable, and all other books and records of Concessionaire, in paper form or in electronic form, as referenced in this Agreement, shall be available for inspection or audit by authorized City representatives at all reasonable times during business hours for a minimum of one (1) year after each Contract Year and a minimum of one (1) year after any holdover period, if any. If an audit is required,

appropriate records will be maintained legally for a period of sixty (60) days after completion of the audit.

- D. Within ninety (90) days following the last day of each Contract Year of each Term of the Agreement, a statement showing Gross Revenues for the preceding Contract Year shall be submitted and certified from the Concessionaire's records by an officer of the corporation ("Annual Statement"). The Annual Statement shall be signed and notarized by an officer of the corporation as an accurate report of the Concessionaire's Gross Revenues for the preceding Contract Year. The Annual Statement is to be accompanied by the Concessionaire's payment covering any deficiency between payment made during the preceding Contract Year and the payment due for the Contract Year as identified in the Annual Statement certified by the certified public accountant. If the Annual Statement indicates that the amounts due to the City is less than the payments made for the preceding year, then the City will reimburse to the Concessionaire the excess amount without interest.
- E. If, after the submission of the Concessionaire's Annual Statement, the City has reasonable questions about the accuracy of the Annual Statement, the City shall have the right, at its sole option, to require Concessionaire to submit at Concessionaire's sole cost, a certified statement of Gross Revenues prepared by an independent certified public accountant acceptable to the City. "Independent" shall mean a certified public accountant who is not affiliated in fact or appearance in any manner with the Concessionaire, its parent company or any subsidiaries. Any failure of the City to request a certified statement of Gross Revenues by an independent certified public accountant in any Contract Year shall not operate to bar or destroy the right of the City to request such a certified statement in any subsequent Contract Year. The submission of such certified statement of Gross Revenues by the Concessionaire shall not be construed to limit the City's right to request audits as set forth in this Agreement. The Concessionaire, at its own expense, shall supply all records in a type, style and form satisfactory to the Director of Aviation. The Concessionaire shall maintain monthly statements of Gross Revenues for a minimum of one (1) year at a place of business accessible to the City in El Paso, Texas. The Concessionaire shall maintain annual statements of Gross Revenues, as required hereunder, at its principal place of business, for a minimum of five (5) years, and shall forward same to the City during that time, if requested by the City. The Concessionaire shall maintain monthly statements, as required hereunder, for a minimum of one (1) year at a place of business accessible to the City. The Concessionaire shall also maintain annual statements, as required hereunder, for a minimum of five (5) years at a place of business accessible to the City.

8.06 AUDIT.

- A. For the purpose of determining accuracy of reporting Gross Revenues, the City may make a spot test audit and base its findings for the entire period upon such spot test; provided however, that such a spot test shall include at least twenty-five percent (25%) of the total time of the period being audited.
- B. Concessionaire further grants to the City or its designee the right, upon ten (10) days' written notice to Concessionaire, to examine, audit, or inspect books, records, and accounts

of Concessionaire pertinent to the purpose of verifying the accuracy of the reports and statements furnished to the City, and for checking the amount of rental or other payments lawfully due the City under the terms of this Agreement. Upon receipt of the written notice, Concessionaire shall bring to a place in El Paso which has been selected by the City all books and records, together with all appropriate backup documentation, necessary for the City to effectively monitor the appropriateness of all rental and other fees paid or to-be-paid by Concessionaire under this Agreement. If, following any such audit, any element of rental or fees changes by more than five percent (5%), all costs of such audit, including counsel, accounting or expert fees, shall be paid by Concessionaire to the City within thirty (30) days of the City submitting a bill to Concessionaire. Otherwise, the cost of the audit will be borne by the City.

- C. Failure of the City to exercise its right to audit Concessionaire, as set forth herein, shall in no way be construed as a waiver of any right to payment by the City of any rental or fees due the City under the terms of this Agreement, and the City hereby expressly reserves its rights under common or statutory law, or otherwise, to enforce all terms of this Agreement, including any right to payment hereunder.

8.07 INTEREST.

Without waiving any other right of action available to the City, any installment of rent, fees, or other monies accruing under the provisions of this Agreement that are not paid by the due date, shall bear interest at the maximum rate allowed by law from the date when same was due by the terms hereof, until the same has been paid by Concessionaire.

8.08 PLACE OF PAYMENT.

All rent payments required herein shall be paid to the City at the following address:

Accounting Division
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278

Payment via electronic funds transfer is encouraged provided that it is made through a system approved by the Director.

8.09 DEFAULT FOR FAILURE TO PAY RENT, FEES OR CHARGES.

Concessionaire's failure to pay any part of the rental, fees, or charges agreed upon hereunder within thirty (30) days after the due date set forth herein shall be considered an event of default. If Concessionaire is in default for failure to pay amounts due in a timely manner, the City shall have the right to proceed with a contractual lien pursuant to Paragraph 8.10, below, without further notice to Concessionaire or opportunity to cure.

8.10 CONTRACTUAL LIEN.

- A. It is expressly agreed that in the event of default for failure to pay rent or any other sum due from Concessionaire to City under the terms of this Agreement, City shall have the right to resume possession of the Concession Site and to remove Concessionaire's ARM,

without being guilty of any manner of trespass or conversion and without prejudice to any other remedies, which might be used by the City.

- B. It is expressly agreed that in the event of default in the payment of rent or any other sum due from Concessionaire to City under the terms of this Agreement, City shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Concessionaire which are placed in, or become a part of, the Concession Site, as security for rent due and to become due for the remainder of the Agreement term, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, but shall be in addition to that lien, and Concessionaire grants to City a security interest in all of Concessionaire's personal property placed in or on the Concession Site for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission or its successor agency, and any other laws pertaining thereto and the Railroad Commission of the State of Texas. City agrees that it will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Concessionaire, or any assignee of the Concessionaire. In the event City exercises the option to terminate the leasehold as provided herein, the City, after providing reasonable notice to Concessionaire of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Concessionaire's property on the Premises and sell it at public or private sale after giving Concessionaire reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as City deems best. The proceeds of the sale shall be applied first to the necessary proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this Agreement, with the balance, if any, to be paid to Concessionaire.

ARTICLE IX - INSURANCE AND INDEMNIFICATION

9.01 LIABILITY INSURANCE.

- A. Concessionaire, and any contractor or subcontractor that performs any service on behalf of Concessionaire under the terms of this Agreement, shall obtain, provide proof of, and maintain for the Term of this Agreement, the following:
1. Commercial General Liability Insurance for the benefit of City and Concessionaire, as their respective interests may appear, including all the usual coverage known as: (a) Premises/operations liability, (b) Products/completed operations, and (c) Personal/advertising injury for minimum limits of Two Million Dollars (\$2,000,000.00) for bodily injury to one person for each occurrence, and One Million Dollars for property damage arising out of each occurrence, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

2. Commercial Automobile Liability with Minimum Limits of \$1,000,000 Bodily Injury/\$500,000 Property Damage Liability per occurrence.
 3. Statutory Workers' Compensation Insurance and Employers Liability Insurance with Minimum Limits of \$1,000,000 per occurrence.
- B. City, its officials, employees, agents and contractors shall be named as an Additional Insured on all insurance policies, either in the policy itself and shall be reflected on the certificate of insurance or through an endorsement attached to the policy and the policies must contain a "blanket waiver of subrogation" clause in favor of the City.
- C. Concessionaire and their subcontractors' insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents and contractors shall be in excess of the Concessionaire's or Concessionaire's subcontractors' insurance and shall not contribute to the Concessionaire's or Concessionaire's subcontractor's insurance.
- D. All policies shall provide either in the policy itself and have reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without fifteen (15) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums. All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by City.
- E. Prior to undertaking any work under this Agreement, the Concessionaire, at no expense to the City, shall furnish to the City a certificate of insurance with original endorsements affecting coverage for each of the insurance policies provided in this Agreement. Any deductibles or self-insured retentions shall be declared to, and approved by the City.

9.02 INDEMNIFICATION.

WITHOUT LIMITING THE GENERALITY OF ANY OTHER INDEMNITY CONTAINED IN THIS AGREEMENT, CONCESSIONAIRE AGREES TO INDEMNIFY AND HOLD CITY AND ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF CONCESSIONAIRE'S ACTIVITIES ON THE CONCESSION SITE, ITS USE OF THE CONCESSION SITE, OR FROM ANY BREACH ON THE PART OF CONCESSIONAIRE OF ANY TERMS OF THIS AGREEMENT, OR FROM ANY ACT OR NEGLIGENCE OF CONCESSIONAIRE, ITS AGENTS, CONTRACTORS, EMPLOYEES, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE, OR IN PART, FROM THE NEGLIGENCE OF CITY. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST CITY BY REASON OF ANY SUCH

CLAIM, CONCESSIONAIRE, UPON RECEIPT OF WRITTEN NOTICE FROM CITY, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO CITY. THE OBLIGATIONS OF CONCESSIONAIRE UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR SOONER TERMINATION OF THE AGREEMENT.

ARTICLE X - TERMINATION OF AGREEMENT, CANCELLATION, ASSIGNMENT AND TRANSFER

10.01 TERMINATION.

- A. This Agreement shall terminate at the expiration of the Term, or sooner as provided in this Agreement, and Concessionaire shall thereafter have no further interest or right in the Concession Site.

10.02 CANCELLATION BY CITY.

- A. This Agreement shall be subject to cancellation by the City in the event Concessionaire:
1. Is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of thirty (30) days from the date said payments are due.
 2. Files a petition in bankruptcy or insolvency.
 3. Makes an assignment of any interest in this Agreement for the benefit of creditors.
 4. Is adjudged as bankrupt in involuntary bankruptcy proceedings.
 5. Is made a party to a receivership proceeding in which a receiver or trustee is appointed for the property or affairs of the Concessionaire.
 6. Abandons the Concession Site for ten (10) days.
 7. Fails to perform or keep any term, covenant, or condition required of Concessionaire pursuant to this Agreement (except rental payments); and such failure continues for a period of twenty (20) calendar days after receipt of written notice from the City of said failure.
 8. Violates any applicable laws, statutes or ordinances.
- B. In any of the aforesaid events, the City may immediately cancel this Agreement and take immediate possession of the Concession Site and remove Concessionaire's effects forcibly, if necessary, without being deemed guilty of trespassing and Concessionaire shall cease all operation at the Airport immediately.
- C. The City's failure to declare this Agreement terminated pursuant to this Paragraph 10.02 shall not operate to bar or destroy the right of City to cancel this Agreement for any subsequent violation of the terms of this Agreement.

10.03 ASSIGNMENT AND TRANSFER.

Concessionaire shall not transfer, or sublease its rights granted hereunder without the prior written approval of the City. No sub-concession agreements shall be permitted.

ARTICLE XI - REDELIVERY

11.01 REDELIVERY

Concessionaire shall make no unlawful or offensive use of the Concession Site and will at the expiration of the Term or upon any sooner termination, without notice, quit and deliver up said Concession Site to the City peaceably, quietly and in as good order and condition, reasonable use and wear excepted, as the same now are or may hereafter be improved by Concessionaire or the City.

ARTICLE XII - GENERAL PROVISIONS

12.01 TIME IS OF THE ESSENCE.

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

12.02 NOTICES.

All notices required to be given under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid, or by overnight or express carrier with proof of delivery, addressed to the proper party at the following addresses:

CITY:	City Clerk City of El Paso P.O. Box 1890 El Paso, Texas 79950-1890
COPY TO:	El Paso International Airport Attn: Director of Aviation 6701 Convair Road El Paso, Texas 79925-1099
CONCESSIONAIRE:	E&F Enterprises LLC, DBA Melek Multicenter 8401 Gateway Blvd. W. Suite M01 El Paso, Texas 79925 Attn: Gabriel Eduardo Ochoa, Director

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

12.03 ATTORNEY'S FEES.

If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

12.04 AGREEMENT MADE IN TEXAS.

The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas.

12.05 GENERAL CIVIL RIGHTS PROVISION.

Concessionaire agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the transferor. This provision obligates the Concessionaire for the period during which the property is used or possessed by the Concessionaire and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

12.06 COMPLIANCE WITH FAA REQUIREMENTS AND NONDISCRIMINATION REQUIREMENTS.

Concessionaire shall comply with and shall cause its assignees, successors in interest, and any contractor, subcontractor, lower-tier subcontractor, or service provider of Concessionaire to comply with, to the extent required by applicable law, all provisions of Exhibit "C", Federal Aviation Administration Required Provisions, as amended or interpreted by the FAA from time to time, which are incorporated as if fully set forth herein.

12.07 AFFIRMATIVE ACTION.

Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Concessionaire assures that it will require that its covered sub-organizations (subconcessionaires) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (subconcessionaires) to the same effect.

12.08 FAA ORDER 1400.11.

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Concessionaire for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the “Acts and Regulations”) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix C].

2. A. The Concessionaire for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Concessionaire for itself, its successors in interest, and assigns, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities.

B. In the event of breach of any of the covenants in this section 3, Lessor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

12.09 CUMULATIVE RIGHTS AND REMEDIES.

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

12.10 INTERPRETATION.

A. City and Concessionaire agree that this License has been freely negotiated by both parties and that in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this License or any of its terms or conclusion there shall be no inference,

presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this License or any portion thereof.

B. Words of gender used in this Agreement shall be held and construed to include any other gender.

C. Words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

12.11 AGREEMENT MADE IN WRITING.

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

12.12 PARAGRAPH HEADINGS.

The captions of the various articles and sections of this Agreement are for convenience and reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

12.13 SEVERABILITY.

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12.14 SUCCESSORS AND ASSIGNS.

All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon City and Concessionaire and their successors, assigns, legal representatives, heirs, executors and administrators.

12.15 TAXES AND OTHER CHARGES.

Concessionaire shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Concessionaire or City, with respect to the Concession Site, any improvements, equipment, personal property or inventory thereon or Concessionaire's use and/or occupancy of the Concession Site, during the term of this Agreement including any extensions or option periods granted thereto. City is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Concessionaire's use of the property or possession of the Concession Site. Concessionaire in good faith may contest any tax or governmental charge; provided that Concessionaire may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom.

12.16 WAIVER OF WARRANTY OF SUITABILITY.

CITY DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. EXCEPT AS OTHERWISE PROVIDED IN THIS LICENSE,

CONCESSIONAIRE LICENSES THE CONCESSION SITE “AS-IS” AND CITY DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL TO CONCESSIONAIRE'S USE OF THE CONCESSION SITE FOR THEIR INTENDED COMMERCIAL PURPOSE.

12.17 SURVIVAL OF CERTAIN PROVISIONS.

All provisions of this Agreement which expressly or impliedly contemplate or require performance after the expiration or termination of this Agreement hereunder shall survive such expiration or termination of this Agreement.

12.18 SUBORDINATION OF AGREEMENT.

All rights granted in this Agreement shall be subordinate to the rights in any deed from the United States to the City of El Paso. This License shall further be subordinate to the provisions of any existing or future agreements between City and the United States relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Concession Site, Concessionaire may cancel this Agreement in its entirety.

12.19 FORCE MAJEURE.

Neither party to this Agreement is responsible to the other party for non-performance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

12.20 AUTHORIZATION TO ENTER AGREEMENT.

If Concessionaire signs this Agreement as a corporation, Concessionaire warrants to City that Concessionaire is a duly authorized and existing corporation, that Concessionaire is qualified to do business in the State of Texas, that Concessionaire has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Concessionaire is authorized to do so. Upon City's request, Concessionaire will provide evidence satisfactory to City confirming these representations.

(Signatures begin on the following page)

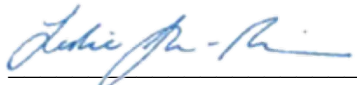
CITY'S SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have hereunto set their hands as of this ____ day
of _____, 2024.

CITY OF EL PASO:


Cary Westin
City Manager

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:


for _____
Samuel Rodriguez, P.E.
Airport Director

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Cary Westin, as City Manager of the **City of El Paso, Texas** ("City").

Notary Public, State of Texas

(Signatures continue on the following page)

CONCESSIONAIRE'S SIGNATURE AND ACKNOWLEDGMENT

CONCESSIONAIRE:

E&F Enterprises LLC, DBA
Melek Multicenter
8401 Gateway Blvd. W. Suite M01
El Paso, Texas 79925

Signature: [Signature]
Printed Name: GABRIEL EDUARDO OCHOA
Title: OWNER

ACKNOWLEDGMENT

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 20th day of MARCH, 2024
by GABRIEL EDUARDO OCHOA, as OWNER
of E&F Enterprises, LLC, DBA Melek Multicenter (Concessionaire).

[Signature]
Notary Public, State of TEXAS

My Commission Expires:

APR 14, 2026

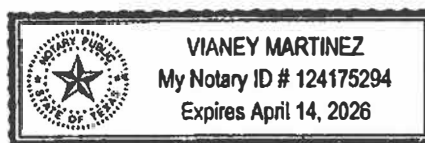
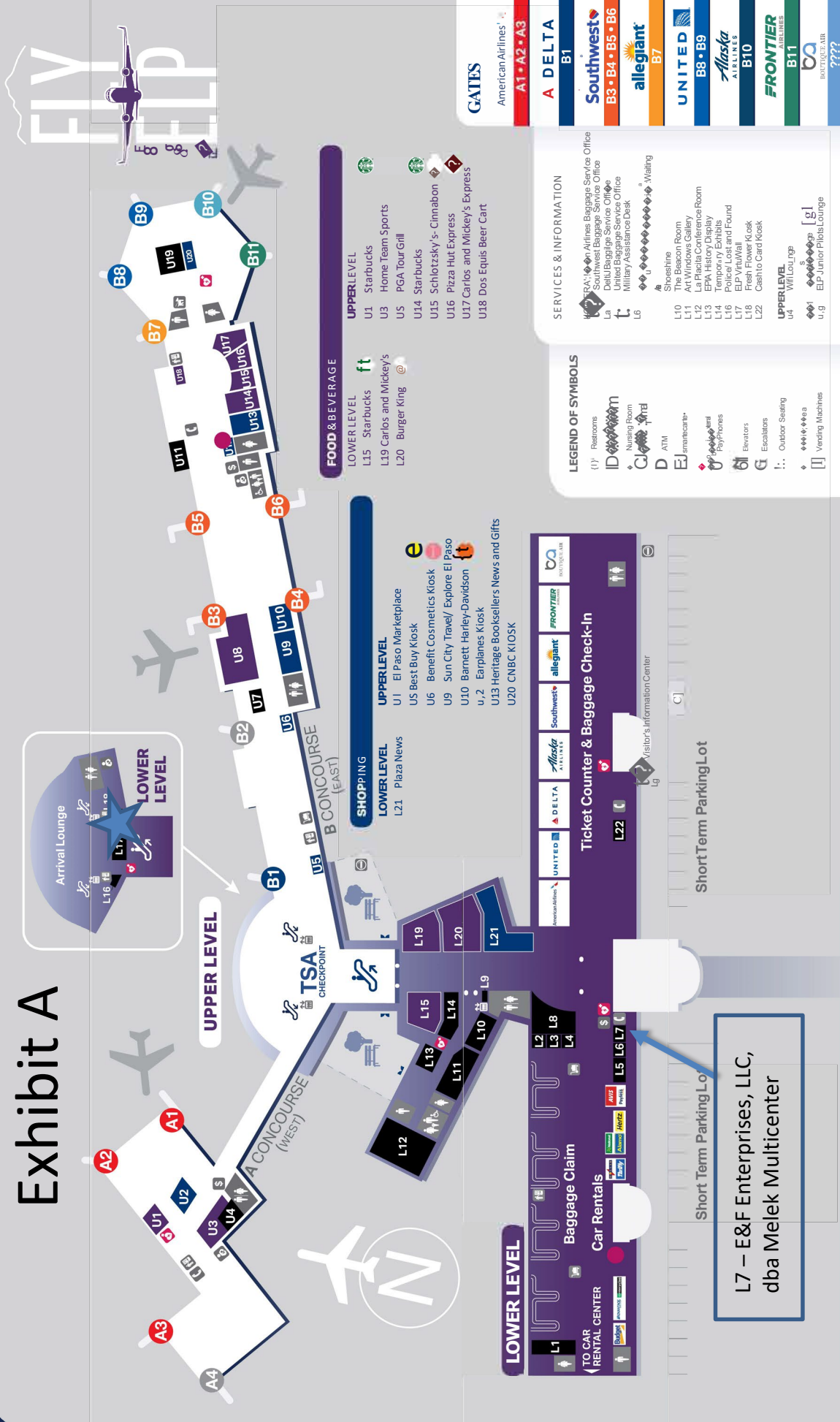


EXHIBIT A

CONCESSION SITE &

PRICING

Exhibit A



FREE WI-FI PROVIDED BY DIGITAL EL PASO • AVAILABLE IN ALL AREAS

#f/yelp

E&F ENTERPRISES LLC, DBA
MELEK MULTICENTER SERVICES

Currency Exchange Transaction fee	-----	Starting at \$1.00
Purchase of airplane tickets	-----	\$9.95
Money Transfer Services	-----	Starting at \$10.00
Money Orders	-----	Starting at \$ 2.00
Check Cashing	-----	Starting at 2.5% plus \$1.00 fee
Copies	-----	50 cents / page tax included
Phone accessories	-----	Starting at \$9.95
Document printing, e-mail printing	-----	Starting at \$3.00/page
FedEx Shipping		
Next day envelope	-----	Starting at \$35.99
Boxes	-----	Price by weight
Prepaid cards	-----	Starting from \$50.00 plus activation fee
Stamps	-----	75 Cents

Melek Multicenter will pay a \$1.00 per transaction excluding copies and stamps.

EXHIBIT B

Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Concessionaire agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as Concessionaire.
2. The above provision obligates Concessionaire for the period during which the property is owned, used or possessed by Concessionaire and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Concessionaire, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.

1. Concessionaire for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a

covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Concessionaire will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2. In the event of breach of any of the above Nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Concessionaire, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.
2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

Subcontracts. Concessionaire agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Concessionaire shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.080

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name	Gabriel E Ochoa
Business Name	E&F Enterprises LLC, dba Melek Multicenter
Agenda Item Type	Concession Agreement
Relevant Department	EPIA

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: Gabriel E Ochoa Date: Apri l8th, 2024

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.080

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- "Contributor" A person making a contribution, including the contributor's spouse.
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- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
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Contributor / Donor Information:

Full Name	Gabriel E Ochoa
Business Name	E&F Enterprises LLC, dba Melek Multicenter
Agenda Item Type	Concession Agreement
Relevant Department	EPIA

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



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OR



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OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: Gabriel E Ochoa Date: Apri l8th, 2024



Legislation Text

File #: 24-537, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and SPS ARS, LLC, a Texas limited liability company ("Lessee"), for warehouse and office space, vehicle parking, loading dock at 6411 Convair Road, El Paso, Texas, in Air Cargo Center Building #2, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT:

A Resolution that the City Manager, or designee, be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso ("Lessor") and SPS ARS, LLC, a Texas limited liability company ("Lessee"), for warehouse and office space, vehicle parking, loading dock at 6411 Convair Road, El Paso, Texas, in Air Cargo Center Building #2, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

BACKGROUND / DISCUSSION:

SPS ARS, LLC is requesting a lease in cargo space for warehouse and office space, vehicle parking, and loading dock. They are a professional drone service company for commercial applications.

The month to month lease with SPS ARS, LLC., expired on November 1, 2023 and they have requested a new lease.


PRIOR COUNCIL ACTION:

N/A - Prior lease was a month to month lease that did not exceed 12 months.

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: for 
Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign an Air Cargo Building Lease Agreement between the City of El Paso (“Lessor”) and SPS ARS LLC, a Texas limited liability company (“Lessee”), for warehouse and office space, vehicle parking, loading dock at 6411 Convair Road, El Paso, Texas, in Air Cargo Center Building #2, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

Dated this ____ day of _____, 2024.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

for 

Samuel Rodriguez, P.E.
Director of Aviation

AIR CARGO BUILDING LEASE AGREEMENT
6411 Convair Road

El Paso International Airport
El Paso, Texas

SPS ARS LLC

May 1, 2024
Effective Date

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EL PASO INTERNATIONAL AIRPORT
AIR CARGO BUILDING LEASE AGREEMENT

THIS AIR CARGO BUILDING LEASE AGREEMENT (“Agreement”) is entered into this 1st day of May 2024, between the **CITY OF EL PASO, TEXAS** (“Lessor”) and **SPS ARS LLC**, a Texas limited liability company (“Lessee”).

WITNESSETH:

WHEREAS, the Municipal Airports Act of the State of Texas authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Lessor owns and operates the El Paso International Airport (“Airport”) located in the County of El Paso, Texas which is managed by the Director of Aviation for the City of El Paso (“Director”); and

WHEREAS, Lessor has constructed an Air Cargo Building facility located on Airport property and has space therein and appurtenances thereto available for lease, and Lessee desires to lease space in said Air Cargo Building; and

WHEREAS, this Agreement is a regulated lease with respect to GASB 87; and

WHEREAS, Lessee has indicated a willingness and ability to properly operate, keep and maintain such space in the Air Cargo Building leased hereunder in accordance with the standards established by Lessor; and

WHEREAS, in furtherance of its authority, Lessor desires to lease to Lessee certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement;

NOW THEREFORE, for and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE I
PREMISES AND PRIVILEGES

Section 1.01 Description of Premises Demised.

Subject to and on the terms, conditions, covenants, agreements and undertakings hereinafter set forth, Lessor does hereby demise and lease to Lessee and Lessee does hereby lease from Lessor the following described premises located at 6411 Convair Rd., El Paso, El Paso County, Texas all of which will hereinafter be referred to as the “Premises”:

- A. That certain Office and Warehouse space containing 308 square feet, more or less, as shown on **EXHIBIT “A”** attached hereto, and for Lessee’s exclusive use as detailed on **EXHIBIT “A”** attached hereto.
- B. The exclusive right to use the loading dock and to use 500 square feet, more or less, of vehicle parking space directly in front of said Air Cargo Building as more fully described on EXHIBIT “A” attached hereto; and
- C. The non-exclusive right to use a portion of the vehicle parking area, and the roadway, located in front of and adjacent to said Air Cargo Building, such portion to be commensurate with Lessee’s share of warehouse and office space leased to all Lessees that share common use of this vehicle parking area;

Section 1.02 Right of Ingress and Egress.

Lessor hereby grants to Lessee the rights of ingress to and egress from the Premises over and across the public roadways serving the Airport for Lessee, its agents and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such ordinances, rules and regulations as now or may hereafter have application at the Airport.

Section 1.03 Restrictions of Privileges, Uses and Rights.

Lessee covenants and agrees that it shall use the Premises for Aviation Related Operations only. “Aviation Related Operations” is hereby defined as any activity related to aviation, including, but not limited to, cargo and maintenance operations.

Lessee shall not offer, or permit to be offered, retail services, sales or repairs of any type from the Premises, other than may be incidental to the conduct of Lessee’s Operations. Fuel sales are specifically prohibited.

In connection with the exercise of its rights under this Agreement, Lessee:

- A. Shall not do or permit to be done anything at or about the Airport that may interfere with the effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, security system, fire hydrants and hoses, electrical system, natural gas, or other Airport systems installed or located on or within the Premises or the Airport.
- B. Shall not do or permit to be done any act or thing upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.
- C. Shall not dispose of and shall prohibit any employee, agent, contractor, or other person from disposing of any waste material taken from, or products used with respect to, its aircraft, equipment or otherwise related to Lessee’s operations into the sanitary or storm sewers at the Airport or any other approved location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials as defined herein, unless such waste material or products first be properly treated by equipment installed with the approval of Lessor and all other administrative bodies having appropriate

jurisdiction or may remain untreated if wastewater guidelines limitation of the El Paso Water Utilities Public Service Board are not exceeded.

- D. Shall not keep or store Hazardous Materials or articles including, without limitation, flammable liquids and solids, corrosive liquids, compressed gasses, and magnetized or radioactive materials on the Airport in excess of Lessee's working requirements during any twenty-four (24) hour period, except when the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any such liquids having a flash point of less than one hundred degrees Fahrenheit (100° F) shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said material shall be under the control and care of designated Lessee personnel; (3) said material shall be packaged and handled in compliance with applicable U. S. Department of Transportation, Environmental Protection Agency, or other such applicable regulations for transport and pre-transport of hazardous articles and materials; (4) said materials shall be stored in special storage areas designated by the Director or other authorized representative of Lessor while on the Airport.
- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft, vehicles or other equipment on the Premises.
- F. Shall not maintain or operate on the Premises or elsewhere at the Airport a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public or to its employees; nor shall Lessee provide for the sale or dispensing of food and beverages at the Airport except that the Lessee may provide vending machines solely for the sale of hot and cold beverages, food, and confections to Lessee's employees in areas not accessible to the general public.
- G. The rights and privileges granted Lessee under this Agreement with respect to the performance of ground services and activities in connection with its Operation at the Airport may be exercised by Lessee only for and on behalf of Lessee for regularly scheduled or unscheduled service. Lessee may, subject to the prior written approval of Lessor, and, where applicable, perform ground services for other air cargo operators conducting Operations at the Air Cargo Building provided said air cargo operators are signatories to an Air Cargo Use Agreement or Airline Operating Agreement with Lessor. It is understood and agreed that Lessor reserves the right to charge a fee or commission associated with controlling access to restricted areas, and to collect reasonable fees or commissions for ground transportation, ground support services for other Air Cargo operator(s), and other services or facilities provided by or for Lessee in competition with concessionaires and operators operating under an agreement with the Lessor.

Section 1.04 Conditions of Granting Agreement.

The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

- A. That no functional alteration of the Premises shown on **EXHIBIT “A”** or functional change in the uses of such Premises shall be made without the specific written consent of Lessor herein; said consent to be at Lessor's sole discretion.
- B. That the right to use said public Airport facilities in common with others authorized to do so shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated under their authority with reference to aviation and air navigation; and all applicable rules, regulations and ordinances of Lessor now in force or hereafter prescribed or promulgated by charter authority or by law.
- C. That Lessee will utilize only the roadways or other direction, path, route, or form of travel Lessor may designate, from time to time, for Lessee's operation and movement on or about the Airport.

Section 1.05 Exterior Fencing and Storage.

Lessee may store stock, materials, and supplies on the Premises, however all stock, materials, and supplies located outside must be completely enclosed by fence. The placement and design of any exterior fencing and storage on the Premises shall be in accordance with plans and specifications prescribed by Lessor and shall be uniform throughout the entire Air Cargo Building, ramp, and associated areas.

ARTICLE II
OBLIGATIONS OF LESSOR

Section 2.01 Quiet Enjoyment.

Lessor agrees that upon Lessee's paying rent and performing all of the covenants, conditions, and agreements herein set forth, Lessee shall and may peaceably and quietly have, hold, and enjoy the Premises hereby demised for the term hereby provided.

Section 2.02 Lessor's Right of Entry.

Lessor reserves the right to enter into and upon the Premises at all times during business hours for the purpose of inspecting the condition thereof, or to perform maintenance or repairs as may be necessary in accordance with the provisions of this Agreement, or for the purpose of exhibiting the same to prospective Lessees, purchasers or others. The exercise of this right to enter the Premises shall not be deemed an eviction or disturbance of Lessee's use or possession, provided that Lessor shall exercise its best efforts not to interfere with Lessee's normal operations on the Premises.

Section 2.03 Condition and Maintenance of Premises.

Lessor shall bear responsibility for only those repairs and maintenance to the Structural Elements of Air Cargo Building. "Structural Elements" shall mean the roof, foundation, load bearing columns and walls, exterior walls, exterior paint, and the ramp. In addition, Lessor shall bear responsibility for repairs and custodial maintenance of the Common Space with the exception of the kitchen area, which is the responsibility of the Lessees.

ARTICLE III
OBLIGATIONS OF LESSEE

Section 3.01 Net Agreement.

This Agreement in every sense shall be without cost to Lessor for the development, maintenance and improvement of the Premises. It shall be the sole responsibility of Lessee to keep, maintain, repair and operate the entirety of the Premises and all improvements and facilities placed thereon at Lessee's sole cost and expense.

Section 3.02 Condition and Maintenance of Premises.

LESSEE ACCEPTS THE PREMISES IN "AS IS" CONDITION. Lessor has no responsibility as to the condition of the Premises and shall not be responsible for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition. Lessee shall be solely responsible for repairs and maintenance of the Premises except those required for the Structural Elements referenced in Section 2.03, and shall not cause any damage or impairment to any part of the Structural Elements.

Section 3.03 Internal Improvements.

Lessee may make internal improvements, additions and alterations to the Premises hereunder with the prior written approval of Lessor. Lessee guarantees that all construction work performed by contractors hired by Lessee shall be done in accordance with applicable building codes, laws and regulations and in a good, workmanlike manner, and all materials used by Lessee's contractors shall be of an appropriate grade and quality for the use for which they are employed.

Lessee shall submit to Lessor the internal construction plans and specifications for the written approval by Lessor. It is agreed that Lessor reserves the right to reject any plans and specifications. In the event such additions, alterations, or improvements shall be deemed to have been undertaken without the prior written approval of Lessor required herein, Lessee may be considered in default and Lessor may cancel this Agreement in accordance with the provisions of Article IX hereinafter set forth.

Subject to written approval of Lessor, all permanent improvements, if any, made by Lessee to said Air Cargo Building, of which the Premises are a part, shall become the property of Lessor upon the expiration, cancellation or early termination of this Agreement. All other improvements and fixtures of a non-permanent nature and all trade fixtures, machinery and equipment made or installed by Lessee may be removed from the Premises at any time by Lessee, subject to Lessor's lawful exercise of its Lessor's lien, and to the extent that it does not cause structural or cosmetic damage to the Premises or any other portion of Lessor's Air Cargo Building and facilities.

Section 3.04 Performance and Payment Bonds.

Prior to Lessee's commencement of any construction, Lessee at its own cost and expense, shall cause to be made, executed and delivered to Lessor two (2) separate bonds, as follows:

- A. A contract surety bond in a sum equal to the full amount of the contract awarded.
- B. A payment bond with Lessee's contractor(s) as principal, in a sum equal to the full amount of the construction contract awarded. Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction contract.

Section 3.05 Compliance with Laws.

Lessee, at Lessee's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to the use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Lessee's use, operation, occupation or alteration of the Premises including any improvements thereon.

A. Definitions.

- (1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
- (2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
- (3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

- (1) Lessee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend and hold harmless Lessor, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or**

representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises. The parties agree that Lessor's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. Lessor shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.

- (2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises or any improvements thereon, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.
- (3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Lessor, Lessee shall promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

- (4) Lessee shall immediately notify Lessor of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises, and (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or Lessor's obligations or liabilities under the Environmental Laws.
- (5) Lessee shall insert the provisions of this Section 3.05 in any agreement or contract by which it grants a right or privilege to any person, firm or corporation under this Agreement.

Notwithstanding any other provision in this Agreement to the contrary, Lessor shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under or about the Premises, the cost of which shall be borne by Lessee.

The failure of Lessee, its agents, employees, contractors, invitees, or a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Agreement and shall permit Lessor to pursue the remedies as set forth in Article IX hereinbelow, in addition to all other rights and remedies provided by law or otherwise provided in the Agreement, to which Lessor may resort cumulatively, or in the alternative.

C. Reporting.

- (1) At any time that Lessee submits any filing pertaining to its property, operations, or presence on the Airport with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the FAA, the Environmental Protection Agency or the Texas Commission on Environmental Quality, Lessee shall, upon request of Lessor, provide duplicate copies of the filing(s) made, along with any related documents, to Lessor.
- (2) Upon expiration, termination or cessation of this Agreement for any reason, Lessee shall provide current environmental inspection and inventory reports on the Premises acceptable to Lessor; and if, in the opinion of Lessor, the Premises shall require environmental remediation, Lessee shall perform same to return the Premises into a (like new) condition equal of better to that as of the date Lessee took possession of the Premises.

Section 3.06 Maintenance.

Lessee shall, at its sole cost and expense, maintain the Premises and the buildings, improvements and appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on said Airport. Lessee shall repair all damage to said Premises caused by its employees, patrons or its operation thereon. Lessee shall be responsible for the upkeep and cleanliness of the Premises. Lessee shall maintain and repair all equipment thereon, including, but not limited to any heating and cooling equipment or any buildings and improvements; and shall repaint the interior of the Premises as necessary. Lessee agrees not to paint the exterior of the improvements or anywhere on the Premises without the written consent of Lessor; said consent to

be at Lessor's sole discretion. Lessor shall also be the sole judge of the quality and content of any painting submitted by Lessee for consideration.

Lessor shall be the sole judge of the quality of maintenance and, upon written notice by Lessor to Lessee, Lessee shall be required to perform whatever maintenance Lessor deems necessary. If said maintenance is not undertaken by Lessee within thirty (30) days after receipt of written notice, Lessor shall have the right to enter on the Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

Section 3.07 Utilities.

Lessee shall pay for all costs or charges for utility services furnished to Lessee during the term hereof. Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; subject to approval by all appropriate departments of the City of El Paso, and Lessee shall pay for any and all service charges incurred thereof. If Lessor pays any utilities on Lessee's behalf, Lessee, upon receipt of a statement therefore, shall reimburse Lessor for Lessee's pro rata share thereof plus ten percent (10%) for administrative overhead. Said share shall be calculated on a pro rata basis utilizing the square footage of each Lessee's occupancy divided by the total square footage of the Air Cargo Building.

Section 3.08 Trash, Garbage, and Other Refuse.

Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse caused as a result of the operation of its business. Lessee shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe manner, on or about the Premises shall not be permitted.

Section 3.09 Permitted Uses.

Lessee covenants and agrees that in no event will it enter into any business activity on the Airport other than those specified in Article I.

Section 3.10 Signage.

The following regulations shall apply to all signs displayed for observation from outside a building whether displayed on, near or within a building:

- A. Permitted Signs. Signs on the Premises shall be limited to those identifying the uses conducted on the site and to those necessary for directional purposes. The size, design and location of all signs shall require the written approval of the Lessor prior to installation. Said written approval shall be at Lessor's sole discretion. Outdoor advertising, billboards or flashing lighting shall not be permitted.
- B. Lighting and Construction. All signs shall comply with all current or future building codes of the City of El Paso and with all current or future rules and regulations of the Federal Aviation Administration (FAA) and its successor agencies. Lessee is solely responsible for obtaining all necessary permits and licenses.

Section 3.11 Approval of Plans.

Approval of any and all improvements, plans, signs, or documents by the Director does not constitute approval of the City of El Paso or any other local, state, or federal agency. It is specifically understood that Airport is only one of numerous departments of the City of El Paso and that, in addition to obtaining approval of Director, Lessee shall be required to obtain the approval in accordance with the City of El Paso City Code.

Section 3.12 Authorization to Enter Restricted Area.

Lessee understands that the Premises include access to a restricted area of the Airport and that Lessee and its agents, employees, servants or independent contractors must be authorized by the Lessor to enter restricted areas of the Airport prior to their entry thereon. The authorization to enter restricted areas of the Airport is not granted by this Agreement, but shall be granted to Lessee upon Lessee's completion of security clearance and identification badging requirements necessary of all persons entering restricted areas of the Airport. As Lessee is required to comply with all applicable rules and regulations, any violation of this provision or those security rules and regulations applicable to the restricted areas of the Airport, shall be considered to be a material violation of this Agreement and grounds for termination.

Section 3.13 Penalties Assessed by Federal Agencies.

Lessee understands and agrees that in the event any federal agency assesses a civil penalty against the Lessor or the Airport for any security violation as a result of or related to any act or failure to act on the part of Lessee, its agents, employees or independent contractors, Lessee shall reimburse the Lessor in the amount of the civil penalty assessed. Failure to reimburse the Lessor within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

Lessee acknowledges that it is familiar with the restrictions imposed on Lessor by the Federal Aviation Regulations (FAR) Part 1542 and any amendments, and agrees to assume responsibility for compliance with said regulation as it relates to access and identification procedures on the Premises. To accomplish this compliance, Lessee agrees to develop a security plan and will submit same to the Transportation Security Administration (TSA) security office for required approval.

ARTICLE IV **TERM OF LEASEHOLD**

Section 4.01 Term.

The term of this Agreement shall commence on May 1, 2024 (the "Effective Date"), on a month to month basis not to exceed April 30, 2025. If the Lessee is not in default of any terms of this Lease, Lessor or Lessee shall have the mutual option to extend this Lease with automatic renewal for four (4) additional terms of one (1) year each.

Section 4.02 Termination by Tenant.

This Agreement may be terminated by either party without cause by providing fifteen (15) days prior written notice to the other party.

Section 4.03 Holding Over.

It is agreed and understood that any holding over by Lessee of the Premises at the expiration or cancellation of this Agreement shall operate and be construed as a tenancy from month to month at a rental of one and one-half (1½) times the current monthly rental, and Lessee shall be liable to Lessor

for all loss or damage on account of any holding over after the expiration or cancellation of this Agreement, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

Section 4.04 National Emergency.

In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Agreement shall be extended by the amount of the period of such suspension.

ARTICLE V
RENTALS

Section 5.01 Rental.

For the purpose of computing the rental payments, Lessor and Lessee agree that the Premises comprise the following:

308 Sq. ft. of Office and Warehouse Space at \$7.00/Sq. ft./annum = \$2,156.00/yr.
200 Sq ft. of Interior Common Space (includes Janitorial) at \$7.00/Sq. ft./annum=\$1,400/yr.
500 Sq. ft. of Vehicle Parking Space/Loading Dock at \$0.726/Sq. ft./annum=\$363.00/yr.
308 Sq. ft. of electricity/telecommunications surcharge at \$1.00/Sq. ft./annum = \$308.00/yr.

Annual Rental shall be \$4,227.00 per year \$352.25 per month.

Section 5.02 Commencement of Rental.

Payment of rental by Lessee to Lessor as aforesaid shall commence on the Effective Date of this Agreement, which is first noted on the title page.

Section 5.03 Time of Payment.

All rental due hereunder shall be paid in twelve (12) equal monthly installments. Said monthly rental payments shall be paid in advance on or before the first day of each and every month during the term or any extension of this Agreement.

Section 5.04 Reserved.

Section 5.05 Unpaid Rent, Fees and Charges.

Any installment of rentals, fees, or other charges or monies accruing under any provisions of this Agreement that are not received by Lessor by the 20th day of the month in which payment is due, shall bear interest at the rate equal to the maximum allowed by law from the date when the same was due according to the terms of this Agreement until paid by Lessee.

Section 5.06 Place of Payment.

All rental and other payments required herein shall be paid to Lessor at the following address:

Accounting Department
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278

In lieu of payments being mailed to the above address, electronic payments may be made via any electronic payment system acceptable to Lessor.

ARTICLE VI

INSURANCE AND INDEMNIFICATION

Section 6.01 Liability Insurance.

Lessee, at its sole cost and expense shall, throughout the term of this Agreement, provide and keep in force for the benefit of Lessee with the Lessor as an additional insured, comprehensive general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence, Two Million Dollars (\$2,000,000.00) for bodily injuries to more than one person arising out of each occurrence and One Million Dollars (\$1,000,000.00) for property damage arising out of each occurrence, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

Section 6.02 Fire and Extended Coverage Insurance.

Lessor agrees that, at all times throughout the term of this Agreement, it will keep the Air Cargo Building insured under a Standard Policy of Fire and Extended Coverage Insurance for an amount equivalent to ninety percent (90%) of the replacement cost, such replacement cost to be re-determined every three (3) years. Upon receipt of a statement therefore, Lessee shall reimburse Lessor for Lessee's pro rata share thereof plus ten percent (10%) for administrative overhead. Said share shall be calculated on a pro rata basis utilizing the square footage of each Lessee's occupancy divided by the total square footage of the Air Cargo Building.

If the operations conducted by Lessee, or anyone holding under Lessee, on the Premises should require the payment of a greater premium for fire and extended coverage insurance than would customarily be payable for the conduct of the Air Cargo Operations permitted hereunder, then the amount of such additional premium cost shall also be reimbursed by Lessee to Lessor.

6.03 Authorized Insurance Companies.

All such policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by Lessor, such approval not to be unreasonably withheld.

Certificates of insurance shall be delivered to Lessor at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Each such certificate shall contain:

- A. A statement of the coverage provided by the policy;
- B. A statement of the period during which the policy is in effect;

- C. A statement that the annual premium or the advance deposit premium for such policy has been paid in advance;
- D. An agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days' prior written notice to Lessor; and
- E. A statement certifying the Lessor has been listed as an additional named insured on the policy.

Section 6.04 INDEMNIFICATION.

- A. **INDEMNITY. LESSEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES", FROM AND AGAINST ALL COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, EXPENSES, AND COURT COSTS), LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS WHATSOEVER ("CLAIMS), TO THE FULL EXTENT ARISING OUT OF (A) ANY BREACH OF THIS AGREEMENT BY LESSEE OR ITS AGENTS, EMPLOYEES, AFFILIATES, SUBLESSEES, OR CONTRACTORS, (COLLECTIVELY THE "LESSEE PARTIES"); (B) ANY FALSE REPRESENTATION OR WARRANTY MADE BY THE LESSEE PARTIES HEREUNDER; OR (C) NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LESSEE PARTIES IN CONNECTION WITH THIS AGREEMENT, THE CONSTRUCTION, DEVELOPMENT, OPERATION OR USE OF THE LEASED PREMISES, OR THE AIRPORT.**

IT IS THE INTENTION OF THIS INDEMNITY SECTION THAT THE JOINT AND CONCURRING RESPONSIBILITY OF CITY AND LESSEE BE BORNE COMPARATIVELY IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THIS PROVISION SHALL NOT CREATE ANY CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR LESSEE NOR SHALL IT ENLARGE IN ANY WAY THE LIABILITY OF CITY OR LESSEE, THIS PROVISION BEING INTENDED SOLELY TO PROVIDE FOR INDEMNIFICATION OF CITY FROM LIABILITY FOR DAMAGE TO THIRD PERSONS OR PROPERTY AS SET FORTH IN THIS PARAGRAPH.

LESSEE SHALL ASSUME ON BEHALF OF THE INDEMNIFIED PARTIES AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE OF ALL CLAIMS AGAINST ANY OF THE INDEMNIFIED PARTIES. MAINTENANCE OF THE INSURANCE REQUIRED UNDER THIS AGREEMENT SHALL NOT AFFECT LESSEE'S INDEMNITY OBLIGATIONS. LESSEE MAY CONTEST THE VALIDITY OF ANY CLAIMS, IN THE NAME OF CITY OR LESSEE, AS LESSEE MAY IN GOOD FAITH DEEM APPROPRIATE, PROVIDED THAT THE EXPENSES THEREOF SHALL BE PAID BY LESSEE. IN NO EVENT MAY LESSEE ADMIT LIABILITY ON THE PART OF CITY WITHOUT THE PRIOR WRITTEN CONSENT OF THE EL PASO CITY ATTORNEY.

- B. WAIVER OF CONSEQUENTIAL DAMAGES. EACH PARTY HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER ANY CONSEQUENTIAL INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES FROM THE OTHER PARTY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR INCOME, CLAIMS OF LESSEE'S CUSTOMERS, SUBLESSEES, AND CONTRACTORS, AND OTHER SIMILAR CLAIMS OR DAMAGES.**
- C. CLAIMS AGAINST LESSEE. IF ANY CLAIM, DEMAND, SUIT, OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON OR ENTITY AGAINST THE LESSEE ARISING OUT OF OR CONCERNING THIS AGREEMENT, THE AIRPORT, OR THE LEASED PREMISES, LESSEE SHALL GIVE WRITTEN NOTICE THEREOF TO CITY WITHIN TEN (10) BUSINESS DAYS AFTER BEING NOTIFIED OF SUCH CLAIM, DEMAND, SUIT, OR ACTION. SUCH NOTICE SHALL ENCLOSE A TRUE COPY OF ALL SUCH CLAIMS, AND IF THE CLAIM IS NOT WRITTEN OR THE INFORMATION IS NOT DISCERNABLE FROM THE WRITTEN CLAIM, THE WRITTEN NOTICE SHALL STATE THE DATE OF NOTIFICATION OF ANY SUCH CLAIM, DEMAND, SUIT, OR OTHER ACTION; THE NAMES AND ADDRESSES OF THE PERSON, FIRM, CORPORATION, OR OTHER ENTITY MAKING SUCH CLAIM OR THAT INSTITUTED OR THREATENED TO INSTITUTE ANY TYPE OF ACTION OR PROCEEDING; THE BASIS OF SUCH CLAIM, ACTION, OR PROCEEDING; AND THE NAME OF ANY PERSON AGAINST WHOM SUCH CLAIM IS BEING MADE OR THREATENED. SUCH WRITTEN NOTICE SHALL BE DELIVERED EITHER PERSONALLY OR BY MAIL AND SHALL BE DIRECTLY SENT TO THE EL PASO CITY ATTORNEY.**
- D. NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT CITY'S ABILITY TO ADJUST RENTAL RATES AND OTHER FEES IN ACCORDANCE WITH THE OTHER TERMS AND CONDITIONS OF THIS AGREEMENT, AND APPLICABLE LAWS AND REGULATIONS. FURTHERMORE, NO PROVISION IN THIS AGREEMENT IS INTENDED TO LIMIT CITY'S ABILITY TO ADJUST LANDING FEES OR IMPOSE OTHER FEES IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS.**
- E. THOSE PROVISIONS OF THIS SECTION THAT APPLY TO THE LESSEE SHALL ALSO APPLY TO ANY PARTY HOLDING BY, THROUGH, OR UNDER THE LESSEE.**
- F. CITY ASSUMES NO RESPONSIBILITY FOR ANY PROPERTY PLACED IN OR ON THE LEASED PREMISES OR ANY PART THEREOF, AND CITY IS HEREBY EXPRESSLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY FOR ANY LOSS, INJURY OR DAMAGE TO PERSONS OR PROPERTY THAT MAY BE SUSTAINED BY REASON OF THE OCCUPANCY OF THE LEASED PREMISES UNDER THIS AGREEMENT, UNLESS SAME IS CAUSED BY THE NEGLIGENCE OR WILLFUL ACT OF CITY, ITS OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES.**

ARTICLE VII

CONDEMNATION

Section 7.01 Definitions.

The following definitions apply in construing the provisions of this Agreement relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

- A. “Taking” means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending.
- B. “Total taking” means the taking of the fee title to all of the Premises and improvements thereon.
- C. “Substantial taking” means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:
 - 1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;
 - 2. The conduct of Lessee's business on the Premises would be substantially prevented or impaired;
 - 3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Lessee under this Agreement.
- D. “Partial taking” means the taking of a fee title that is not either a total or substantial taking.
- E. “Improvements” includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.
- F. “Notice of intended taking” means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Agreement. The notice is considered to have been received when a party to this Agreement receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.

- G. “Award” means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.
- H. “Date of Taking” means the date that Lessee is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

Section 7.02 Notice of Condemnation.

The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

- A. Notice of intended taking;
- B. Service of any legal process relating to condemnation of the Premises or improvements; or
- C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

Section 7.03 Rights of Parties During Condemnation Proceeding.

Lessor and Lessee shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Agreement relating to the condemnation.

Section 7.04 Taking of Leasehold.

Upon a total taking, Lessee's obligation to pay rent and other charges hereunder together with Lessee's interest in the leasehold shall terminate on the Date of Taking. Upon a substantial taking, Lessee may, by notice to Lessor within ninety (90) days after Lessee receives notice of the intended taking, elect to treat the taking as a total taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. Upon a partial taking, this Agreement shall remain in full force and effect covering the balance of the Premises not so taken, except that the rent payable hereunder shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

Section 7.05 Total Taking.

All of Lessee's obligations under the Agreement shall terminate as of the Date of Taking. Upon a total taking, all sums awarded for any Lessee-owned improvements and the leasehold estate shall be disbursed to Lessee. All sums awarded for the Premises, as unencumbered by the Lessee-owned improvements, but subject to the Agreement, shall be disbursed to Lessor.

Section 7.06 Partial Taking.

Upon a partial taking, all awards shall be disbursed as follows:

- A. To the cost of restoring the improvements on the Premises; and
- B. The balance, if any, to Lessor and Lessee as follows: Lessee shall receive all sums awarded for Lessee-owned improvements and the Leasehold estate. Lessor shall receive all sums awarded for the Premises as unencumbered by the improvements but subject to the Agreement.

Section 7.07 Obligations of Lessee Under Partial Taking.

Promptly after any such partial taking, Lessee, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Lessee shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Lessor if its intention to that effect.

Section 7.08 Taking of Temporary Use of Premises and Improvements.

Upon any taking of the temporary use of all or any part or parts of the Premises or improvements, or both, for a period of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such taking, Lessee shall receive, hold and disburse the award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising therefrom, Lessee shall be entitled to any surplus and shall be liable for any deficiency.

If any such taking is for a period extending beyond the expiration date of the term, the taking shall be treated under the foregoing provisions for total, substantial and partial takings.

ARTICLE VIII
ENCUMBRANCES

Section 8.01 Encumbrance.

s used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiary under a deed of trust. Lessee may encumber its leasehold estate and its interest in the improvements constructed and to be constructed on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Lessor a written notice specifying:

- A. The amount of the obligation secured by the Mortgage;
- B. The date of the maturity or maturities thereof; and
- C. The name and mailing address of the Mortgagee.

After receipt of such notice, Lessor shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice of default or demand served by Lessor upon Lessee under the terms and provisions of this Agreement so long as such Mortgage is in effect.

Section 8.02 Mortgagee's Rights.

Upon receipt of a notice or demand in accordance with Section 8.01 above, Mortgagee shall have one hundred and twenty (120) days after receipt of such notice within which, at Mortgagee's election, either:

- A. To cure the default if it can be cured by the payment or expenditure of money;

- B. To perform such other action as may be necessary to cure the default;
- C. If the default cannot be cured within one hundred and twenty (120) days, to commence performance within such one-hundred-twenty-day period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or
- D. To institute foreclosure proceedings and prosecute same diligently to conclusion.

Section 8.03 Rights on Foreclosure.

In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Lessee's interest in lieu of foreclosure shall succeed to all of Lessee's rights, interests, duties and obligations under this Agreement.

ARTICLE IX

EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER

Section 9.01 Expiration.

This Agreement shall expire at the end of the term or any extension thereof.

Section 9.02 Cancellation.

Subject to the provisions of Article VIII above, this Agreement shall be subject to cancellation by Lessor in the event Lessee shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Lessor has notified Lessee in writing that payment was not received when due.
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Lessee's property;
- C. Make any general assignment for the benefit of creditors;
- D. Abandon the Premises;
- E. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty (30) days after receipt of written notice from Lessor to cure such default, unless during such thirty-day period, Lessee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Lessee where such receivership is not vacated within sixty (60) days after the appointment of such receiver.

In any of the aforesaid events, Lessor may take immediate possession of the Premises including any and all improvements thereon and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Lessor to declare this Agreement canceled upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

Section 9.03 Repossessing and Reletting.

In the event of default by Lessee hereunder which shall remain uncured after the required notices have been given pursuant to this Agreement, and for such time as provided herein, Lessor may at once thereafter, or at any time subsequent during the existence of such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary; and
- B. Either cancel this Agreement by notice or without canceling this Agreement, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Lessor. If Lessor shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Lessee during such month or part thereof under the terms of this Agreement, Lessee shall pay such deficiency to Lessor immediately upon calculation thereof, providing Lessor has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

Section 9.04 Assignment and Transfer.

Lessee is not permitted to assign this Agreement; provided, that Lessee may assign this Agreement to its parent company upon Lessor's prior written consent. The foregoing notwithstanding, any person or entity to which this Agreement is assigned to pursuant to the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this Agreement on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Lessor an instrument confirming such assumption.

Section 9.05 Subleasing.

Lessee is not permitted to sublease all or any part of the Premises.

Section 9.06 Rights Upon Expiration.

At the expiration of this Agreement, Lessor shall be entitled to have the Premises returned to Lessor clear of all improvements constructed by Lessee, or on Lessee's behalf. Lessee shall have sixty (60) days after expiration in which to remove such improvements; provided that any occupancy by Lessee for the purposes of removal shall be subject to the rental due hereunder. If Lessee fails to so remove said improvements, Lessor may remove same at Lessee's expense. Lessor may, at its option, take title to the improvements in lieu of removal by or for Lessee.

Section 9.07 Lessor's Lien.

It is expressly agreed that in the event of default in the payment of rentals or any other sum due from Lessee to Lessor under the terms of this Agreement, Lessor shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Lessee which are placed in, or become a part of, the Premises, as security for Rent due and to become due for the remainder of the Agreement term, which lien shall not be in lieu of or in any way affect the statutory Lessor's lien given by law, but shall be in addition to that lien, and Lessee grants to Lessor a security interest in all of Lessee's personal property placed in or on the Premises for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission and any other laws pertaining thereto and the Railroad Commission of the State of Texas. Lessor agrees that Lessor will not levy a Lessor's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of the Lessee. In the event Lessor exercises the option to terminate the leasehold as provided herein, the Lessor, after providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at public or private sale after giving Lessee reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as Lessor deems best. The proceeds of the sale shall be applied first the necessary proper expense of removing, storing and selling such property, then to the payment of any rentals or other sums due or to become due under this Agreement, with the balance, if any, to be paid to Lessee.

ARTICLE X **GENERAL PROVISIONS**

Section 10.01 Right of Flight.

Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

Lessor reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

Lessor reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use of the Premises which would constitute an airport hazard.

Section 10.02 Time is of the Essence.

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

Section 10.03 Notices.

All notices provided to be given under this Agreement shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

LESSOR: City Clerk
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

COPY TO: Director of Aviation
El Paso International Airport
6701 Convair Road
El Paso, Texas 79925-1099

LESSEE: SPS ARS LLC
Attn: Michael McGee
1432 Via Quijano
El Paso, Texas 79912

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

Section 10.04 Attorney's Fees.

If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

Section 10.05 Agreement Made in Texas.

The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas.

Section 10.06 Compliance with FAA Requirements and Nondiscrimination Requirements.

Lessee shall comply with and shall cause its assignees, successors in interest, and any contractor, subcontractor, lower-tier subcontractor, or service provider of Lessee to comply with, to the extent required by applicable law, all provisions of **Exhibit "B", Federal Aviation Administration**

Required Provisions, as amended or interpreted by the FAA from time to time, which are incorporated as if fully set forth herein.

Section 10.07 Affirmative Action.

Lessee assures that it will undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from the City of El Paso, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Lessee assures that it will require that its covered sub-organizations (sublessees) provide assurances to Lessor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (sublessees) to the same effect.

Section 10.08 Cumulative Rights and Remedies.

All rights and remedies of Lessor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

Section 10.09 FAA Order 1400.11.

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix C]
2. A. The Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3)

that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

- B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix D]
3. A During the term of this Lease, Lessee for itself, its assignees, and successors in interest, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
 - 49 CFR Part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
 - The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
 - Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
 - The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
 - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this section 3, Lessor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

Section 10.10 Interpretation.

Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

Section 10.11 Agreement Made in Writing.

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

Section 10.12 Paragraph Headings.

The Table of Contents and the captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

Section 10.13 Severability.

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

Section 10.14 Successors and Assigns.

All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon Lessor and Lessee and their successors, assigns, legal representatives, heirs, executors and administrators.

Section 10.15 Taxes and Other Charges. Lessee shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against the Lessee or the Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, during the term of this Agreement including any extensions or option periods granted thereto.

By March 1 of each year during the term of this Agreement, including any extensions or option periods granted thereto and no cost to Lessor, Lessee shall provide written proof satisfactory to the Director that all taxes and governmental charges of any kind have been paid in full.

Lessee further indemnifies the City from all tax liability including but not limited to ad valorem real property taxes and personal property taxes that may arise in relation to Lessee's activities in furtherance of this Agreement.

Lessee in good faith may contest any tax or governmental charge; provided that Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom.

Section 10.16 Waiver of Warranty of Suitability.

LESSOR DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. LESSEE LEASES THE PREMISES AS-IS AND LESSOR DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL LESSEE'S USE OF THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE.

Section 10.17 Survival of Certain Provisions.

All provisions of this Agreement which expressly or impliedly contemplate or require performance after the expiration or termination of this Agreement hereunder shall survive such expiration or termination of this Agreement, including without limitation, Sections 3.05 and 6.04.

Section 10.18 Authorization to Enter Agreement.

If Lessee signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Lessee warrants to Lessor that Lessee is a duly authorized and existing corporation, that Lessee is qualified to do business in the State of Texas, that Lessee has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Lessee is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

Section 10.19 Effective Date.

Regardless of the date signed, this Agreement shall be effective as of the date first noted on the title page.

[Signatures begin on the following page]

LESSOR'S SIGNATURE AND ACKNOWLEDGMENT

IN WITNESS WHEREOF, the parties have hereunto set their hands as of this _____ day of _____, 2024.

LESSOR: CITY OF EL PASO:

Cary Westin
City Manager

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

for _____
Samuel Rodriguez, P.E.
Director of Aviation

LESSOR'S ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____ 2024,
by Cary Westin as the **City Manager** for the **City of El Paso, Texas (Lessor)**.

My Commission Expires:

Notary Public, State of Texas

(Signatures continue on the following page)

LESSEE'S SIGNATURE AND ACKNOWLEDGMENT

LESSEE:

SPS ARS LLC,

a Texas limited liability company

Morisa Hooven

Morisa Hooven

Corporate Administrator

LESSEE'S ACKNOWLEDGMENT

STATE OF Texas,

COUNTY OF Ft Bess

This instrument was acknowledged before me on this 12 day of MARCH, 2024
by Morisa Hooven, as Corporate Administrator of **SPS ARS**
LLC, a Texas limited liability company (**Lessee**), on behalf of said limited liability company.

Carlos Lafée

Notary Public

My Commission Expires:

8/4/2027

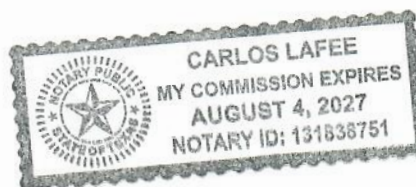
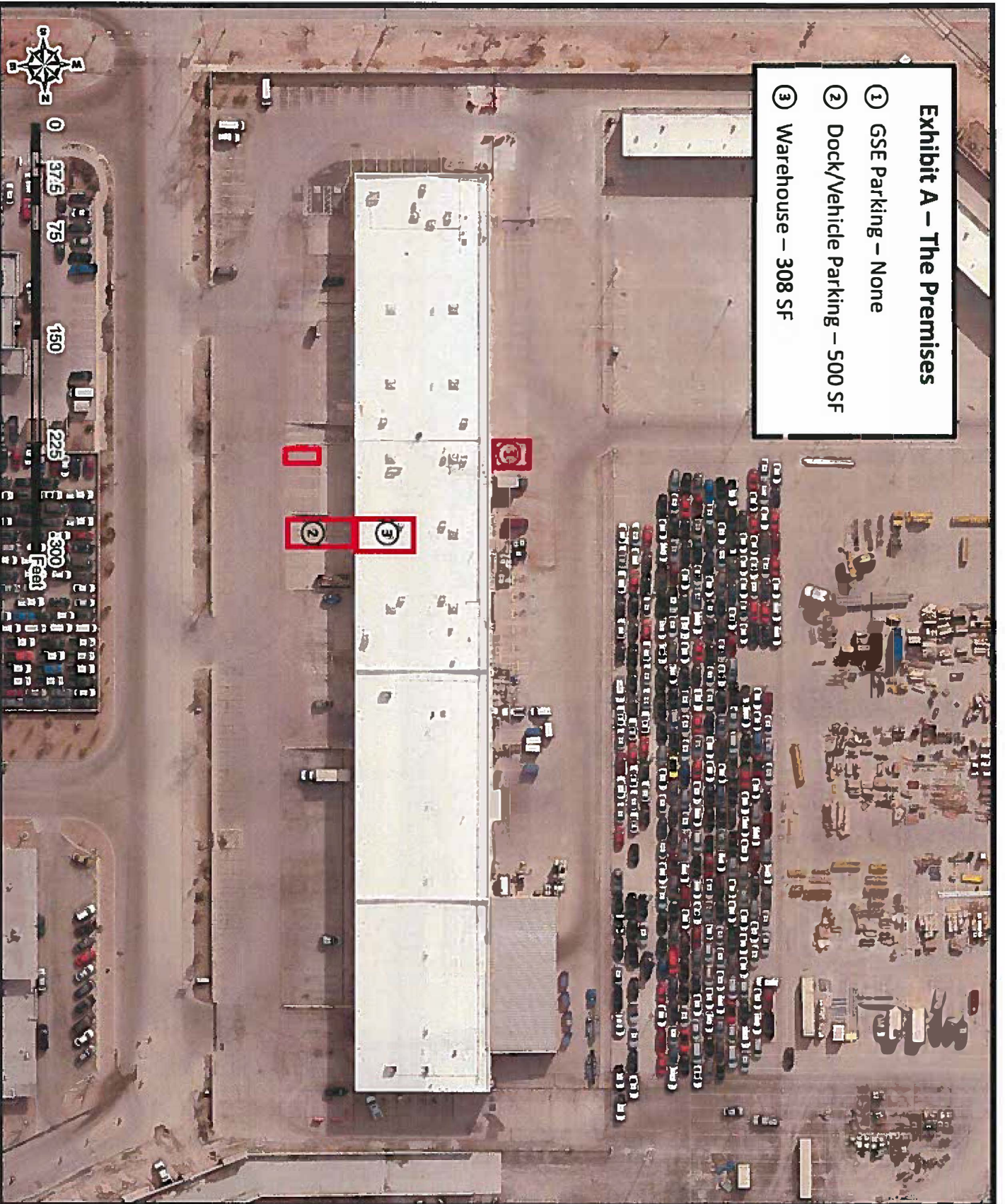


Exhibit “A”

THE PREMISES

Exhibit A – The Premises

- ① GSE Parking – None
- ② Dock/Vehicle Parking – 500 SF
- ③ Warehouse – 308 SF



DRAWN BY MSM

CHECKED BY MSM

PREPARED FOR:
EPA

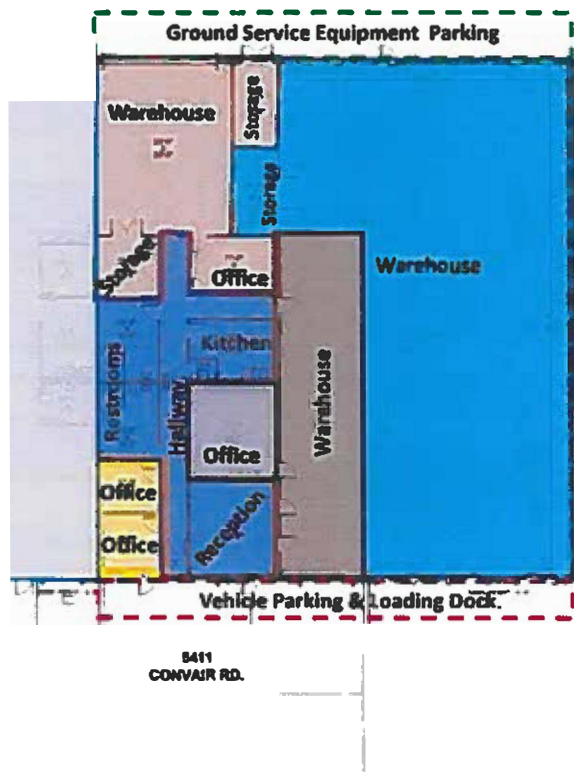
DATE: 10/26/2016

El Paso
International
Airport
El Paso, Texas



Global Aviation Services
6411 Convair Road





Premises 6411 Convair Road



2

CARGO UIL NG

6411 CONVAIR RD
EL PASO, TX. 79926
8,945 SQ. FT

Legend

- 6411 Convair Road (office/warehouse)
- 6411 Convair Road (vehicle parking and loading dock)
- 6411 Convair Road (ground service equipment parking)
- VACANT – 4,807 SF (office/warehouse)
- UTEP – 1,000 SF (warehouse)
- SPS ARS, LLC – 308 SF (office)
- Global Aviation Svcs. – 1,500 SF (office/warehouse)
- VACANT – 252 SF (office)
- Common space – 1,500 SF (restrooms, kitchen, reception, and hallway)

Exhibit “B”
Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee.
2. The above provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

- **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
- **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the

information, the Contractor will so certify to Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
 9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
 10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
 11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
 12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).
- D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.
1. Lessee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
 2. In the event of breach of any of the above Nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.
- E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.
1. Lessee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from

participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

F. Subcontracts. Lessee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name	MORISA HOOVEN
Business Name	SPS ARS, LLC
Agenda Item Type	AIRPORT CARGO LEASE RENEWAL
Relevant Department	EPIA

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.

Signature: Morisa Hooven Digitally signed by Morisa Hooven
Date: 2024.04.02 12:53:55 -05'00' Date: 04/02/2024



Legislation Text

File #: 24-544, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign a First Amendment of Ground Lease between the City of El Paso, Texas ("Lessor"), and Exeter 50 Walter Jones, L.P. ("Lessee"), in conjunction with Lessee's first lien financing for the airport ground Lease dated May 12, 2020 for 50 Walter Jones Blvd., which amendment (1) provides that a receivership by the lender does not constitute a Lessee default under the Lease, (2) provides that if the Lease is rejected in bankruptcy while the mortgage is still outstanding, such lender has the option to lease the premises for the remainder of the term; (3) incorporates the new Federal Aviation Administration required lease provisions.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBGOAL: N/A

SUBJECT: **Tenant did not provide the Disclosure of Campaign Contributions and Donations Form**

A Resolution that the City Manager, or designee, be authorized to sign a First Amendment of Ground Lease between the City of El Paso, Texas ("Lessor"), and Exeter 50 Walter Jones, L.P. ("Lessee"), in conjunction with Lessee's first lien financing for the airport ground Lease dated May 12, 2020 for 50 Walter Jones Blvd., which amendment (1) provides that a receivership by the lender does not constitute a Lessee default under the Lease, (2) provides that if the Lease is rejected in bankruptcy while the mortgage is still outstanding, such lender has the option to lease the premises for the remainder of the term; (3) incorporates the new Federal Aviation Administration required lease provisions.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval for the First Amendment to the ground lease in conjunction with Lessee's first lien financing for the airport ground lease dated May 12, 2020 for 50 Walter Jones Blvd.

PRIOR COUNCIL ACTION:

- May 12, 2020 – Butterfield Trail Industrial Park Lease
- May 1, 2023 – Lessor's Approval of Assignment

AMOUNT AND SOURCE OF FUNDING:

This is a revenue-generating item.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: for 
Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign a First Amendment of Ground Lease between the City of El Paso, Texas (“Lessor”), and EXETER 50 WALTER JONES, L.P. (“Lessee”), in conjunction with Lessee’s first lien financing for the airport ground Lease dated May 12, 2020 for 50 Walter Jones Blvd., which amendment (1) provides that a receivership by the lender does not constitute a Lessee default under the Lease, (2) provides that if the Lease is rejected in bankruptcy while the mortgage is still outstanding, such lender has the option to lease the premises for the remaining term of the Lease; and (3) incorporates the new Federal Aviation Administration required lease provisions.

Dated this ____ day of _____, 2024.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Larry Phifer

Larry H. Phifer
Assistant City Attorney

APPROVED AS TO CONTENT:

for *Samuel Rodriguez*

Samuel Rodriguez, P.E.
Director of Aviation

FIRST AMENDMENT OF GROUND LEASE

THIS FIRST AMENDMENT OF GROUND LEASE (this "**Agreement**") is entered into as of _____, 2024, by and among **CITY OF EL PASO**, a Texas municipal corporation ("**Lessor**"), and **EXETER 50 WALTER JONES, L.P.**, a Delaware limited partnership ("**Lessee**").

RECITALS

A. Lessor is the owner of certain real property located in El Paso, Texas, and more particularly described in attached Exhibit A (the "**Land**") and the landlord under that certain Butterfield Trail Industrial Park Lease made and entered into as of May 12, 2020, by Lessor and **50 WALTER JONES BLVD., INC.**, a Texas corporation ("**Original Lessee**") (together with the assignments of ground lease described below collectively, the "**Ground Lease**"), as evidenced by that certain Memorandum of Lease recorded with the Official Public Records of El Paso County, Texas as File No. 20200035808.

B. Original Lessee assigned its interest in the Ground Lease to Lessee pursuant to that certain Assignment and Assumption of Ground Lease by and between Original Lessee and Lessee dated as of May 12, 2023, as consented to by Lessor pursuant to that certain Lessor's Approval of Assignment by Lessor dated as of May 12, 2023.

C. Lessee has requested, and Lessor has agreed to the provisions of this Agreement.

AGREEMENT:

NOW THEREFORE, in consideration of the premises and other mutual valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.

2. Defined Terms. Capitalized terms not otherwise defined herein shall have the meaning assigned such terms in the Ground Lease.

3. Ground Lease.

(a) Effect of Termination with Lessee; New Lease with Mortgagee. Notwithstanding anything to the contrary in the Ground Lease (and only with respect to the first lien Mortgagee who has complied with the notice provisions of Section 10.01 of the Lease), if (i) Mortgagee provides Lessor written notice within sixty (60) days after the date Mortgagee receives written notice that the Ground Lease has terminated because the Ground Lease was rejected in bankruptcy (time being of the essence) or otherwise terminated for which Mortgagee did not get notice or an opportunity to cure, stating that Mortgagee is exercising its right to enter into Lessor's form net Ground Lease with Improvements for the remaining term of the Ground Lease (had it not terminated) at the rental rate provided for in the terminated Ground Lease (had it not terminated); and (ii)

Mortgagee pays to Lessor all unpaid rent and taxes due under the Ground Lease up to and including the commencement date of the term of the new lease, but not any additional accelerated rent or liquidated damages (for all past due amounts, within such 60-day period, and for all future rent and taxes, when the same would have come due under the terminated Ground Lease), then Lessor will enter into such new lease with such first lien Mortgagee if (a) Lessor is vested with undisputed fee simple title to the Premises and all improvements thereon, free and clear of all third-party claims, liens and other encumbrances (except existing easements), (b) there is no existing or threatened legal impediment to Lessor leasing such property to Mortgagee, and there is no existing or threatened litigation related to the Ground Lease or the Premises and improvements thereon, or any financing related thereto, (c) Mortgagee accepts the Premises and the Improvements “AS IS” and subject to all matters of record and/or apparent on the property, including third parties in actual possession of such property, and (d) Mortgagee signs the new lease within a reasonable time after Mortgagee has notice of the Ground Lease termination (but not later than 60 days thereafter, unless Lessor is the cause of the delay).

If Mortgagee fails to provide Lessor the required notice within such 60-day period (time being of the essence), such Mortgagee shall not have the rights provided in this Section.

(b) Title to Improvements after Lease Termination. Lessee acknowledges and agrees that upon the expiration or early termination of the Ground Lease, fee simple title to all improvements located on the Premises shall automatically vest in Lessor, and Lessee shall no longer have any interest in such improvements (subject to Lessor’s right to require Lessee to remove such improvements and restore the leased premises as provided in the Ground Lease).

(c) Receivership Initiated by Mortgagee. Lessor hereby confirms that Section 11.02(G) of the Ground Lease shall not apply with respect to any receivership proceedings that are initiated by a Mortgagee in connection with an exercise of its remedies under the Mortgage and the other loan documents.

(d) Assignment by Lessee. Notwithstanding anything in Section 11.04 of the Ground Lease to the contrary, Lessor hereby agrees that Lessor shall not unreasonably withhold, condition, or delay its consent with respect to any proposed assignment of the Ground Lease.

(e) Cure Rights. The parties confirm that, only to the extent allowed by applicable law and the Federal Aviation Administration or the successor entity, for any non-monetary Tenant default or violation of the Lease that can be cured and no cure period is currently provided for in the Lease, Landlord shall not terminate the Lease without providing Tenant at least thirty (30) days prior written notice and opportunity to cure.

4. FAA Required Provisions. The Federal Aviation Administration Required Provisions attached hereto as Exhibit B (“Updated FAA Requirements”) are hereby incorporated into the lease and amend and replace the provisions set forth in Sections 12.07 – 12.10 of the Lease.

5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

6. Counterparts. This Agreement may be executed in any number of counterparts and each of the counterparts shall be considered an original and all counterparts shall constitute but one and the same instrument.

7. Entire Agreement. This Agreement and the exhibits hereto, which are incorporated herein by this reference, shall constitute the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be changed or modified orally or in any manner other than by any agreement in writing signed by the parties hereto. No waiver of any of the terms or conditions of this Agreement and no waiver of any default or failure of compliance shall be effective unless in writing and no waiver furnished in writing shall be deemed to be a waiver of any other term or provision or any future condition of this Agreement.

8. Applicable Law. This Agreement shall be governed by the law of the State of Texas.

9. Conflict. In the case of a conflict between the terms of the Ground Lease and the terms of this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates of acknowledgement, to be effective as of the date first above written.

[Remainder of page intentionally left blank; signature pages follow]

SIGNATURE PAGE OF LESSOR TO AMENDMENT OF GROUND LEASE

LESSOR:

CITY OF EL PASO, TEXAS

a Texas municipal corporation

By: _____

Name: Cary Westin

Title: City Manager

APPROVED AS TO FORM:

Larry Phifer

Larry Phifer

Assistant City Attorney

APPROVED AS TO CONTENT:

Samuel Rodriguez

for

Samuel Rodriguez P.E.

Director of Aviation

ACKNOWLEDGMENT

STATE OF TEXAS)

)

COUNTY OF EL PASO)

This instrument was acknowledged before me on the ____ day of _____, 2024,
by Cary Westin, as **City Manager** for the **City of El Paso**, a Texas municipal corporation, on
behalf of said corporation.

Notary Public, State of Texas

My Commission Expires:

SIGNATURE PAGE OF LESSEE TO AMENDMENT OF GROUND LEASE

LESSEE:

EXETER 50 WALTER JONES L.P., a Delaware limited partnership

By Exeter 50 Walter Jones GP, LLC, a Delaware limited liability company, its sole general partner

By: J. Peter Lloyd
Name: J. Peter Lloyd
Title: Vice President

COMMONWEALTH OF PENNSYLVANIA)
) ss.:
COUNTY OF DELAWARE)

On this the 26 day of March, 2024, before me, the undersigned officer, personally appeared J. Peter Lloyd who acknowledged himself to be the Vice President of Exeter 50 Walter Jones GP, LLC, a Delaware limited liability company, which is the sole general partner of **EXETER 50 WALTER JONES, L.P.**, a Delaware limited partnership, and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commissions Expires:

[SEAL]

Commonwealth of Pennsylvania - Notary Seal
Lisa Bianchini, Notary Public
Delaware County
My commission expires November 25, 2026
Commission number 1011466

EXHIBIT A

LEGAL DESCRIPTION OF LAND

BEING A PORTION OF LOT 1, BLOCK 15, BUTTERFIELD TRAIL INDUSTRIAL PARK UNIT THREE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 60, PAGE 60, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING FOR REFERENCE AT THE CENTERLINE INTERSECTION OF WALTER JONES BOULEVARD (120.00 FEET WIDE) AND SPUR DRIVE (90.00 FEET WIDE);

THENCE, ALONG THE CENTERLINE OF SAID WALTER JONES BOULEVARD, SOUTH $87^{\circ} 54' 08''$ EAST, A DISTANCE OF 80.00 FEET TO A POINT;

THENCE, LEAVING SAID CENTERLINE, SOUTH $02^{\circ} 05' 52''$ WEST, A DISTANCE OF 60.00 FEET TO A POINT IN THE SOUTH RIGHT-OF-WAY LINE OF SAID WALTER JONES BOULEVARD, AND POINT OF BEGINNING FOR THE HEREIN DESCRIBED TRACT;

THENCE, ALONG SAID SOUTH RIGHT-OF-WAY LINE, SOUTH $87^{\circ} 54' 08''$ EAST, A DISTANCE OF 611.00 FEET TO A POINT FOR CORNER;

THENCE, LEAVING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH $02^{\circ} 05' 52''$ WEST, A DISTANCE OF 373.00 FEET TO A POINT FOR CORNER;

THENCE, NORTH $87^{\circ} 54' 08''$ WEST, A DISTANCE OF 646.00 FEET TO A POINT FOR CORNER IN THE EAST RIGHT-OF-WAY LINE OF SAID SPUR DRIVE;

THENCE, ALONG SAID EAST RIGHT-OF-WAY LINE, THE FOLLOWING TWO COURSES:

NORTH $02^{\circ} 05' 52''$ EAST, A DISTANCE OF 338.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT;

ALONG THE ARC OF SAID CURVE (DELTA ANGLE = $90^{\circ} 00' 00''$, RADIUS = 35.00, CHORD = NORTH $47^{\circ} 05' 52''$ EAST, 49.50 FEET) A DISTANCE OF 54.98 FEET TO THE POINT OF BEGINNING AND CONTAINING 240,695 SQUARE FEET, OR 5.526 ACRES OF LAND.

EXHIBIT B

Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee.
2. The above provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the

information, the Contractor will so certify to Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975

and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.

1. Lessee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above Nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Lessee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin,

will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

Subcontracts. Lessee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).



Legislation Text

File #: 24-565, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the Director of Aviation, or designee, be authorized to sign on behalf of the City of El Paso, the Airline Operating Agreement and Terminal Building Lease, and Non-Signatory Airline Operating Agreement, which shall be in the formats attached to the Resolution. All such agreements shall be approved "As to Form" by the City Attorney prior to execution.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: District 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT:

A Resolution that the Director of Aviation, or designee, be authorized to sign on behalf of the City of El Paso, the Airline Operating Agreement and Terminal Building Lease, and Non-Signatory Airline Operating Agreement, which shall be in the formats attached hereto. All such agreements shall be approved "As to Form" by the City Attorney prior to execution.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval of the format of the Signatory Agreement and Non-Signatory Agreement which will be executed by the passenger airlines and cargo carriers operating at El Paso International Airport. All such agreements shall be approved "As to Form" by the City Attorney prior to execution.

The term of the new agreement is five years, effective September 1, 2024, with one (1) additional two-year renewal period.

PRIOR COUNCIL ACTION:

- N/A

AMOUNT AND SOURCE OF FUNDING:

This is a revenue generating item.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Samuel Rodriguez

Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Director of Aviation, or designee, be authorized to sign on behalf of the City of El Paso, the Airline Operating Agreement and Terminal Building Lease, and Non-Signatory Airline Operating Agreement, which shall be in the formats attached hereto. All such agreements shall be approved "As to Form" by the City Attorney prior to execution.

APPROVED this ____ day of _____ 2024.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Ignacio R. Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E.
Director of Aviation

EL PASO INTERNATIONAL AIRPORT
AIRLINE OPERATING AGREEMENT AND
TERMINAL BUILDING LEASE

BY AND BETWEEN

THE CITY OF EL PASO

AND

AIRLINE

AIRLINE OPERATING AGREEMENT AND TERMINAL BUILDING LEASE

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Exhibit G	Required Federal Provisions

**EL PASO INTERNATIONAL AIRPORT
AIRLINE OPERATING AGREEMENT AND
TERMINAL BUILDING LEASE**

THIS AGREEMENT AND LEASE (hereinafter referred to as the "Agreement") is entered into this _____ day of _____, 20____, by and between the **CITY OF EL PASO, TEXAS** ("City") and **[Company Name]**, a corporation organized and existing under the laws of the State of (state), ("Airline").

W I T N E S S E T H:

WHEREAS, Chapter 22 of the Texas Transportation Code authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Airline is engaged in the business of transportation of persons, property, or mail by air and desires to use certain facilities at the El Paso International Airport ("Airport") and lease from City certain premises and facilities in connection with its use of the Airport; and

WHEREAS, in furtherance of its authority, City desires to lease to Airline certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement; and

WHEREAS, the City and Airline have the power and authority to enter into this Agreement;

NOW, THEREFORE, and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

SECTION 1.01 DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

"Affiliate" means any Air Transportation Company that is: (1) a parent or subsidiary of Airline, or its parent; or (2) shares an International Air Transport Association (IATA) code with Airline at the Airport (code-sharing partner); and otherwise operates under essentially the same trade name as Airline at the Airport,

and uses essentially the same livery as Airline. All seats on the Affiliates' aircraft will be sold in the name of the Signatory Airline in which they are serving as the Affiliate. Airline must designate in writing to the City any Air Transportation Company that will operate as an Affiliate of Airline at the Airport. An Affiliate of Airline, as defined herein, shall be treated as a Signatory Airline for the purposes of this Agreement, subject to certain restrictions and requirements as defined herein., provided that (a) Airline remains a Signatory Airline to this Agreement; (b) Airline agrees and shall be obligated to serve as a financial guarantor for all rentals, fees, and charges incurred by such Affiliate of Airline at the Airport; and (c) such Affiliate has signed an operating agreement with the City indemnifying the City and requiring insurance. Airline shall be responsible for any and all unpaid rentals, fees, and charges of any such Affiliate while such Affiliate operates at the Airport.

"Agreement" means this Operating Agreement and Terminal Building Lease between City and Airline, as the same may be amended, modified, or altered from time to time pursuant to the terms hereof.

"Air Transportation Business" means that business operated by Airline or another Air Transportation Company at the Airport for the commercial transportation by air of persons, property, mail, parcels, and/or cargo.

"Air Transportation Company" means the legal entity engaged in the business of scheduled or nonscheduled commercial transportation by air of persons, property, mail, parcels, and/or cargo.

"Aircraft Arrival" means any aircraft arrival at the Airport, including, without limitation, scheduled, non-scheduled, diverted, training, testing, charter, or any other flight operated by an Air Transportation Company. Aircraft Arrivals exclude flights, which are forced to return and land at the Airport because of meteorological conditions, mechanical or operating causes, or emergency or precautionary reasons.

"Airline" means the Air Transportation Company executing this Agreement.

"Airline Equipment or Improvement" means any item of equipment or any improvement to Airline's Leased Premises provided or installed at request by Airline.

"Airport" means the identified areas "Airfield", "Terminal Building", "Air Cargo", "Aviation" and "Ground Transportation" at the El Paso International Airport: as shown in Exhibit A, Cost Center Map, attached hereto and made a part hereof, as it may be modified or developed from time to time, including all real property easements or any other interest within the identified areas therein as well as all improvements and appurtenances thereto, structures, buildings, fixtures, and all tangible personal property or interest in any of the foregoing, now or hereafter owned, leased, or operated by City.

“Airport Cost Centers” means the cost centers to be used in accounting for Airport revenues and expenses and for calculating and adjusting certain rentals, fees, and charges described herein, as they now exist or may hereafter be modified, changed, or developed, as more particularly described below and depicted on Exhibit A as such Exhibit may be modified by the City from time to time:

1. Direct Cost Centers

- “Terminal Building” means the passenger terminal building and associated curbside entrance areas and adjoining landscaped areas.
- “Ground Transportation” means public and employee vehicle parking areas; rental car, ready/return parking areas; commercial vehicle parking areas; terminal roadways; and associated landside support facilities and areas.
- “Airfield” means that portion of the Airport providing for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, and land areas required by or related to aeronautical use of the Airport. This cost center also includes the aircraft aprons at the Terminal Building and Air Cargo locations.
- “Aviation” means the hangars, buildings, and apron areas occupied by the Airport’s fixed base operators, other commercial aviation operators, and corporate/private aircraft operators.
- “Air Cargo” means the airfreight and cargo facilities located southwest of the Terminal Building on Convair Road and northeast of the Terminal Building on George Perry Boulevard.
- “Nonaviation” means those portions of the Airport set aside for non-aviation related commercial and industrial uses, including but not limited to industrial parks, golf courses, and any non-aviation related areas located, now or as may be located in the future, in any portion of the Airport.

2. Indirect Cost Centers

- “Administration” means all personnel, services, supplies, equipment, and facilities used to provide administrative support to Airport operations.
- “Public Safety” means all personnel services, supplies, equipment, and all facilities used to provide ARFF, Police, Canine, and Fire and Medical Services support to Airport operations.

- “Dispatch/Badging” means all personnel services, supplies, equipment, and all facilities used to provide badging for personnel on the Airport, and to provide dispatching services.

“Airport Revenue Bonds” means any bonds issued by City for Airport purposes secured by a pledge of the revenues of the Airport except for any Special Facilities Revenue Bonds.

“Airline Terminal Support System” means any system or service supporting Airline operations in the Terminal Building, including but not limited to, telecommunications, security, access control, paging, flight or baggage information display or similar systems or services.

“Amortization Discount Rate” means the discount rate (*i.e.*, interest rate) that will be used in calculating an annual amortization cost for a Capital Improvement to be included in Annual Amortization Recovery. Such Amortization Discount Rate shall be determined by the average rate reflected by The Bond Buyer 30 year Revenue Bond Index (“RBI”) as of June 30 of the preceding calendar year that the subject expenditure was made.

“Annual Amortization Recovery” means the total annual charges required to recover the annualized cost of City funded Capital Improvements over the Useful Life of such Capital Improvements and subject to the Annual City Funded Capital Improvement Cap.

“Annual City Funded Capital Improvement Total” means, in a given Fiscal Year, the total costs for all Capital Improvements that are (a) not financed with Bonds and (b) placed into service that Fiscal Year.

“Annual City Funded Capital Improvement Cap” means the maximum Annual City Funded Capital Improvement Total that shall be used in calculating airline rates and charges hereunder. The Annual City Funded Capital Improvement Cap shall be as follows: (1) for FY 2024, five million dollars (\$5,000,000), and shall increase two hundred fifty thousand dollars (\$250,000) in every year until end of term; (2) for FY 2025, five million two hundred fifty thousand dollars (\$5,250,000); (3) for FY 2026, five million five hundred thousand dollars (\$5,500,000); (4) for FY 2027, five million seven hundred fifty thousand (\$5,750,000); and (5) for FY 2028, six million dollars (\$6,000,000).

“Bond Ordinance” means any ordinance of City regulating or authorizing the issuance of bonds, other than Special Facilities Revenue Bonds, for Airport purposes, or payable from Airport revenues, as the same may from time to time be adopted, amended, or supplemented.

“Bonds” means Airport Revenue Bonds or any other similar or substitute financing instruments issued for Airport purposes under and pursuant to authorizing legislation.

“Capital Improvement Program” means the Airport’s program of Capital Improvements as such program may be amended from time to time at City’s sole discretion.

“Capital Improvement” means any single item or project costing more than one hundred twenty-five thousand and 00/100 dollars (\$125,000.00) (net of PFC revenue and grants-in-aid) and having a useful life in excess of five (5) years that is acquired, purchased, or constructed by City to improve, maintain, preserve, or develop the Airport. Capital Improvements shall include, but not be limited to: (1) the acquisition of land or easements; (2) the purchase of machinery, equipment, or rolling stock; (3) the planning, engineering, design, and construction of new facilities; or (4) the performance of any extraordinary, non-recurring major maintenance or replacement of existing facilities.

“City” means the City of El Paso, a municipal corporation organized under the laws of the State of Texas and its officers, directors, agents, and employees.

“Coverage” for any series of Airport Revenue Bonds means, for any Fiscal Year, the dollar amount computed by multiplying the rate covenant percentage set forth in any Bond Ordinance adopted by City by the annual debt service requirement for such Fiscal Year.

“Current Year Amortized Costs” means the amortized costs of Capital Improvements (provided that the total of the actual individual costs of Capital Improvements shall be subject to the Annual City Funded Capital Improvement Cap, if applicable) put in service in the then-current Fiscal Year. Such Current Year Amortized Costs shall be calculated amortizing each cost of the Capital Improvements put in service during the current Fiscal Year over the Useful Life of each item utilizing the applicable Amortization Discount Rate.

“Department” means the Department of Aviation of the City.

“Deplaned Passenger” shall mean any passenger disembarking an aircraft at the Airport and entering the Terminal Building including International Arrivals Area.

“Director” means the Director of Aviation of the Department of Aviation or other person properly authorized to act on behalf of Director.

“Enplaned Passengers” means all local, interline transfer, and intraline transfer passengers boarding flights of Airline, its Affiliates, or any other Air Transportation Companies using any of the Leased Premises of Airline at the Airport including revenue and non-revenue passengers but excluding Airline employees.

“Environmental Laws” means all present or future local, state or federal statutes, ordinances, rules, regulations, permits, citations, orders, directives, or consent decrees or other enforceable requirement of any federal, state or local entity, agency or body, or subdivision thereof (including specifically but without limitation, the City of El Paso), having governmental authority, relating to:

- (1) the protection of health, safety and the indoor or outdoor environment;
- (2) the conservation, management or use of natural resources and wildlife;
- (3) the protection or use of surface water and ground water;
- (4) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release or threatened release, abatement, removal, remediation or handling of, or exposure to any Hazardous Materials (as defined below); or
- (5) pollution (including any release or threatened release discharge or emission to air, land, surface water, or ground water);

including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. §18091 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), The Clean Water Act (33 U.S.C. §1251 et seq.), the Toxic Substances Control Act of 1976 (15 U.S.C. §2601 et seq.), the Safe Drinking Water Act (U.S.C. §300f-§300j-11 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Occupational Safety and Health Act, the Clean Air Act, 42 U.S.C. Section 7401 et seq. and any state counterpart, each as heretofore and hereafter amended or supplemented, and any analogous future or present local, state or federal statutes, rules and regulations promulgated thereunder or pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive regulating, relating to or imposing liability standards of conduct concerning any Hazardous Materials, or special wastes or by the federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions. The reference to Hazardous Materials in the immediately preceding sentence shall not limit the application of this paragraph to laws dealing with Hazardous Materials, it being the intention of the parties that all environmental laws dealing with activities having an impact on the environment be included within the scope of this paragraph.

“Equipment and Capital Outlay” means any single item or project not included in Maintenance and Operating Expenses or defined as a Capital Improvement. The cost of an item of Equipment and Capital Outlay shall be accounted for as a current expense.

“Exclusive Use Premises” means those portions of the Terminal Building assigned exclusively to Airline, as shown on Exhibit B, attached hereto.

“FAA” means the Federal Aviation Administration of the U.S. Department of Transportation or any federal agency(s) succeeding to its jurisdiction.

“Fiscal Year” means City’s fiscal year, which is the twelve-month period commencing September 1 and extending to August 31 of the following year, or such other twelve-month period as may be adopted for the operation of City or Airport.

“Hazardous Materials” means any hazardous or toxic substances, materials, or wastes, including, but not limited to, those substances, materials, and wastes listed in the U. S. Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) or as extremely hazardous substances under 40 CFR Part 355 and amendments thereto, or such substances, materials, and wastes that are or become regulated under any applicable Environmental Laws.

“International Arrivals Area” means that area in the Terminal Building at the Airport designated for federal inspection services (FIS).

“Joint Use Premises” means those Terminal Building areas which may be assigned to two or more Air Transportation Companies including on a common use or shared basis, along with all facilities, improvements, equipment, and services which are, or hereafter may be, provided for such use, as shown on Exhibit B, attached hereto.

“Leased Premises” means any areas on the Airport leased by City to Airline, whether on an Exclusive, Joint, common, Shared, Preferential, non-preferential or temporary use basis, as depicted on Exhibit B as attached hereto and made a part hereof.

“Maintenance and Operating Expenses” (or “M&O Expenses”) means, for any Fiscal Year, all expenses, paid or accrued, to maintain, repair, operate and administer the Airport, including, but not limited to, taxes and assessments, if any, and expenses for defending, settling, or satisfying litigation.

“Maximum Gross Landed Weight” means the maximum allowable landing weight of each aircraft operated by Airline at the Airport as authorized by the FAA and recited in Airline’s flight manual governing that aircraft.

“Passenger Facility Charge” or “PFC” means the fees authorized by 49 USC 40117 and regulated by 14 CFR Part 158 as such statutes and regulations currently exist or as they may be amended, modified, or supplemented during the Term of this Agreement.

“Preferential Use Premises” means those portions of the Terminal Building and aircraft aprons assigned to Airline, as shown on Exhibit B, attached hereto, to which Airline shall have priority over other users, subject to the provisions of Article 4.

“Prior Years Amortized Costs” means all amortized Capital Improvement costs included in years prior to the current Fiscal Year (*i.e.*, all prior years’ Current Year Amortized Costs), provided that the individual Capital Improvements have not reached the end of their Useful Life that was utilized to determine the applicable amortized costs. For clarity’s sake, 2024 shall be the first year of Current Year Amortized Costs utilized in determining the Prior Years Amortized Costs.

“Renewal and Replacement Reserve” means that reserve defined in the Bond Ordinance for the purposes of funding renewal and replacement expenditures of the City for the Airport.

“Rules and Regulations” means those rules, regulations, policies, and procedures that have been established by City or the Department for the orderly and efficient use of the Airport by airlines and other tenants and users as the same may be amended, modified, or supplemented from time to time. Such Rules and Regulations shall be made available by City to Airline upon request of Airline.

“Shared Use Premises” means those portions of the Terminal Building shared by Airline with other Air Transportation Companies, as shown on Exhibit B, attached hereto.

“Signatory Airline” means Airline and each other Air Transportation Company that (1) commits to having scheduled operations such that its rentals for Joint Use Premises under this Agreement amount to at least one hundred seventy-five thousand and no/100 dollars (\$175,000) on an average annual basis during the Term of this Agreement; and ; and (2) has executed an agreement with the City substantially similar to this Agreement. An all-cargo Air Transportation Company shall be considered a Signatory Airline if it guarantees a minimum of forty-five million (45,000,000) annual pounds of Maximum Gross Landed Weight throughout the Term of this Agreement, leases facilities on the Airport from City in a minimum annual amount of at least Eighty-five Thousand and no/100 Dollars (\$85,000), for a term at least equal to the Term of this Agreement, and has an agreement with City substantially similar to this Agreement.

“Special Facilities” means capital improvements or facilities located on any property owned or leased by City and located at Airport, which are financed by the issuance of Special Facilities Revenue Bonds.

“Special Facilities Revenue Bonds” means any debt of City which is permitted by, but not issued pursuant to, the terms of the Bond Ordinance and which is secured by and payable solely from rentals or other charges derived by

City under a lease, sale or other agreement (or any document securing the same) between City and the person, firm or corporation utilizing the Special Facilities financed thereby.

“Term” means the period of time during which Airline’s activities at the Airport are governed by this Agreement. Said Term shall begin on the Effective Date, and, except as otherwise set forth herein, terminate on the date set forth in Article 2.

“Title 14” means that portion of the El Paso City Code addressing aircraft and airports, as the same may be amended, modified, or supplemented from time to time.

“Total Airline Landed Weight” means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of Airline over a stated period of time.

“Total Airline Landed Weight of Signatory Airlines” means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of all Signatory Airlines over a stated period of time. Said sum shall be rounded to the nearest thousand (1,000) pounds for all landing fee computations.

“TSA” means the Transportation Security Administration of the Department of Homeland Security, or its authorized successor.

“Usable Space” means the gross space in the Terminal Building at the Airport less mechanical and related storage space and service areas as identified on Exhibit B.

“Useful Life” means the period of time that a Capital Improvement is to be recovered through the Annual Amortization Recovery. Useful Life shall be assigned to each Capital Improvement by the Director based on generally accepted accounting practices.

Additional words and phrases used in this Agreement but not defined either in this Article 1 or elsewhere herein shall have the meanings as defined under the Bond Ordinance or, if not so set forth, shall have their usual and customary meaning.

SECTION 1.02 CROSS-REFERENCES

References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections, or exhibits of this Agreement, unless otherwise specified.

ARTICLE 2 - TERM

SECTION 2.01 TERM

This Agreement shall commence on September 1, 2024 (Effective Date) and terminate at midnight on August 31, 2029, unless cancelled sooner as provided herein.

SECTION 2.02 TERMINATION OF EXISTING AGREEMENTS

Any Terminal Building leases and operating agreements heretofore executed between the parties covering or pertaining to the Airport are canceled and terminated as of the Effective Date of this Agreement, provided that such cancellation and termination shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of action, or causes of action that either of the parties hereto may have against the other under such existing leases and agreements and that have accrued before the Effective Date of this Agreement.

SECTION 2.03 HOLDING OVER

It is agreed and understood that any holding over by Airline of the Leased Premises at the expiration or cancellation of this Agreement shall operate and be construed as a tenancy from month to month only, and not as an extension or renewal of this agreement, and shall be in accordance with the provisions as set forth herein and in Title 14 and any applicable City Annual Budget Resolution. Airline shall be liable to City for any loss or damage on account of any holding over against City's will after the expiration or cancellation of this Agreement, whether such loss or damage may be contemplated or not. If Airline holds over with the express written consent of the City, which may be granted or revoked in City's sole discretion, Airline shall pay Signatory rates, fees, and charges during such period. If the City gives notice to Airline that it objects or does not consent to such holdover, and Airline fails to vacate the Airline Premises within sixty (60) days of written notice of termination from the City, Airline shall pay the City one hundred fifty percent (150%) of Signatory rates, fees, and charges for each period beginning more than sixty (60) days after such notice, and the City reserves the right to determine Airline rates, fees, and charges according to any methodology permitted under Applicable Law.

SECTION 2.04 EXTENSION

In the event Airline is not in default of any terms of this Agreement, the Term of this Agreement may be extended for one (1) additional two-year renewal period, through the mutual written agreement of Airline and City. To extend the term of this Agreement, the Director shall give written notice to Airline of City's intent to extend the Agreement no less than three (3) months prior to the expiration of the term of the Agreement. If Airline is not willing to renew for the extension period, Airline will be released from its obligation to extend the Agreement term, provided it gives the Director written notice of its intent within thirty (30) days from the notification of the City's intent to extend the term. During any extension period, the Agreement shall be extended on the same terms and

conditions, except Airline shall pay all rates, charges and provisions as set forth herein and in Title 14 and any applicable City Annual Budget Resolution.

ARTICLE 3 - RIGHTS AND SPECIFIC PRIVILEGES

SECTION 3.01 USE OF THE AIRPORT

Airline, its employees, passengers, guests, patrons, agents, independent contractors and invitees shall have the right to use, in common or jointly with other duly authorized users, those portions of the Airport, together with all facilities, improvements, equipment, and services that have been or may hereafter be provided for their common or joint use, subject to the provisions of this Agreement and the Rules and Regulations.

SECTION 3.02 SPECIFIC RIGHTS OF AIRLINE AT THE AIRPORT

Airline shall have the right, subject to conditions contained herein and in addition to all rights elsewhere granted in this Agreement, to use the Airport for the following purposes, subject to the provisions of this Agreement and the Rules and Regulations:

- A. The operation of an Air Transportation Business, including all activities reasonably necessary to such operation.
- B. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, repairing, maintaining, conditioning, servicing, parking, storing, or testing of aircraft or other equipment of or operated by Airline, subject to the availability of space, and subject to such reasonable charges, regulations, and/or restrictions City may establish; provided however, Airline shall not permit the use of the Airfield by any aircraft operated or controlled by Airline which exceeds the design strength or capability of the Airfield as described in the then-current FAA-approved Airport Layout Plan (ALP) or other engineering evaluations performed subsequent to the then-current ALP, including the then-current Airport Certification Manual.
- C. The sale of air transportation tickets and services, the processing of passengers and their baggage for air travel, the sale, handling, and providing of mail, freight, and express services, and reasonable and customary airline activities.
- D. The training of persons and testing of aircraft and other equipment at the Airport, such training and testing to be limited to that incidental to Airline's Air Transportation Business, and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to the use of same. Flight training and aircraft testing shall be undertaken by Airline only to the extent permitted by and subject to the Rules and Regulations and in only those areas designated by Director. City reserves the right to restrict or prohibit such training and testing operations which it deems to interfere

with the use of the Airport, including excessive noise as reasonably determined by City.

- E. The purchase of Airline's requirements of personal property or services, including fuel, lubricants, food, beverage, and other passenger supplies, and any other materials and supplies used by Airline from any person or company of Airline's choice for services to be performed for Airline that are incidental to the operation of Airline's Air Transportation Business. Nothing herein shall restrict City from levying nondiscriminatory concession or privilege fees or charges on any person or company conducting business at the Airport other than an Air Transportation Business and provided further that the City may require a third-party service provider or operator contracting with Airline to execute a written agreement with the City.
- F. The sale, disposal, and exchange of Airline's aircraft, engines, accessories, fuel, oil, lubricants, other equipment, and materials or supplies to other Air Transportation Companies subject to City's right to charge and collect fees or commissions for such sales or exchanges as provided in Section 3.04 (H). Such right shall not be construed as authorizing the conduct of a separate regular business by Airline, but as permitting Airline to perform only those functions that are incidental to the operation of its Air Transportation Business.
- G. The servicing by Airline, or by its suppliers of materials or its furnishers of services, of aircraft and other equipment operated by Airline with line maintenance or other materials or supplies, at its Preferentially Assigned Aircraft Parking Areas or other aircraft parking positions designated by Director subject to the Rules and Regulations. Director reserves the right, at any time, to designate other locations reasonably accessible from the Terminal Building for the performance of aircraft maintenance and service activities if Director believes that such activities would interfere with aircraft operations of other Air Transportation Companies at the Terminal Building.
- H. The installation and operation of identifying signs and graphics on Airline's Leased Premises, subject to the prior written approval of Director, provided that such signs shall be: (1) substantially uniform in size, type, and location with those of other Air Transportation Companies; (2) consistent with Department's graphics standards as established from time to time by Director; (3) in compliance with the Rules and Regulations; and (4) in compliance with City Code and all local laws and ordinances. However, Airline shall not install any promotional displays or advertising displays in its Leased Premises unless authorized in writing, in advance, by Director.
- I. The installation, maintenance, and operation of such radio, communication, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport, including computer equipment at passenger check-

in counters in the Terminal Building, as may be necessary for Airline's operations; provided that such equipment and facilities do not interfere with other Airport communication, meteorological, or aerial navigation systems. The location of such equipment and facilities, method of installation and type of equipment shall require the prior written approval of Director and shall conform with all applicable federal, state, and local requirements. Airline is required to use the City's Multi-user Flight Information Display System (MUFIDS) and agrees to abide by the rules established by City for its use. Airline may use its own Flight Information Display System (FIDS) in its Leased Premises subject to the prior written consent of Director and subject to such reasonable conditions as Director may require.

- J. The provision of baggage porter, skycap, or curbside airline baggage check-in services. Airline may arrange with other Air Transportation Companies to provide such services or may provide such services on its own behalf.
- K. The use of the International Arrivals Area, depicted on Exhibit B, in common with other authorized users, subject to availability and payment of then current use charges.
- L. The right to erect, maintain, and station security screening devices and to conduct a security check operation of passengers, baggage, and packages in the Airline's Exclusive Use Space or Joint Use Space at a location approved by Director in his or her reasonable discretion.
- M. The right, in common with other Air Transportation Companies, to the use of City's lifting device, as required by 14 CFR Part 382, and any amendments thereto, and permits the use of that equipment in the course of the Airline's operations, including the performance of passenger handling/boarding services for other Air Transportation Companies at the Airport.

All rights and privileges not specifically granted to Airline for its use of and operations at the Airport pursuant to the Agreement are reserved for and to City.

SECTION 3.03 EMPLOYEE PARKING FACILITIES

Airline's employees working at the Terminal Building will be provided vehicular parking facilities, if available, in common with other employees. Such facilities shall be located in an area designated by Director. City reserves the right to assess a reasonable charge to Airline or its employees for such parking facilities.

SECTION 3.04 LIMITATIONS ON USE BY AIRLINE

In connection with the exercise of its rights under this Agreement, Airline:

- A. Shall not do or permit to be done anything at or about the Airport that may interfere with the use, operation, or maintenance of the Airport, including but not limited to effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, heating or ventilation system, air conditioning system, electrical system, natural gas, or other Airport systems installed or located on or within the Leased Premises or the Airport.
- B. Shall not do or permit to be done anything, either by act or failure to act, that shall cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Airline shall do or permit to be done any act not permitted under this Agreement, or fail to do any act required under this Agreement, regardless of whether such act shall constitute a breach of this Agreement, which act or failure, in and of itself, causes an increase in City's insurance premiums, Airline shall immediately remedy such actions and/or pay the increase in premiums, upon notice from Director to do so.
- C. Shall not dispose of or permit any employee, agent or contractor to dispose of any waste material taken from, or products used with respect to, its aircraft into the sanitary or storm sewers at the Airport or any other location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials, unless such waste material or products first be properly treated by equipment installed with the approval of City and any other administrative body having appropriate jurisdiction.
- D. Shall not keep or store any Hazardous Materials such as flammable liquids and solids, corrosive liquids, compressed gases, or magnetized or radioactive materials on the Airport except when all the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any liquids having a flash point of less than one hundred degrees (100°) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said materials shall be under the control and care of designated and properly qualified Airline personnel; (3) said materials shall be packaged, handled and stored in compliance with applicable U.S. Department of Transportation, Environmental Protection Agency, and other applicable regulations for transport, pre-transport and storage of hazardous articles and materials, including the Airport's Spill Prevention, Control, and Countermeasure (SPCC) Plan; and (4) said materials shall be only stored in such storage areas as are designated. Director reserves the right to require Airline to relocate any stored hazardous material necessary.

- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft at the Airport without prior written approval of City. The granting of the right to store aviation fuels shall be subject to the execution of a separate agreement between Airline and City.
- F. Shall not maintain or operate in the Terminal Building or elsewhere at the Airport, a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public, its employees, or passengers; nor shall Airline in any manner otherwise provide for the sale or dispensing of food and beverages at the Airport except that Airline may dispense food and beverages on board Airline's aircraft or to passengers boarding Airline's aircraft for consumption on board and provide vending machines solely for the sale of hot and cold beverages, food, and confections to Airline employees in areas not accessible to the general public. Airline may, by separate agreement with the City and to the extent it does not conflict with any terminal concession agreements, engage in the provision or sale of food or beverages at any airline club room or similar private facility at the Airport. However, in the event of originating flight delays greater than one hour, or for diverted flights or originating flights that have returned to the Airport, Airline may provide water and typical onboard snacks (e.g., peanuts, pretzels, etc.) at no charge to Airline's passengers in the holdroom area.
- G. Agrees to comply with all security measures required of Airline or City by the FAA or contained in City's FAA-approved Master Security Plan for the Airport, as such plan may be amended from time to time, or in any Airport Tenant Security Program as outlined in 49 CFR Part 1542 with respect to Airline's Exclusive Use Premises. Any fines and/or penalties levied against City for security violations at the Airport resulting from any non-compliance of Airline, its employees, officers, agents, affiliates, or suppliers while under its control, shall be immediately due and payable to City by Airline.
- H. May exercise the rights and privileges granted Airline under this Agreement with respect to the performance of ground services and activities in connection with its Air Transportation Business at the Airport, by Airline for and on behalf of Airline's regularly scheduled or unscheduled services and those of its Affiliates. Airline may, subject to the prior written approval of Director, and, where applicable, the payment of fees or commissions as provided for in this Agreement, perform ground services for any other Air Transportation Company using the Airport provided that Airline shall be solely responsible for the reporting to City of all such Air Transportation Company's landings, landed weights, and passengers and for the payment of all fees and amounts payable excluding PFCs, by or on account of such Air Transportation Company to City under this Agreement or under Title 14 unless such Air Transportation Company is a Signatory Airline. It is understood and agreed that City reserves the right to control access to

restricted areas and to collect reasonable fees or commissions for the provision of in-flight catering, vending, ground transportation, ground support, or other services by Airline for any Air Transportation Company other than Airline and for any services or facilities provided by or for Airline in competition with concessionaires and operators operating under an agreement with City.

- I. Shall park ground service or other equipment on the Terminal Building aircraft apron only at areas designated on Exhibit E or otherwise designated by Director.
- J. Shall not install any coin-operated or card operated machine(s) or device(s), except for: (1) machines for the sale of Airline's tickets or issuance of boarding passes located on Airline's Leased Premises or other areas approved in writing by Director; or (2) beverage or snack machines as provided in Section 3.04 (F) above.

SECTION 3.05 AIRPORT USE SUMMARY

Airline shall file with Director an Airport Use Summary, in a form acceptable to Director, providing the information specified below and such other non-commercially sensitive information as Director may reasonably request regarding Airline's operation at the Airport. Airline shall, at all times, maintain a current version of such Airport Use Summary on file with Director. The Airport Use Summary shall include the following information:

- Names, addresses, and telephone numbers of Airline officials responsible for station operations, flight operations, properties, and facilities.
- The current and proposed schedules of Airline's flight activity at the Airport. Airline shall notify Director of schedule changes or the addition or deletion of flights at the Airport prior to or no later than the public announcement thereof.
 - The description of Airline's fleet and identification of the type of Airline's aircraft that are serving or will serve the Airport. Airline shall provide notice of the introduction of any aircraft that is not being operated by Airline at the Airport as of the date of this Agreement.

Such Airport Use Summary shall be updated and re-filed with Director whenever there is a change to the nature of Airline's operations at the Airport or whenever Director shall reasonably request the same.

ARTICLE 4 - PREMISES

SECTION 4.01 PREMISES

A. Categories of Space.

Airline shall lease areas in or adjacent to the Terminal Building on an Exclusive Use, Joint Use, Shared Use, or Preferential Use basis (or combination thereof) as follows and as more particularly delineated on Exhibit B, as such exhibit may be modified.

B. Space in Terminal Building.

At the Effective Date of this Agreement, Airline shall lease or use the areas in or adjacent to the Terminal Building shown on Exhibit B Airline's Leased Premises in the Terminal Building shall be subject to change from time to time by Director, after consultation with Airline. Any such changes shall be incorporated herein by Director transmitting to Airline replacement Exhibit B.

C. City may, during the Term of this Agreement, expand or modify the leasehold dimensions or location of Joint Use Space. If City elects to expand or modify the dimensions or location of such space, Director shall provide no less than sixty (60) days prior written notice to Airline and consult with and consider any suggestions of Airline prior to or during such notice period, but the approval of Airline shall not be required for any such expansion or modification by Director.

D. The dimensions on Exhibit B, as such exhibit may be modified in accordance with this Agreement, shall be the basis for determining the amount of the rentals payable pursuant to Articles 6 and 7. Director shall issue new Exhibit B after any Terminal Building expansion or modification.

SECTION 4.02 EQUIPMENT AND AIRCRAFT PARKING AREAS AND HOLDROOMS

A. Aircraft Parking Areas, including associated aircraft loading positions, apron areas and loading bridges ("gates") as shown on Exhibit "B-2" as such exhibit may be amended from time to time by Director, and associated Joint Use Space in the Terminal Building ("holdrooms") shall be assigned to Airline by Director on a preferential, nonexclusive use basis. Airline shall have priority in using gate(s) and holdroom(s) assigned to it on a preferential use basis to accommodate its flights, provided that Director may authorize other Air Transportation Companies to use such gate(s) and holdroom(s) in accordance with the provision of Section 4.03.

B. City reserves the right to reassign or recapture possession of one or more of Airline's preferentially assigned gate(s) and holdroom(s) if: (1) Airline's scheduled overall gate utilization falls below four (4) flights per gate per weekday to be verified by a method at the Director's reasonable discretion

and (2) Director determines that (i) other suitable gate(s) are not available and there is a need for the use of such gate(s) by another Signatory Airline or (ii) that there is a need for use of such gate(s) on a common use basis. Notice of such recapture or reassignment will be provided to Airline by written notice from Director requesting discussions with Airline and transmitting a revised Exhibit B. Airline shall then have sixty (60) days from receipt of said notice to respond to Director's notice either by accepting it or offering alternatives for consideration by the Director. At the end of this sixty (60) day period, the Director may, at his or her discretion, accept the alternative, if any, or proceed with the plan contained in the original notice. In the event of any reassignment or recapture, Airline will be entitled to payment by the Signatory Airline accommodated for the unamortized book value of any Airline-owned loading bridge or tenant improvements, and for any reasonable relocation costs. Accommodating Airline shall not be required to relocate until such time as this payment has been made.

- C. Airline shall park all its ground service equipment in its preferentially assigned Equipment Parking Area as set forth on Exhibit B. In the event Airline requires additional equipment parking, such parking shall be subject to availability, the written approval of Director, and applicable Rules and Regulations.
- D. Airline shall have the right to park one aircraft overnight per preferentially assigned gate. Airline may park more than one aircraft overnight per preferentially assigned gate subject to the prior approval of Director.
- E. During any construction or remodeling at the Terminal Building, City reserves the right, after consultation with a committee of local station managers selected by the Signatory Airlines, to temporarily reassign preferential use gates as provided in Section 4.07.
- F. Airline shall cooperate with City to accommodate other Air Transportation companies from time to time, as deemed necessary by Director for situations including, but not limited to, unscheduled flights (including charters), mechanical problems, and diversions due to weather.

SECTION 4.03 ACCOMMODATION OF AIRLINE AND OTHER AIRLINES

To maximize the use of terminal facilities at the Airport, to facilitate the entry of new Air Transportation Companies, and to accommodate the expansion plans of present Air Transportation Companies, Airline agrees, upon the request of Director, to accommodate in its Leased Premises any Air Transportation Company requesting facilities ("Requesting Airline"). Such accommodation shall be in accordance with the following procedure and subject to the City's rules and regulations promulgated pursuant to Section 4.10 herein:

- A. In order to secure the use of Terminal Building facilities, a requesting airline shall:
1. Arrange, by contacting the Director, to use City-controlled Terminal Building space and gates not preferentially assigned; or, if no such space is available;
 2. Contact Airline and other Signatory Airlines to request the use of such Leased Premises in accordance with the provisions of this Article.
- B. In the event the Requesting Airline demonstrates to the satisfaction of Director that it has made all reasonable efforts to secure facilities without success, Director shall then notify all Signatory Airlines in writing that, if Requesting Airline is not accommodated within thirty (30) days from the date of said notice, Director shall select one of the Signatory Airlines to comply with the request for accommodation.
- C. At the end of said thirty (30) day period, if Requesting Airline has not been accommodated, Director shall select Airline or another Signatory Airline to accommodate the Requesting Airline, taking into consideration such factors as current utilization of terminal facilities, schedule compatibility, union work rules, competitive relationships, and other relevant factors. Director shall send written notice to such selected Air Transportation Company (the "Accommodating Airline") requiring such airline to begin accommodating the Requesting Airline within thirty (30) days from the date of said notice. Director shall include in such notice the reason or reasons why such Accommodating Airline was selected.
- D. Upon receipt of said notice, the selected Accommodating Airline may submit written comments to Director contesting its selection and Director shall consider such comments before confirming or rescinding such selection. However, the decision of Director shall be final.
- E. Unless Director rescinds such selection within the thirty (30) day period specified in Section 4.03 (C), the Accommodating Airline shall accommodate the Requesting Airline by sharing its Leased Premises and aircraft parking positions on a timely, good faith basis and in a reasonable and equitable manner, subject to the following conditions:
1. In case of a conflict between schedules of the Accommodating Airline and the Requesting Airline, the Accommodating Airline shall have preferential use of its Leased Premises and preferentially assigned Aircraft Parking Areas.

2. The Accommodating Airline shall not require that the Requesting Airline obtain ground handling or other services from the Accommodating Airline.
 3. The Accommodating Airline may assess the Requesting Airline reasonable and non-discriminatory fees and charges for Airline-owned equipment used by Requesting Airline, which fees and charges shall be limited to Airline's actual costs of providing such equipment along with a 15% administrative fee.
- F. For any accommodation pursuant to this Article, the Accommodating Airline may require the Requesting Airline to insure and indemnify the Accommodating Airline against liability arising out of the use of its facilities and equipment, provided, however, Accommodating Airline must use the form of indemnification agreement provided by City if Accommodating Airline and Requesting Airline fail to reach agreement on another written agreement and obtain the City's approval within ten (10) days of Accommodating Airline's request to Requesting Airline for such an agreement. Such agreement may not require nor shall Airline otherwise require that Requesting Airline pay fees to Accommodating Airline for its normal operations at the gate except to the extent Requesting Airline uses Accommodating Airline's personal property.

SECTION 4.04 USE OF CITY LOADING BRIDGES

- A. Any loading bridges owned and maintained by City shall be made available to all Air Transportation Companies serving the Airport on a common use basis unless assigned for preferential use.
- B. The use of City-owned loading bridges by Airline shall be subject to the following terms and conditions:
1. The loading bridges shall be operated only by employees, contractors, or agents of Airline, who are approved and qualified by Airline to operate the loading bridges.
 2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the loading bridges by its employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.
 3. Airline shall be solely responsible for the costs to replace or repair any damage to loading bridges or other property caused by the operation of the loading bridges by its employees, contractors, or agents.

4. City, during the Term of this Agreement, shall reasonably maintain and keep in good repair the City-owned loading bridges referred to herein.
5. Airline shall pay the loading bridge charge as provided in Exhibit C.

SECTION 4.05 USE OF CITY LIFTING DEVICE

- A. Any lifting device owned and maintained by City shall be made available to all Air Transportation Companies serving the Airport on a common use basis unless assigned for preferential use.
- B. The use of City-owned lifting devices by Airline shall be subject to the following terms and conditions:
 1. The lifting devices shall be operated only by employees, contractors, or agents of Airline who are approved and qualified by Airline to operate the lifting devices.
 2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the lifting devices by its employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.
 3. Airline shall be solely responsible for the costs to replace or repair any damage to lifting devices or other property caused by the operation of the lifting devices by its employees, contractors, or agents.
 4. City, during the Term of this Agreement, shall reasonably maintain and keep in good repair the City-owned lifting devices referred to herein.

SECTION 4.06 REQUIREMENT TO REMAIN IN CONFINES OF EXCLUSIVE USE SPACE

Airline shall, at all times, with regards to their Exclusive Use Space, occupy and use only that space that is designated their Exclusive Use Space. Failure of Airline to remain within the confines of its Exclusive Use Space shall be a breach of this Agreement. Director shall notify Airline in writing of any infraction of this provision and, upon any continued infraction, City shall charge Airline double the normal specified monthly rent for the unauthorized occupancy or use of such Terminal Building space. Airline further agrees that it will, at all times, occupy and use the Joint Use Space so that its operations

and passengers do not impede or inconvenience the operations or passengers of other Air Transportation Companies.

SECTION 4.07 REASSIGNMENT OF LEASED SPACE DURING CONSTRUCTION

Director may temporarily reassign any Leased Premises or Aircraft Parking Area during any construction after ninety (90) days' written notice is provided to Airline. The cost for any temporary relocation resulting from construction shall, at the discretion of City, be either borne by the airline necessitating the relocation or shall be included as part of the City's project cost. During the period when Airline is temporarily relocated, appropriate adjustments to rentals shall be made to reflect any differences between the area of the Leased Premises and the area of temporarily assigned premises.

SECTION 4.08 SURRENDER OF THE PREMISES

- A. Airline covenants and agrees that on expiration of the term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the Leased Premises as heretofore provided, it will peaceably surrender possession of the Leased Premises hereunder in good condition, reasonable wear and tear excepted, and City shall have the right to take possession of the Leased Premises. City shall not be required to give notice to quit possession at the expiration of the term of this Agreement.
- B. Airline shall have the right, on expiration or early termination and within thirty (30) calendar days thereafter, at its expense to remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Airline in, on, or about the Airport, subject to any valid lien that City may have thereon for unpaid rents or fees.
- C. Any and all property not removed by Airline within the said thirty (30) day period shall, at the option of City, thereupon become a part of the property on which it is located, and title thereto shall thereupon vest in City. Airline agrees to reimburse City for any costs incurred by City if City elects to remove or dispose of any remaining Airline property after such thirty (30) day period. If City elects to remove or dispose of any remaining Airline property, it will use best efforts to remove or dispose of any Airline property in a reasonable amount of time.

SECTION 4.09 ACCESS

- A. Subject to the provisions herein, Title 14, the Rules and Regulations, and such other restrictions as City may impose with respect to Airline's use of Leased Premises, City hereby grants to Airline, its agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of free and unrestricted access, ingress, and egress to Airline's

Leased Premises and to public areas and public facilities of the Terminal Building.

- B. The ingress and egress provided for in Section 4.09(A) shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized in advance and in writing by Director.
- C. City shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for Airline's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable notice to Airline and a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. City shall suffer no liability by reason thereof and such action shall in no way alter or affect any of Airline's obligations under this Agreement.
- D. Airline agrees that all of its tenants, subtenants, patrons, invitees, agents, employees, or independent contractors must be authorized by the City to enter restricted areas as defined in Title 14. Airline agrees that no person authorized to enter a restricted area by virtue of this Agreement shall permit any person who is not otherwise authorized to enter a restricted area unless such unauthorized person is, at all times while in the restricted area, in the company of an authorized person.
- E. Airline understands and agrees that, in the event the Federal Aviation Administration assesses a civil penalty against the City or Department for any violation of 49 CFR Part 1542 or any successor or additional regulation pertaining to security at the Airport, as a result of any act or failure to act on part of Airline, its tenants, subtenants, patrons, agents, servants, employees, invitees, or independent contractors, Airline shall, upon demand of City, immediately reimburse the City in the amount of the civil penalty assessed.

SECTION 4.10 ACCESS

- A. The City may promulgate Rules and Regulations from time to time in order to effectuate the provisions of this Article 4, including without limitation provisions related to gate use and assignment, accommodation, and prioritization of common use facilities.

ARTICLE 5 - CAPITAL IMPROVEMENTS AND EQUIPMENT AND CAPITAL OUTLAYS

SECTION 5.01 CAPITAL IMPROVEMENTS

From time to time during the Term of this Agreement, City may, at its sole discretion, undertake Capital Improvements to the Airport. The costs of such Capital Improvements are not included, and for the Term of this Agreement, shall not be included, in the calculation of rentals, charges, and fees pursuant to Article 7.

Notwithstanding the foregoing, the City may include amortization costs of Capital Improvements in the calculation of such rentals, fees, and charges, provided that the total costs of Capital Improvements that can be recovered through the Annual Amortization Recovery process shall be capped each year of the Term at the amortized Annualized Capital Improvement Total.

Upon request of Airline, Director shall provide a copy of the most recent Capital Improvement Program.

SECTION 5.02 EQUIPMENT AND CAPITAL OUTLAYS

On or before July 15 of each year, Director shall, as part of the annual budget process, prepare an estimate of the purchase or construction cost of Equipment and Capital Outlays to be purchased or constructed and the estimated costs for such Equipment and Capital Outlays that are to be included in the calculation of the required next year's rentals, charges, and fees pursuant to Exhibit C. A listing of such budgeted Equipment and Capital Outlays shall be provided annually when the Airline and City meet as provided in Section 7.03.C.

ARTICLE 6 - REPORTS, RENTALS, CHARGES, AND FEES

SECTION 6.01 GENERAL

- A. In consideration for use of the Leased Premises and for the various rights, licenses, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, during the Term of this Agreement, without deduction or set-off, rentals, charges, and fees to be calculated as set forth herein. City shall invoice Airline monthly for all such rentals, charges, and fees except landing fees, which shall be payable by Airline without invoice. Payment shall be made by Airline in accordance with Section 6.11 hereof.

SECTION 6.02 MONTHLY ACTIVITY REPORT

- A. Airline shall furnish to Director, on or before the tenth (10th) day of each month, an accurate report of Airline's operations at the Airport during the preceding month, setting forth all data necessary to calculate the rentals,

fees, and charges due under this Agreement in the form attached hereto as Exhibit F, or on such standard forms of the City or other forms approved or prescribed by the Director. Said report shall include, but shall not necessarily be limited to: (1) Airline's total number of Aircraft Arrivals for the month by type of aircraft, the Maximum Gross Landed Weight of each aircraft, and the Total Airline Landed Weight for the month to include any non-scheduled and charter operations; (2) the total number of Enplaned Passengers and Deplaned Passengers to include any non-scheduled and charter operations; (3) the number of Enplaned Passengers who are originating their air journeys at the Airport (rather than transferring from other flights of Airline or other Air Transportation Companies at the Airport); (4) the number of Enplaned Passengers who are non-revenue passengers or frequent flier award coupon passengers as such terms are defined in 14 CFR Part 158, as amended; (5) the total number of Aircraft Arrivals and departures from non-preferentially assigned gates or City-owned loading bridges; (6) the number of arriving international passengers using the International Arrivals Area; (7) the weight of cargo, freight, mail, and express for such month; and (8) any other data needed to establish and assess rates and charges. Airline shall also report the activities set forth herein for any Affiliate or other Air Transportation Company or charter, which is handled by or uses the Leased Premises of Airline.

- B. If Airline fails to furnish Director with the report required by Section 6.02(A), it shall be considered in default under this Agreement and Airline's rentals, fees, and charges, as provided for hereafter, shall be determined by assuming that Airline's Total Airline Landed Weight and Enplaned Passengers for such month was one hundred fifty percent (150%) of its Total Airline Landed Weight and Enplaned Passengers during the most recent month for which such data are available for Airline and by applying the rates specified herein and the applicable City Annual Budget Resolution. Any necessary adjustment in such rentals, fees, and charges shall be calculated after an accurate report is delivered to Director by Airline for the month in question. Resulting surpluses or deficits shall be applied as credits or charges to the appropriate invoices in the succeeding month.

SECTION 6.03 TERMINAL BUILDING RENTALS

- A. Airline shall pay to City for its Exclusive Use, Joint Use, and Shared Use space in the Terminal Building, as set forth on Exhibit B, monthly rentals based on annual rental rates to be calculated each Fiscal Year, as set forth in Exhibit C.
- B. Non-Signatory and Signatory Airlines shall pay rentals for Joint Use space for each Fiscal Year, as set forth in Exhibit C.

- C. Any Air Transportation Company using a gate on a non-preferential basis shall pay a Gate Per Use Fee for each per turn operation on such gate in accordance with Exhibit C.
- D. Any Air Transportation Company using a ticket counter on a non-preferential basis shall pay Ticket Counter Per Use Fee for each Per Turn Operation on such gate in accordance with Exhibit C.
- E. Rentals for Shared Use space shall be prorated among Airport tenants in proportion to the leased area of each tenant's Exclusive Use space relative to the total area of leased Exclusive Use space served by such Shared Use space.

SECTION 6.04 ELECTRICITY CHARGES FOR EXTRAORDINARY USAGE

Airline shall pay City charges for the extraordinary usage of electrical power in its Shared Use and Exclusive Use space and preferentially assigned gates based on the cost, without mark-up, to City for such extraordinary usage of electricity by Airline as arrived at through separate metering or computation by City. Airline shall report to Director any plans to decrease or increase its extraordinary usage of electrical equipment or electricity.

SECTION 6.05 LANDING FEES

Airline shall pay to City monthly Landing Fees to be determined by multiplying the number of one thousand (1,000) pound units of Total Airline Landed Weight for Airline during the month by the then-current Landing Fee Rate as calculated in Exhibit C.

SECTION 6.06 EQUIPMENT PARKING RENTALS

Airline shall pay City, as rent for its preferentially assigned Equipment Parking Area, an annual rental computed in Exhibit C.

SECTION 6.07 SECURITY SCREENING FEE

Airline shall pay City amounts sufficient to reimburse City for its share of City's actual cost of providing armed law enforcement support for the security screening operation as required by 49 CFR Part 1542. The cost of such support shall be apportioned by City among Air Transportation Companies using the secured passenger boarding areas on the basis of the share of each Air Transportation Companies' Enplaned Passengers relative to the total Enplaned Passengers of all such Air Transportation Companies as calculated in Exhibit C.

SECTION 6.08 AIRLINE EQUIPMENT OR IMPROVEMENT CHARGES

Upon the installation or provision by City of any Airline Equipment or Improvement, Airline shall pay for the use of such equipment or improvement amounts sufficient to

amortize the cost paid by City, including applicable maintenance and operating expenses, all as determined by City, as illustrated on Exhibit C attached hereto and made a part hereof.

SECTION 6.09 INTERNATIONAL ARRIVALS AREA CHARGES

Airlines shall pay amounts for the use of the common-use International Arrivals Area as stipulated in Exhibit C.

SECTION 6.10 CITY-OWNED LOADING BRIDGE CHARGE

Airline shall pay City a loading bridge charge on a monthly basis for the use of City-owned loading bridges preferentially assigned to Airline at a rate determined by City for the extraordinary costs of operation and maintenance required to support the operation of such loading bridges and the rate shall be set with the intent to recover such extraordinary costs over the course of a fiscal year or longer if the nature of such extraordinary costs would warrant doing so under standard accounting principles. Director may revise such loading bridge charge rate at the beginning of each Fiscal Year with prior written notice to Airline.

SECTION 6.11 PAYMENT PROVISIONS/INTEREST ON OVERDUE AMOUNTS

- A. All Exclusive Use and Shared Use Rentals, Apron Use Fees, Equipment Parking Rentals, Airline Equipment Charges and any City-owned loading bridge charges on preferentially assigned gates shall be due and payable the first day of each month, in advance, without invoice.
- B. Landing Fees shall be due and payable on or before the twentieth (20th) day of each month, without invoice.
- C. All Joint Use, Security Screening Fees, and other fees and charges shall be due and payable on invoice within thirty (30) days of the date of invoice.
- D. The acceptance by City of any payment made by Airline shall not preclude City from identifying the accuracy of computations in Airline's Monthly Activity Report, submitted to Director as provided in Section 6.02, or from recovering any additional payment actually due from Airline.
- E. If any payment is not received by City by the due date, City may, at its discretion, charge Airline interest at the highest rate permitted by law. All payments due and payable herein shall be paid in lawful money of the United States of America, without set-off, electronically by Automated Clearing House (ACH), or by check made payable to City and delivered or wired, as applicable, to the following address or account, or to such other address or account as City may notify Airline in writing from time to time:

Via Mail
Accounting Division
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79925-1278

SECTION 6.12 TAXES AND OTHER CHARGES

Airline shall pay all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Airline or City, with respect to the Leased Premises, Airline's use and/or occupancy of the Leased Premises, or any improvements thereon, during the term of this Agreement including any extensions or option periods granted thereto.

Airline in good faith may contest any tax or governmental charge; provided that Airline may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the City, such action will not adversely affect any right or interest of the City.

SECTION 6.13 PASSENGER FACILITY CHARGE

- A. City reserves the right to assess and collect PFC's subject to the terms and conditions set forth in 49 U.S.C. § 40117 (the "PFC Act") and the rules and regulations thereunder, 14 C.F.R. Part 158 (the "PFC Regulations"), as may be supplemented or amended from time to time. Airline shall collect and pay all PFC's for which it is responsible under the provisions of 14 CFR Part 158. Failure by Airline to remit PFC's within the time frame required by 14 CFR Part 158 shall be deemed an event of default pursuant to Section 13.01.
- B. If Airline transports passengers from the Airport on Airline's aircraft chartered by a charter Air Transportation Company or tour operator issuing passenger tickets other than Airline's, Airline will provide the City with a schedule detailing the date and time of the flight and the number of Enplaned Passengers. Excepting only passengers on flight chartered by an Air Transportation Company or tour operator not required to collect a PFC under the Airport's applicable record of decision, Airline agrees to pay the required PFC amount due the City in a timely manner and to seek reimbursement from the charter Air Transportation Company or tour operator with no liability to the City.
- C. Airline shall hold the net principal amount of all PFCs that are collected by Airline or its agents on behalf of the City pursuant to the PFC Act and the PFC Regulations in trust for the City. For purposes of this Section, net principal amount shall mean the total principal amount of all PFCs that are

collected by Airline or its agents on behalf of the City, reduced by all amounts that Airline is permitted to retain pursuant to § 158.53(a) of the PFC Regulations (such net principal amount known as “PFC Revenue”). Airline acknowledges that all PFC Revenue collected for the City neither belongs to nor is owned by Airline except to the extent set forth in applicable Federal law and, unless the status of PFC Revenue in the possession of Airline is characterized in a separate manner under FAA regulations (in which case such characterization shall prevail), that such PFC Revenue is held in trust by Airline for the exclusive use and benefit of the City. Airline shall not make any claim in any document or proceeding that, for PFC Revenue collected by Airline on behalf of the City, the Airline has any legal or equitable interest in such PFC Revenue, except to the extent Airline is specifically granted such interest by Federal statute or regulation, including the right of reimbursement from such PFC funds for the Airline’s costs of collection.

- D. Any late payment of the PFC may be subject to late fees computed at the rate of one and one-half percent (1.5%) per month or, if less, the highest rate permitted by Applicable Law, from the due date until paid, to the extent allowed by Applicable Law.
- E. Airline acknowledges that the City has given to the United States of America, acting by and through the FAA, certain assurances under the PFC Act and the PFC Regulations, including Appendix A thereto (the “PFC Assurances”), and Airline agrees that this Agreement shall be subordinate and subject to all PFC Assurances. In the event the FAA requires any modification of this Agreement as a condition precedent to the City’s collection of PFCs or as a means to effect the City’s compliance with the PFC Act, the PFC Regulations, or the PFC Assurances, Airline shall not withhold its consent to any modification of this Agreement as may reasonably be required for the City to collect PFCs or to comply with the PFC Act, PFC Regulations, and/or PFC Assurances.

SECTION 6.14 RECORDS OF AIRLINE

Airline shall keep and maintain a complete and adequate set of records of all landing weights and other information specified in Section 6.02 hereof or otherwise required for the calculation or payment of fees required under this Agreement for the current Fiscal Year and the three (3) immediately preceding Fiscal Years, and shall make such records available for inspection by Director at any and all reasonable hours and times.

SECTION 6.15 OTHER FEES AND CHARGES

City expressly reserves the right to assess and collect (1) reasonable and nondiscriminatory fees for concessions and other services provided by Airline for others

if such services provided by Airline would otherwise be available from a concessionaire or licensee of City; (2) reasonable and nondiscriminatory fees and charges for services or facilities not enumerated in this Agreement, but provided by City and accepted by Airline, including, but not limited to, FIS facility fees, special maintenance of airline Leased Premises, equipment vehicle storage, disposal fees, utility fees, remote ramp aircraft parking fees, and gate usage per turn fees; and (3) reasonable and nondiscriminatory fee for any employee parking area(s) provided at the Airport.

Anything in this Agreement to the contrary notwithstanding, this Section 6.15 shall not be interpreted or understood as contracting away the City's governmental authority and shall not be construed to waive any lawfully assessed taxes or any governmental charges.

SECTION 6.16 RIGHT OF SET OFF

City shall have the right to set off any past due amount(s) by applying all or a portion of current payments to such past due amount(s). Past due amounts may include sums due under prior agreements, this Agreement, or for usage of the Airport as a non-signatory airline. In the event City exercises the right of set off it shall notify Airline. Airline shall be responsible for immediately submitting such a sum as will reflect the total amount needed to satisfy current amounts due.

SECTION 6.17 SECURITY DEPOSIT

Airline agrees to pay a security deposit to City subject to the following conditions:

- A. Unless Airline has provided regularly scheduled weekday passenger or cargo flights to and from the Airport for the eighteen (18) months prior to Airline's execution of this Agreement (or prior to the assignment of the Agreement to Airline) without committing an act or omission that would have been an Event of Default under Section 13.01 of this Agreement, City shall have the right to require Airline to provide to City Security Deposit in an amount equal to three (3) months estimated fees and charges payable by Airline under Article 6 of this Agreement, to guarantee the faithful performance by Airline of its obligations under this Agreement and the payment of all fees and charges due hereunder. Airline shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months (including any period prior to Airline's execution of this Agreement or prior to the assignment of this Agreement to Airline during which Airline provided regularly scheduled passenger flights to and from the Airport) during which Airline commits no Event of Default under Section 13.01 of this Agreement (and for any such prior period, no act or omission that would have been such an Event of Default hereunder). City shall provide Airline with written notice that Airline must provide the Security Deposit required hereunder and Airline shall provide the Security Deposit within ten (10) days of issuance of the notice. Such Security Deposit shall

be in such form and as shall be acceptable to City in its reasonable discretion. In the event that any such Security Deposit shall be for a period of less than the full period required by this Agreement, or if such Security Deposit is canceled, Airline shall provide a renewal or replacement Security Deposit for the period following the expiration or cancellation of such Security Deposit previously provided at least sixty (60) days prior to the date on which such previous Security Deposit expires or at least sixty (60) days prior to the effective date of such cancellation. City's rights under this Section 6.17 shall be in addition to all other rights and remedies provided to City under this Agreement.

- B. IF AIRLINE SHALL COMMIT AN EVENT OF DEFAULT UNDER SECTION 13.01 IN THE PAYMENT OF ANY FEES DUE UNDER THIS AGREEMENT, THE DEPARTMENT SHALL HAVE THE RIGHT, BY WRITTEN NOTICE TO AIRLINE GIVEN AT ANY TIME, TO IMPOSE OR REIMPOSE THE REQUIREMENTS OF SECTION 6.17(A) ON AIRLINE. IN SUCH EVENT, AIRLINE SHALL WITHIN TEN (10) DAYS FROM ITS RECEIPT OF SUCH WRITTEN NOTICE, PROVIDE THE DEPARTMENT WITH THE REQUIRED SECURITY DEPOSIT AND SHALL THEREAFTER MAINTAIN SUCH SECURITY DEPOSIT IN EFFECT UNTIL THE EXPIRATION OF A PERIOD OF EIGHTEEN (18) CONSECUTIVE MONTHS DURING WHICH AIRLINE COMMITS NO EVENT OF DEFAULT UNDER SECTION 13.01 OF THIS AGREEMENT. THE DEPARTMENT SHALL HAVE THE RIGHT TO REIMPOSE THE REQUIREMENTS OF SECTION 6.17(A) ON AIRLINE EACH TIME AIRLINE COMMITS SUCH AN EVENT OF DEFAULT DURING THE TERM OF THIS AGREEMENT. THE DEPARTMENT'S RIGHTS UNDER SECTION 6.17(B) SHALL BE IN ADDITION TO ALL OTHER RIGHTS AND REMEDIES PROVIDED TO THE DEPARTMENT UNDER THIS AGREEMENT.

City will also have the option to charge non-signatory landing fee rates if Airline does not comply with Section 6.17(A) above when required to do so.

SECTION 6.18 NO OTHER FEES AND CHARGES

Except as provided in this Agreement, no further rentals, fees, or charges shall be charged against or collected from Airline, its passengers, employees, shippers or receivers of freight or express, suppliers of materials, contractors or furnishers of services, by City for the premises, facilities, rights, licenses, and privileges granted to Airline under this Agreement, unless mutually agreed upon between City and Airline.

ARTICLE 7 - CALCULATION OF RENTALS, CHARGES, AND FEES

SECTION 7.01 RENTALS, CHARGES, AND FEES

Rentals, charges, and fees shall, subject to the provisions of Section 7.06 hereof, be reviewed and recalculated annually based on the principles and procedures set forth in this Article 7, and shall become effective on the effective date of this lease and each September 1st thereafter of each year of the Agreement.

SECTION 7.02 ACCOUNTING RECORDS

- A. City shall establish, and thereafter maintain, accounting records that will document the following items for each of the Airport Cost Centers: (1) revenues; (2) Maintenance and Operating Expenses; (3) Annual Amortization Recovery; (4) annual debt service on Bonds; (5) Equipment and Capital Outlays; (6) any annual funding requirements pursuant to the Bond Ordinance; and (7) any other funding requirements imposed by law or judgments.
- B. At the request of Airline, City shall provide to Airline its annual budget and financial statements as well as any supplemental financial data reasonably required to assess the adequacy of rates and charges established under this Agreement.

SECTION 7.03 COORDINATION PROCEDURES - BUDGET REVIEW AND CALCULATION OF RENTALS, CHARGES, AND FEES

- A. On or before the April 1 prior to the beginning of each Fiscal Year, Airline shall submit to Director, in writing, its Total Airline Landed Weight forecast for that Fiscal Year. City shall combine Airline's forecast with the Landed Weight forecasts of all other Signatory Airlines and make such adjustments as City deems appropriate to arrive at an estimated Total Airline Landed Weight of all Signatory Airlines to be used in the calculation of Landing Fee Rates.
- B. On or before the July 1 prior to the beginning of each Fiscal Year, or as soon thereafter as possible if the City Manager has not filed the proposed budget by that date, City shall make available to Airline the following reports:
 - 1. The Department's proposed annual budget for the Fiscal Year, including all estimated Maintenance and Operating Expenses, estimated annual debt service on Bonds, proposed expenditures for Equipment and Capital Outlays, and proposed expenditures for Capital Improvements for the Airport, all allocated to Airport Cost Centers on a consistent basis from year to year.

2. City's calculation of proposed airline rentals, charges, and fees for the Fiscal Year, based on the procedures set forth in this Agreement.
- C. Within thirty (30) calendar days after receipt of the reports, a meeting, shall be held between Director and the Signatory Airlines to discuss the proposed rentals, charges, and fees. Director shall give due consideration to any comments and suggestions of Airline regarding the proposed annual budget or the calculations of proposed rentals, charges, and fees.
- D. The City shall adopt an annual budget, which includes the annual Department budget, which may, in the sole discretion of City, include revisions made as a result of Director's discussions with Signatory Airlines or otherwise. At the request of Airline, City shall promptly furnish Airline with a copy of the adopted annual Department budget, together with the calculation of rentals, charges, and fees that will become effective as of the first day of the Fiscal Year.
- E. If, for any reason, the annual budget has not been adopted by City as of the first day of any Fiscal Year, the rentals, charges, and fees in effect during the preceding Fiscal Year shall continue in effect until: (1) the new annual budget has been adopted by the City; and (2) City has calculated the rentals, charges, and fees in accordance therewith. Once established, the new rentals, charges, and fees shall then be made effective retroactive to the first day of such Fiscal Year.

SECTION 7.04 CALCULATION OF TERMINAL BUILDING RENTAL RATES

Terminal Building Rental Rates shall be calculated for each Fiscal Year in the following manner, as illustrated on Exhibit C attached hereto and made a part hereof.

SECTION 7.05 CALCULATION OF LANDING FEE RATES

A Landing Fee Rate per one thousand (1,000) pounds of landed weight shall be calculated in each Fiscal Year in the following manner, as illustrated In Exhibit C.

SECTION 7.06 EXTRAORDINARY RATE ADJUSTMENTS

- A. In the event that, at any time during a Fiscal Year, any of the components of Terminal Building Cost, Landing Area Cost, Landing Area revenues or the Total Airline Landed Weight of Aircraft Arrivals of all Signatory Airlines varies materially (upward or downward ten percent (10%) or more) from the estimates used in setting the Average Terminal Building Rental Rate or Landing Fee Rate, such rates may be adjusted either upward or downward for the balance of such Fiscal Year if such adjustment is deemed necessary by City to ensure that adequate revenues will be available to cover the

estimated Terminal Building Requirement and Landing Area Requirement for the Fiscal Year.

SECTION 7.07 SETTLEMENT

Within one hundred eighty (180) days following the close of each Fiscal Year, or as soon as audited financial data for said Fiscal Year is available, rates for rentals, fees, and charges for the preceding Fiscal Year shall be recalculated using audited financial data and the methods set forth in this Agreement. Upon the determination of any difference(s) between the actual rentals, fees, and charges paid by Signatory Airlines (including Affiliates) during the preceding Fiscal Year and the rentals, fees, and charges that would have been paid by Signatory Airlines (including Affiliates) using said recalculated rates, City shall, in the event of overpayment, promptly issue payment to Airline in the amount of such overpayment, reduced by any accounts receivable due City greater than sixty (60) days, and in the event of underpayment, invoice Airline for the amount of such underpayment. Said invoiced amount shall be due within thirty (30) days of the invoice mailing date.

ARTICLE 8 - BOND ORDINANCE

SECTION 8.01 SUBORDINATION TO BOND ORDINANCE

- A. This Agreement and all rights of Airline hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by City pursuant to the terms, covenants, and conditions of the Bond Ordinance.
- B. In conflicts between this Agreement and the Bond Ordinance, the Bond Ordinance shall govern except that no change in the method of calculation of rentals and fees payable shall govern to the extent that it materially adversely affects the rights of Airline hereunder.
- C. All definitional terms in this Article 8 that are not specifically defined herein are to have the meanings set forth in the Bond Ordinance.

SECTION 8.02 CREATION OF AND FLOW OF FUNDS

- A. Subject to the terms and provisions of the Bond Ordinance and other related instruments, it is mutually understood and agreed that, as long as any Bonds secured by the Bond Ordinance are outstanding, Bond proceeds and all Airport revenues shall be deposited, maintained, and paid as set forth in the Bond Ordinance, or if not specified in the Bond Ordinance, as set forth in Section 8.02(B). City shall maintain separate accounts as set forth in Section 8.02 (B), (C), and (D) for the purposes of accounting for all Airport revenues and expenses.

- B. Restricted Land Sales Fund. All revenues derived by City from activities conducted on property which was sold or leased to establish the Restricted Land Sales Fund shall be deposited in that fund. All such revenues (including interest earned on fund balances) shall remain in the fund unless expended for purposes deemed eligible by the FAA.
- C. PFC Fund. In compliance with federal regulations, all PFC revenue shall be deposited in a separate fund to be used to pay the costs of approved PFC projects and associated debt service. All interest earned in the PFC Fund shall remain in the PFC Fund and be used solely for approved projects.
- D. All other revenues derived from the Airport in each Fiscal Year shall be deposited, used, and applied in the following priority:
 - 1. To the Maintenance and Operating Expense Account, an amount sufficient to increase the balance in the account to at least the amount in the annual operating budget for Maintenance and Operating Expenses. Amounts shall be paid out of the Maintenance and Operating Account from time to time by City for the necessary expenses for the operation, maintenance, repairs, and ordinary replacement and reconstruction of the Airport.
 - 2. To the Debt Service Account, an amount equal to the aggregate annual amount of principal, interest, and any sinking fund requirements on any outstanding Bonds payable from annual Airport revenues.
 - 3. To the Debt Service Reserve Account, an amount required to maintain a balance at least equal to the maximum annual revenue bond debt service on all outstanding Airport Revenue Bonds issued by City. Amounts shall be paid out of the Debt Service Reserve Account, from time to time as necessary, to pay interest and principal due on any Bonds outstanding and payable from Airport revenue to the extent that other moneys are not available within the Debt Service Account. All interest earned in this account shall remain in the account until it is fully funded.
 - 4. To the Maintenance and Operating Reserve Account, an amount required to maintain in such account a balance equal to three-twelfths (3/12) the amount in the annual operating budget for Maintenance and Operating Expenses for the current Fiscal Year. Amounts shall be accumulated or reaccumulated and maintained as a contingency reserve in the Maintenance and Operating Reserve Account to be used only to prevent deficiencies in the payment of Maintenance and Operating Expenses from the Maintenance and

Operating Account. In this event, such moneys may be withdrawn from the Maintenance and Operating Reserve Account and transferred to the credit of the Maintenance and Operating Account.

5. To the Renewal and Replacement (R&R) Reserve Account, an amount required to maintain in such account a balance of no more than one million dollars (\$1,000,000.00). Such amounts shall be accumulated or reaccumulated and maintained as a contingency reserve in the Renewal and Replacement Reserve Account to be used only for emergency repairs or emergency replacement for the Airport. All interest earned in this account shall remain in the account until it is fully funded.
6. To the Equipment and Capital Outlay Account, an amount to pay for all equipment purchases, repairs, renewals, and replacements to the Airport and for all Equipment and Capital Outlays.
7. To the Capital Improvement Account, all remaining revenues to be used by City for any lawful Airport purposes.

SECTION 8.03 INITIAL DEPOSITS INTO MAINTENANCE AND OPERATING RESERVE ACCOUNT AND RENEWAL AND REPLACEMENT RESERVE ACCOUNT

City has funded the initial deposits to the Maintenance and Operating Reserve Account and Renewal and Replacement Reserve Account through cash balances on hand. Subsequent deposit requirements shall be included in the calculations of Signatory Airline Terminal Building Rentals and Landing Fees as set forth in Sections 7.04 and 7.05.

ARTICLE 9 - MAINTENANCE AND OPERATION OF AIRPORT

SECTION 9.01 DESIGNATION OF OPERATION AND MAINTENANCE RESPONSIBILITIES.

In addition to the obligations of Airline and City set forth in this Article 9, responsibilities for maintenance, cleaning, and operation of the Airport shall be as set forth in Exhibit D, attached hereto and made a part hereof.

SECTION 9.02 CITY'S RESPONSIBILITIES

- A. City shall, with reasonable diligence, prudently develop, improve, and at all times maintain and operate the Airport in a manner consistent with airports of similar size with qualified personnel and keep the Airport in an orderly, clean, neat and sanitary condition, and good repair, unless such

maintenance, operation, or repair shall be Airline's obligation pursuant to Section 9.03 and Exhibit D.

- B. City shall, to the extent it is legally able to do so, use reasonable efforts to keep the Airport and its aerial approaches free from ground obstruction for the safe and proper use thereof by Airline.
- C. City shall not be liable to Airline for temporary failure to furnish all or any of such services to be provided in accordance with this Section 9.02 and Exhibit D when such failure is due to mechanical breakdown or loss of electrical power not caused by City's negligence or any other cause beyond reasonable control of City.
- D. City shall operate the Airport and shall exercise these rights in accordance with applicable laws and regulations.

SECTION 9.03 AIRLINE'S RESPONSIBILITIES

Subject to the provisions of Section 9.05:

- A. Airline shall, at all times, preserve and keep its Leased Premises in an orderly, clean, neat, and sanitary condition, free from trash and debris resulting from Airline's operations, provided, however, this requirement shall not be construed to mean Airline shall have janitorial responsibilities designated to be those of City pursuant to Exhibit D.
- B. Airline shall operate and maintain at its own expense any improvements and/or equipment installed by Airline for the exclusive use of Airline, except for infrastructure improvements and equipment and facilities serving the entire Terminal Building.
- C. Airline shall not erect, maintain, or display on its Leased Premises or anywhere in the Terminal Building in the public view any billboards, banners, advertising, promotional signs, or materials without the prior written approval of Director.

SECTION 9.04 CITY'S RIGHT OF ENTRY

City, by its Director or other authorized officers, employees, agents, contractors, subcontractors, or other representatives, shall have the right during normal business hours upon reasonable notice or, in the case of emergencies, without notice, to enter upon Airline's Leased Premises space, accompanied by an authorized Airline representative, if practicable, for the following purposes:

- A. To inspect such space to determine whether Airline has complied and is in compliance with the terms and conditions of this Agreement.

- B. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary if Airline fails to perform its obligations under this Agreement, and to recover the actual cost of such maintenance, cleaning, or repair from Airline, plus a fifteen-percent (15%) administrative charge from Airline on the next rent due.
- C. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary and which is the responsibility of City under this Agreement.
- D. For the purpose of exhibiting same to prospective tenants, purchasers or others.

The exercise of this right of entry shall not be deemed an eviction or disturbance of Airline's use or possession provided City shall exercise its best efforts not to interfere with Airline's normal operations in the Leased Premises.

SECTION 9.05 ALTERATIONS AND IMPROVEMENTS

- A. Airline shall make no repairs, alterations, additions, improvements to, or installations on the Leased Premises without the prior written approval of Director.
- B. Plans and specifications for any such work shall be filed with and subject to the approval of Director and all work shall be done in accordance with local ordinances and State and Federal laws and regulations.
- C. All Airline alterations and improvements other than movable furniture, personal property, equipment, and trade fixtures shall become part of the realty and title shall vest with City upon expiration, or early termination, of this Agreement.

SECTION 9.06 ENVIRONMENTAL REGULATIONS

Airline shall comply with the following environmental regulations:

- A. Airline shall not cause or permit any Hazardous Materials, as defined in Section 1.01 herein, to be stored or used on or about the Airport by Airline, its agents, or employees, except in compliance with Environmental Laws as described below and as permitted by City in accordance with this Agreement.
- B. Airline shall, at all times and in all respects in connection with its use and occupancy of the Airport, comply with all present and hereinafter enacted local, state, and federal laws, ordinances, regulations, orders, and any

amendments thereto relating to industrial hygiene, environmental protection, or the use, generation, manufacture, storage, disposal, or transportation of Hazardous Materials on, about, or from the Airport. Without limiting the foregoing, Airline shall comply with Environmental Laws (as defined in Section 1.01 herein) at all times in connection with its use and occupancy of the Airport. Airline shall also comply with permits held by City as and to the extent Airline's activities may impact City's ability to comply with such permits including, but not limited to, the Airport stormwater permit issued pursuant to the Clean Water Act, the Municipal Separate Storm Water permit issued pursuant to the Clean Water Act or any reissued version of either permit, whether issued by the US EPA or the Texas Commission on Environmental Quality (TCEQ) or any predecessor agencies. This list of permits is provided by way of example only and is not intended to be fully inclusive. During the term of this Agreement, if City becomes aware of other permits, which are impacted by Airline's activities, it will provide Airline with written notice of those permits. When reasonably possible, City may provide Airline with written notice of any new permits or proposed changes to permits prior to issuance that may reasonably be expected to impact Airline's costs or operations in order to provide Airline with a reasonable opportunity to engage in the permitting process.

C. Airline shall, at its sole expense, procure, maintain in effect, and comply with all conditions of any permits, licenses, and other governmental and regulatory approvals required for Airline's use of the Airport, including, without limitation, discharge of materials or wastes into or through any storm or sanitary sewer serving the Airport. Airline shall cause any and all Hazardous Materials removed from the Airport to be removed and transported solely by duly licensed haulers to duly licensed facilities for disposal. Airline shall in all respects handle, treat and manage any and all Hazardous Materials on or about the Airport in conformity with all applicable Environmental Laws or any successor laws thereto and prudent industry practices regarding the management of such Hazardous Materials. Upon the expiration or earlier termination of the term of this Agreement, Airline shall cause all Hazardous Materials that are Airline's responsibility to be removed from the Airport as required by applicable Environmental Laws and to be transported for use, storage, or disposal in accordance and compliance with all applicable Environmental Laws. In addition, to the extent such Hazardous Materials are required by Environmental Laws to be remediated, Airline shall do so in compliance with such Environmental Laws provided, however, that Airline shall not take any remedial action in response to the presence of any Hazardous Materials on or about the Airport, nor enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Airport without first notifying City in writing of Airline's intention to do so (except in cases of emergency where such notice is impracticable in which case Airline shall immediately take steps to

remediate and notify the City as soon as practicable) and affording City ample opportunity to appear, intervene, or otherwise appropriately assert and protect City's interest with respect thereto.

- D. If at any time Airline shall become aware, or have reasonable cause to believe, that any Hazardous Material has come to be located on or about the Airport in violation or potential violation of Environmental Laws, Airline shall, immediately upon discovering such presence or suspected presence of the Hazardous Material, provide City with written notice of that condition. In addition, Airline shall immediately notify City in writing of: (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted or threatened against Airline at the Airport pursuant to any Environmental Laws; (2) any claim made or threatened by any person against Airline or City relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials at the Airport. Airline shall make available for review by City any reports made by Airline to any local, state, or federal environmental agency arising out of or in connection with any Hazardous Materials on or removed from the Airport, including any complaints, notices, warnings, or asserted violations in connection therewith.

Airline shall also supply to City as promptly as possible, and in any event within five (5) business days after Airline first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations relating in any way to the Airport or Airline's use thereof. Airline shall promptly deliver to City copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Airport by or on behalf of Airline except for routine disposals such as used oil or absorbent material, which shall be delivered upon request, unless required to be provided by applicable Environmental Law.

ARTICLE 10 - DAMAGE OR DESTRUCTION OF PREMISES

SECTION 10.01 DAMAGE OR DESTRUCTION

- A. If the Leased Premises or any portions thereof, or buildings or structures of which such space may be a part, be damaged by fire or other casualty not caused by Airline, Director shall notify Airline within sixty (60) days whether the space shall be repaired. If the space is to be repaired, it shall be repaired with due diligence by City, and the rental allocable to the particular building, rooms, or other portion of the Leased Premises rendered untenable shall be abated for the period from the occurrence of the damage to the completion of the repairs, provided that City shall exert its best effort to provide Airline with temporary substitute space, if available, at such rent as deemed necessary and reasonable by City, until such time as the repairs are completed.

If Director shall fail to notify Airline of its decision to repair any untenable Leased Premises within sixty (60) days after the destruction, City shall be deemed to have elected to terminate this Agreement as to the space damaged and destroyed, and the Agreement shall automatically terminate as to such space as of the date of the damage or destruction; provided that City shall exert commercially reasonable efforts to provide Airline with substitute space.

SECTION 10.02 DAMAGE CAUSED BY AIRLINE

Notwithstanding the provisions of this Article 10, in the event that due to the negligence or willful act or omission of Airline, its employees, its agents, or licensees, Leased Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of rent during the repair or replacement of said Leased Premises. To the extent that the costs of repair or replacement shall exceed the amount of any insurance proceeds paid to City by reason of such damage or destruction (whether paid by Airline's insurer (which shall be the primary insurance) or by the City's insurer (which shall be the secondary insurance), Airline shall pay the amount of such additional costs to City.

ARTICLE 11 - INSURANCE AND INDEMNIFICATION

SECTION 11.01 INSURANCE

- A. Airline shall, without expense to City, and upon commencement of the term hereof, obtain and cause to be kept in force liability insurance coverage, with limits and coverage types as hereinafter stated, insuring against the liabilities set forth in this Section.
- B. Such insurance shall include, by way of example but not by way of limitation, comprehensive general liability coverage and motor vehicle liability insurance coverage and shall not be in amounts less than hereinafter stated. Such insurance coverage shall be provided by policies issued by a company or companies of sound and adequate financial responsibility. Such insurance companies shall be qualified to do business and be in good standing in Texas. The comprehensive general liability policies shall include contractual liability coverage and shall make reference to this Agreement.
- C. Airline shall cause a certificate of insurance to be furnished to City within thirty (30) days from the effective date of this Agreement, evidencing such insurance coverage. A certificate of insurance shall be delivered to City at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Airline shall provide, at City's request, a copy

of the endorsement page or declaration page in lieu of the certificate. Each such certificate of insurance shall contain:

1. A statement of the coverage provided by the policy;
2. A statement certifying the City and its officers, directors, agents, and employees are listed as an additional insured in the policy;
3. A statement of the period during which the policy is in effect;
4. An agreement by the insurance company issuing such policy that the policy shall not be cancelled or any of the provisions changed for any reason whatsoever without at least thirty (30) days' prior written notice to City.

D. If City is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this Agreement, Airline shall, prior to the effective date of such cancellation or change, obtain and provide City with certificates evidencing the reestablishment of the insurance of the insurance coverage required hereby. If Airline does not notify City by the effective date of such cancellation or change, this will constitute a breach by Airline and permit City to terminate this Agreement pursuant to Section 14.03.

E. Airline, at its own expense, shall procure and maintain for the benefit of City and itself, as their respective interests shall appear, liability insurance with insurance underwriters, satisfactory to City and with the following minimum limits:

- i. Aircraft liability insurance and aviation general liability insurance, covering bodily injury, personal injury, property damage, products/completed operations liability, premise liability, and contractual liability, with a liability limit of not less than Two Hundred Fifty Million Dollars (\$250,000,000.00) combined single limit per occurrence, on occurrence form policy. Said limit shall be reduced to One Hundred Million Dollars (\$100,000,000.00) where Airline's maximum seating capacity on the largest aircraft operated at the Airport by Airline is sixty (60) or less. With respect to coverage for products/completed operations and personal injury, except with respect to passengers, a sublimit of not less than Twenty-Five Million Dollars (\$25,000,000.00) per occurrence, and in the annual aggregate, shall be permitted with the approval of the Director. Said aircraft liability shall be applicable to owned, non-owned, and hired aircraft.
- ii. Auto liability policy in a minimum amount of five million dollars (\$5,000,000) for both bodily injury and property damage.

- iii. Workers' compensation insurance in a minimum amount as required by State law and employer's liability in a minimum amount of one million (\$1,000,000) limit each accident, disease aggregate, and disease each employee.
 - iv. Environmental impairment liability insurance in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence. In lieu of environmental impairment liability insurance, Airline may submit proof of self-insurance by submitting a letter to City attesting to the limit and extent of coverage.
 - v. Liquor liability insurance for Airline serving alcoholic beverages in an amount not less than Ten Million Dollars (\$10,000,000.00) per occurrence.
- F. Insofar as said insurance provides protection against liability for damages to third parties for personal injury, death, and property damage, City shall be included as an additional insured throughout the term of the Agreement; provided such liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by, or resulting from the negligent work, acts, operations, or omissions of Airline, its officers, agents, employees, invitees, and independent contractors on the Airport. Airline may show City as an additional insured with respect to Airline's operation at the Airport, provided, that Airline shall then also show on the insurance policy that liability insurance coverage also includes contractual liability.
- G. Any and all of the above insurance coverages shall be on an "occurrence" basis, not on a "claims made" basis.
- H. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Airline in its operations at the Airport.
- I. Airline shall require its Affiliates, contractors, and sublessees operating at the Airport to procure and maintain insurance coverage to adequately cover risks associated with such Affiliate, contractor, or sublessee, reasonably appropriate in their limits and other terms and conditions to the nature of the entity's operations. Such coverage shall insure the interests of the City and the City Indemnified Parties including by naming the City and City Indemnified Parties as additional insureds on such policies (except with respect to workers' compensation/employer's liability policies). When requested by the City, Airline shall provide, or cause to be provided, to the City certificates of insurance and copies of additional insured endorsements or such other evidence of insurance, reasonably acceptable in form and content to the City. Failure of any Affiliate,

contractor, or sublessee to comply with required coverage and terms and condition outlined herein will not limit Airline's liability or responsibility hereunder.

SECTION 11.02 INDEMNIFICATION

- A. INDEMNITY. EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY AS DETERMINED BY COURT OF COMPETENT JURISDICTION, AIRLINE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), FROM AND AGAINST ALL COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES, EXPENSES, AND COURT COSTS), LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS WHATSOEVER, TO THE EXTENT ARISING OUT OF THIS AGREEMENT OR AIRLINE'S USE OF THE LEASED PREMISES OR THE AIRPORT ("CLAIMS").**

NOTHING HEREIN SHALL SERVE TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW NOR ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THIS PROVISION SHALL NOT CREATE ANY CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR AIRLINE NOR SHALL IT ENLARGE IN ANY WAY THE LIABILITY OF CITY OR AIRLINE, THIS PROVISION BEING INTENDED SOLELY TO PROVIDE FOR INDEMNIFICATION OF CITY FROM LIABILITY FOR DAMAGE TO THIRD PERSONS OR PROPERTY AS SET FORTH IN THIS PARAGRAPH.

AIRLINE SHALL ASSUME ON BEHALF OF THE INDEMNIFIED PARTIES AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE OF ALL CLAIMS AGAINST ANY OF THE INDEMNIFIED PARTIES. AIRLINE SHALL UTILIZE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY, AND SUCH ACCEPTANCE SHALL NOT BE UNREASONABLY WITHHELD. AIRLINE WILL PROVIDE THE CITY WITH NOTICE OF ALL MEETINGS (INCLUDING THOSE RELATED TO SETTLEMENT) RELATED TO ANY CLAIM AGAINST THE CITY IN ADVANCE OF SUCH MEETING SO THAT THE CITY MAY ARRANGE TO OBSERVE PROVIDED THAT THE CITY SHALL BEAR THE COSTS OF SUCH OBSERVATION. THE CITY SHALL BE ALLOWED TO ATTEND AND PARTICIPATE IN ALL JUDICIAL PROCEEDINGS RELATED TO ANY CLAIM AGAINST THE CITY, PROVIDED THAT THE CITY SHALL BEAR THE COSTS OF SUCH PARTICIPATION. AIRLINE SHALL PROVIDE STATUS REPORTS AND INFORMATION REQUESTED BY THE CITY REGARDING ANY MEETINGS OR JUDICIAL PROCEEDINGS RELATED TO ANY CLAIM AGAINST THE CITY ON A TIMELY BASIS

AND SHALL NOT UNREASONABLY WITHHOLD SUCH INFORMATION. MAINTENANCE OF THE INSURANCE REQUIRED UNDER THIS AGREEMENT SHALL NOT AFFECT AIRLINE'S INDEMNITY OBLIGATIONS. AIRLINE MAY CONTEST THE VALIDITY OF ANY CLAIMS, IN THE NAME OF CITY OR AIRLINE, AS AIRLINE MAY IN GOOD FAITH DEEM APPROPRIATE, PROVIDED THAT THE EXPENSES THEREOF SHALL BE PAID BY AIRLINE. IN NO EVENT MAY AIRLINE ADMIT LIABILITY ON THE PART OF CITY WITHOUT THE PRIOR WRITTEN CONSENT OF THE EL PASO CITY ATTORNEY.

- B. **WAIVER OF CONSEQUENTIAL DAMAGES. EACH PARTY HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER ANY CONSEQUENTIAL INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES FROM THE OTHER PARTY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR INCOME, CLAIMS OF AIRLINE'S CUSTOMERS, SUBTENANTS, AND CONTRACTORS, AND OTHER SIMILAR CLAIMS OR DAMAGES.**
- C. **CLAIMS AGAINST AIRLINE. IF ANY CLAIM, DEMAND, SUIT, OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON OR ENTITY AGAINST THE AIRLINE ARISING OUT OF OR CONCERNING THIS AGREEMENT, THE AIRPORT, OR THE LEASED PREMISES, AIRLINE SHALL GIVE WRITTEN NOTICE THEREOF TO CITY WITHIN TEN (10) BUSINESS DAYS AFTER BEING NOTIFIED OF SUCH CLAIM, DEMAND, SUIT, OR ACTION. SUCH NOTICE SHALL ENCLOSE A TRUE COPY OF ALL SUCH CLAIMS, AND IF THE CLAIM IS NOT WRITTEN OR THE INFORMATION IS NOT DISCERNABLE FROM THE WRITTEN CLAIM, THE WRITTEN NOTICE SHALL STATE THE DATE OF NOTIFICATION OF ANY SUCH CLAIM, DEMAND, SUIT, OR OTHER ACTION; THE NAMES AND ADDRESSES OF THE PERSON, FIRM, CORPORATION, OR OTHER ENTITY MAKING SUCH CLAIM OR THAT INSTITUTED OR THREATENED TO INSTITUTE ANY TYPE OF ACTION OR PROCEEDING; THE BASIS OF SUCH CLAIM, ACTION, OR PROCEEDING; AND THE NAME OF ANY PERSON AGAINST WHO SUCH CLAIM IS BEING MADE OR THREATENED. SUCH WRITTEN NOTICE SHALL BE DELIVERED EITHER PERSONALLY OR BY MAIL AND SHALL BE DIRECTLY SENT TO THE EL PASO CITY ATTORNEY, P.O. BOX 1890, EL PASO, TEXAS 79950-1890 OR TO SUCH REVISED ADDRESS AS NOTIFIED BY DIRECTOR.**
- D. **NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT CITY'S ABILITY TO ADJUST RENTAL RATES AND OTHER FEES IN ACCORDANCE WITH THE OTHER TERMS AND CONDITIONS OF THIS AGREEMENT, AND APPLICABLE LAWS AND REGULATIONS. FURTHERMORE, NO PROVISION IN THIS AGREEMENT IS INTENDED TO LIMIT CITY'S ABILITY TO ADJUST LANDING FEES OR IMPOSE**

OTHER FEES IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS.

- E. THOSE PROVISIONS OF THIS SECTION THAT APPLY TO THE AIRLINE SHALL ALSO APPLY TO ANY PARTY HOLDING BY, THROUGH, OR UNDER THE AIRLINE.**
- F. CITY ASSUMES NO RESPONSIBILITY FOR ANY PROPERTY PLACED IN OR ON THE LEASED PREMISES OR ANY PART THEREOF, AND CITY IS HEREBY EXPRESSLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY FOR ANY LOSS, INJURY OR DAMAGE TO PERSONS OR PROPERTY THAT MAY BE SUSTAINED BY REASON OF THE OCCUPANCY OF THE LEASED PREMISES UNDER THIS AGREEMENT, UNLESS SAME IS CAUSED BY THE NEGLIGENCE OR WILLFUL ACT OF CITY, ITS OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES.**

SECTION 11.03 NON-LIABILITY OF CITY

City shall not in any event be liable for any acts or omissions of Airline, its officers, agents, employees, invitees and independent contractors, or for any conditions resulting from the operations or activities of any such lessee, tenant, or concessionaire, Airline officers, agents, employees, invitees, or independent contractors, or for any conditions resulting from the operations or activities of Airline's officers, agents, employees, invitees or independent contractors either to Airline or to any other person.

City shall not be liable for Airline's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof.

SECTION 11.04 RELEASE OF LIABILITY REGARDING CERTAIN DAMAGES

City shall not be liable for, and is hereby released from all liability to Airline, to Airline's insurance carrier, or to anyone claiming under or through Airline for any loss or damage whatsoever to the property or effects of Airline resulting from the accidental discharge or discharge beyond City's control, of water or other substances from pipes, sprinklers, or conduits, containers or appurtenances thereto, or for any damage resulting from the discharge or failure of electrical current regardless of cause or origin. The provisions of this Section 11.04 shall not be construed as a limitation of City's rights pursuant to Section 11.02, but are additional to the rights and exclusions from liability provided in Section 11.02.

ARTICLE 12 - ASSIGNMENT OR SUBLEASE

SECTION 12.01 GENERAL

Airline shall not at any time transfer, convey, sublet, mortgage, pledge, or encumber its interest under this Agreement or any part of the Leased Premises. Airline shall not assign its interest under this Agreement or any part of the Leased Premises to any party without prior written approval of City. Any failure of Airline to obtain City's prior approval shall be a material breach of this Agreement.

SECTION 12.02 BANKRUPTCY

Section 12.01 shall not apply to any valid assumption or assignment of this Agreement, the Leased Premises, or any part thereof, by a trustee, or by Airline as a debtor in possession under the Bankruptcy Code of 1978, as amended, provided that adequate assurance of future performance as provided by the Bankruptcy Code of 1978, as amended, is to be provided, in writing, as a condition of the assumption or assignment of this Agreement. Such assurance shall include but shall not be limited to:

- A. Adequate assurance of the reliability of the proposed source for the rentals, fees, and charges due under this Agreement upon the assumption or assignment of this Agreement;
- B. Adequate assurance that all other consideration due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement; and
- C. The procurement of a bond from a financially reputable surety provider covering any costs or damages which City reasonably estimates City would incur in the event that City, within three (3) years following the assumption or assignment of this Agreement, becomes entitled to and exercises any right to reassign the Leased Premises covered by this Agreement under Article 4.

SECTION 12.03 RELINQUISHMENT OF SPACE

If Airline desires to relinquish any of its Exclusive Use space or preferentially assigned areas, Airline will notify Director in writing of the space available, and Director shall use best efforts to reassign the space to another airline. No assignment, vacation, transfer, conveyance, or sublease by Airline shall relieve Airline of its responsibility for payment of rentals, fees, and charges and performance of all other obligations provided in this Agreement without specific written consent by the Director to such assignment, vacation, transfer, conveyance or sublease.

SECTION 12.04 CONSENT

Consent by City to any type of transfer provided for by this Article 12 shall not in any way be construed to relieve Airline from obtaining further consent for any subsequent transfer or assignment of any nature whatsoever.

SECTION 12.05 CORPORATE REORGANIZATION

Notwithstanding anything contained in this Article 12 to the contrary, no consent shall be required for any transfer or assignment of Airline's interest in this Agreement by operation of law or otherwise in connection with a merger, consolidation or other corporate reorganizations, or in connection with a sale of all or substantially all of Airline's assets.

ARTICLE 13 - DEFAULTS

SECTION 13.01 DEFAULT

If Airline: (1) fails to pay rent or any other payment past due hereunder within ten (10) calendar days after receipt of written notice of a past due account; (2) fails to keep and perform any of its other covenants and agreements within ten (10) calendar days after receipt of written notice of such failure (or, if such failure cannot be cured in ten (10) days, Airline fails to commence within ten (10) days and diligently pursue such cure, subject to the prior written approval of the Director of Airline's plan to cure, which shall not be unreasonably withheld or delayed); or (3) after such agreed upon cure period as specified in (2) Airline still fails to continue to complete, in a timely manner, any of its covenants and agreements after performance is commenced, after receipt of written notice of such failure (and after the expiration of any applicable cure period as specified in such written notice, or, if such failure cannot be cured in such time, if Airlines fails to commence within such time and diligently pursue such cure, subject to the prior written approval of the Director, which shall not to be unreasonably withheld or delayed); or (4) after the filing of any petition, proceedings, or action by, for, or against Airline under any insolvency, bankruptcy, or reorganization act of law, then, at the election of City:

- A. Without terminating this Agreement, City may reenter the Leased Premises and improve and relet all or any part of it to others at its sole discretion. Any costs of renovation necessitated by the neglect of Airline, its agents, or its employees and an administrative fee to City for all costs incurred, shall be set off against relet rentals received. Airline shall promptly reimburse City for any deficiency in rentals or other payments received under such reletting, as compared to Airline's obligations hereunder.
- B. At any time before or after a reentry and reletting as provided in Section 13.01(A), City may terminate Airline's rights under this Agreement as provided in Section 14.03, without any restriction upon recovery by City for past due rentals and other obligations of Airline. City shall have all additional rights and remedies as may be provided to landlords by law.

- C. Notwithstanding any of the provisions hereof and at the discretion of the City, upon the occurrence of an event of default by Airline and after the expiration of any applicable notice and cure periods described above in Section 13.01, the term of this Agreement shall convert to month-to-month, commencing on the date of notice of conversion and may be terminated in accordance with the provisions of Section 14. The conversion of the term of this Agreement pursuant to this Section shall not discharge any of Airline's obligations hereunder nor affect any of City's other remedies set forth herein; provided, however, that the termination of this Agreement shall discharge subsequent Airline obligations hereunder. Upon the cure of any and all defaults to the reasonable satisfaction of the City, City and Airline will execute a new Agreement on the same terms as this agreement.

ARTICLE 14 - TERMINATION

SECTION 14.01 EVENTS PERMITTING TERMINATION BY AIRLINE

Airline may terminate this Agreement and all of its future obligations hereunder, at any time that Airline is not in default in its payments or other obligations to City hereunder, by giving City ninety (90) calendar days advance written notice only if: (1) Airline is prohibited by lawful authority from using the Airport for a period exceeding sixty (60) consecutive calendar days because of any deficiency of the Airport or an unsafe operating condition existing at the Airport; or (2) City is in breach of any of the covenants or agreements contained in this Agreement which materially affect the operation of Airline for a period exceeding sixty (60) consecutive calendar days after receipt of written notice of such breach from Airline and City's failure to cure such breach.

SECTION 14.02 CONDITIONS OF PREMISES AT TERMINATION

Upon termination of this Agreement, Airline shall yield and deliver to City the Leased Premises promptly and in a clean, sanitary condition, and, if necessary, restored to the satisfaction of Director, reasonable wear and tear and casualty not caused by Airline or Airline's responsibility pursuant to the provisions of this Agreement excepted.

SECTION 14.03 EVENTS PERMITTING TERMINATION BY CITY

Subject to the provisions of Section 13, City may terminate this Agreement and all of its obligations hereunder upon ninety (90) calendar days' written notice and may thereafter exercise all rights of entry and reentry upon the Leased Premises, with or without process of law, upon or after the occurrence of any one of the following events:

- A. Airline is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Director has notified Airline in writing that payment was not received when due;

- B. Airline files in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Airline's property;
- C. Airline makes any general assignment for the benefit of creditors;
- D. Airline abandons the Leased Premises, which shall be defined as a cessation of Airline's activities at the Leased Premises for more than thirty (30) days;
- E. Airline defaults in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Airline, and such default continues after receipt of written notice from Director to cure such default in accordance with the provisions of Section 13;
- F. Airline is adjudged bankrupt in involuntary bankruptcy procedures;
- G. Airline is made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Airline where such receivership is not vacated within sixty (60) days after the appointment of such receiver;
- H. Airline reduces its regularly scheduled service at the Airport to less than two (2) flights per weekday unless such reduction of service is directly attributable to circumstances for which Airline is not responsible, and which are totally beyond its control;
- I. The abolition, limitation, or restriction by any act of the Texas Legislature or Law of Congress of the powers of City under which these premises are being leased, except with respect to legislation that grants authority to a successor;
- J. Airline fails to remit PFC revenue to City within the time limits established by federal regulation;
- K. Required redevelopment of the Airport caused by circumstances unplanned or uncontrolled by the Airport which necessitates relocation of Airline from the Leased Premises; or
- L. Airline violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement.

In any of the aforesaid events, City may take immediate possession of the Leased Premises including any and all improvements thereon and remove Airline's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of City to declare this Agreement canceled upon the default of Airline for any of the reasons set out shall not operate to bar or destroy the right of City to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by City from Airline after the expiration or cancellation of this Agreement, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Leased Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which City's consent is required or operate as a waiver of any right of City to retake and resume possession of the Leased Premises.

ARTICLE 15 - GENERAL PROVISIONS

SECTION 15.01 RULES AND REGULATIONS

- A. Airline shall observe and obey all Rules and Regulations established, promulgated, or adopted consistent with this Agreement from time to time during the term hereof, by City governing conduct on and operations at the Airport and use of its facilities. When reasonably possible, City shall provide Airline with notice prior to adoption of any new or amended Rules or Regulations in order to provide Airline with the opportunity to comment on same prior to adoption. Copies of the Rules and Regulations shall be forwarded to Airline's local manager upon request of Airline.
- B. Airline shall not violate, nor knowingly permit its officers, agents, employees, invitees or independent contractors acting on Airline's behalf to violate any such Rules and Regulations.

SECTION 15.02 COMPLIANCE WITH LAW

- A. Airline shall not use the Leased Premises or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable ordinances and laws of any City, county, or state government or of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder or the Leased Premises.
- B. At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:
 - 1. Comply with and conform to all present and future statutes and ordinances, rules and regulations promulgated thereunder, of all

federal, state, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or Airline's operations and activities under this Agreement.

2. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its Exclusive Use space (subject to prior written approval of City), equipment, and personal property that are required to comply with or conform to any such statutes and ordinances, and regulations which are promulgated or enacted by City.
3. Be and remain an independent contractor with respect to all installations, construction, and services performed by the Airline or on behalf of Airline hereunder.

SECTION 15.03 NONDISCRIMINATION

Airline acknowledges that the City is required by the FAA under the terms of its Grant Assurances to include in this Agreement certain required contract provisions, included as Exhibit G hereto ("Required Federal Provisions"). Airline agrees to comply with the Required Federal Provisions and, where applicable, include the Required Federal Provisions in each of its subcontracts without limitation or alteration. Airline acknowledges that a failure to comply with the Required Federal Provisions constitutes an event of default under this Agreement. Airline further acknowledges that the FAA may from time to time amend such required contract provisions and agrees that the City may unilaterally modify the Required Federal Provisions to the extent such modification is necessary to comply with its Grant Assurances by providing Airline with notification of such modification and an updated Exhibit G.

SECTION 15.04 AFFIRMATIVE ACTION

Airline assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from City, to insure that no person shall, on the grounds of race, creed, color, sex, age, disability, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Section. Airline assures that it will require that its covered suborganizations (sublessees) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their suborganizations (sublessees) to the same effect.

SECTION 15.05 NOTICES

- A. Any notice under the terms of this Agreement shall be in writing. If such notice is given by Airline, it shall be submitted to Director of Aviation, El Paso International Airport, 6701 Convair Road, El Paso, Texas 79925-

1091, or to such revised address as notified by Director. If given by Director, such notice shall be submitted to the address of Airline at the following address:

Attn: _____
ADDRESS: _____

- B. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.
- C. Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) or more days prior written notice to the other party in the manner set forth in this Section.

SECTION 15.06 SUBORDINATION TO AGREEMENTS WITH U. S. GOVERNMENT

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time ("Grant Assurances"). In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates any such Grant Assurances, the City has the right to amend, alter, or otherwise modify the terms of this Agreement in order to resolve such conflict or violation. Airline further agrees that it shall not knowingly cause the City to violate any Grant Assurances made by the City to the federal government in connection with the granting of such Federal funds.

SECTION 15.07 NONWAIVER OF RIGHTS

The non-enforcement by either party of the breach of any term, covenant or condition herein stipulated shall never be construed to be a waiver of any other or succeeding breach of any term, covenant or condition herein imposed upon the other party, and the acceptance of payments of any amounts due or to become due hereunder in any other way or manner, or at any other time than herein provided, shall never be construed as a waiver of the right of City of any of the provisions herein imposed upon Airline.

SECTION 15.08 FEDERAL AVIATION ACT, SECTION 308

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, as amended or succeeded, for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Airline shall have the right to exclusive possession of the Exclusive Use space leased to Airline under the provisions of this Agreement.

SECTION 15.09 SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there shall be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

SECTION 15.10 HEADINGS

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

SECTION 15.11 ASSIGNMENT BY CITY OR OTHER SUCCESSOR IN INTEREST

City may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest. City, airport authority, or other successor in interest may assign, pledge, or take other appropriate action with respect to this Agreement and their rights and interests hereunder for any purpose relating to the issuance of Bonds or other revenue generating devices.

SECTION 15.12 REDEVELOPMENT

If this Agreement is terminated as provided by Section 14.03 (K) as a result of physical changes associated with the development of the Airport, Airline waives any and all rights to reimbursements, allowances, loans, or other forms of payment for relocation, rental or any other costs which might apply to tenants in other locations who are required to relocate due to construction of public facilities.

SECTION 15.13 REMOVAL OF DISABLED AIRCRAFT

Airline shall promptly remove any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and aircraft parking positions) and place any such disabled aircraft in such storage area as may be designated by Director. Airline may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by City. If Airline fails to remove any of its disabled aircraft promptly, City may, but shall not be obligated to, cause the removal of such disabled aircraft; provided, however, the obligation to remove or store such disabled aircraft shall be consistent with federal laws and regulations, including those of the FAA

and the National Transportation Safety Board (NTSB). Airline agrees to reimburse City for all costs of such removal; and Airline, furthermore, hereby releases City from any and all claims for damage to the disabled aircraft or otherwise arising from or in any way connected with such removal by City.

SECTION 15.14 QUIET ENJOYMENT

City covenants and agrees that Airline on paying the rentals, fees and charges herein provided for and observing and keeping all the covenants, conditions, and terms of this Agreement, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the term of this Agreement without hindrance or molestation by City or any person claiming under City.

SECTION 15.15 AGREEMENT SUBJECT TO COVENANTS IN DEED

It is mutually agreed that this Agreement is made subject to the covenants, requirements, and restrictions contained in the Deed by which City obtained title to Airport from the Government of the United States.

SECTION 15.16 FORCE MAJEURE

No party to this Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

SECTION 15.17 ENTIRE AGREEMENT

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

SECTION 15.18 TIME IS OF THE ESSENCE

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

SECTION 15.19 ATTORNEY'S FEES

If either party brings any action or proceedings to enforce, protect, or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

SECTION 15.20 AGREEMENT MADE IN TEXAS

The laws of the State of Texas and any applicable federal law shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas or in the federal district courts of the Western District of Texas or in the U.S. Department of Transportation, as applicable.

SECTION 15.21 CUMULATIVE RIGHTS AND REMEDIES

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

SECTION 15.22 INTERPRETATION

Words of gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

SECTION 15.23 AGREEMENT MADE IN WRITING

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

SECTION 15.24 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon City and Airline and their successors, assigns, legal representatives, heirs, executors and administrators.

SECTION 15.25 AUTHORIZATION TO ENTER LEASE

If Airline signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Airline warrants to City that Airline is a duly authorized and existing corporation, that Airline is qualified to do business in the State of Texas, that Airline has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Airline is authorized to do so. Upon Director's request, Airline will provide evidence satisfactory to Director confirming these representations.

SECTION 15.26 COMPLIANCE WITH ADA AND OTHER DISABLED ACCESS LAWS

Airline agrees that with respect to the Leased Premises, Airline shall be responsible, at Airline's cost, for compliance with the Americans with Disabilities Act of 1990 ("ADA", 42 U.S.C. §§12101 et seq.) and the regulations and Accessibility Guidelines

for Buildings and Facilities issued pursuant thereto. Airline recognizes that City is a public entity subject to Title II of the ADA. To the extent permitted by law, Airline shall assume and be obligated to comply with any obligations to which City may be subject to under Title II of the ADA with respect to any programs, services, activities, alterations, or construction conducted or undertaken by Airline in the Leased Premises. Airline shall also be responsible, at Airline's cost, for compliance with any other applicable disabled accessibility laws, including, but not limited to, the Air Carriers Access Act ("ACAA", 49 U.S.C. §41705), and regulations implementing the ACAA.

SECTION 15.27 MOST FAVORED NATIONS

Each Air Transportation Company using the Airport shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rentals, charges, and fees with respect to facilities or equipment directly and substantially related to providing an Air Transportation Business as are applicable to all Air Transportation Companies which make similar use of the Airport and which use the same or similar facilities or equipment, subject to reasonable classifications such as tenants or non-tenants and Signatory Airlines or Non-Signatory Airlines. Classification as a Signatory Airline shall not be unreasonably withheld by the City provided the Air Transportation Company requesting such classification assumes obligations substantially similar to those imposed on other Signatory Airlines.

SECTION 15.28 AIRLINE DEREGULATION ACT

Nothing contained in this Agreement is intended, nor shall be construed, as a waiver by either party of any right to assert any claim or defense, or raise any issue in any context or forum including, but not limited to, a court or administrative forum, regarding the preemption by federal law, including but not limited to the Airline Deregulation Act (49 U.S.C. § 41713), of any state or local law or ordinance, *or the Rules and Regulations*.

IN WITNESS WHEREOF, these presents have been executed, attested and ensealed by the parties hereto or their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

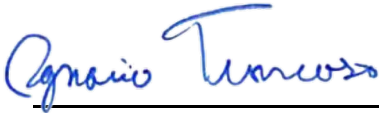
(Signatures begin on the following pages)

(City signature page)

CITY OF EL PASO

Cary Westin
City Manager

APPROVED AS TO FORM:



Ignacio R. Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez P.E.
Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 20____, by Cary Westin, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

(Airline signature page)

ATTEST:

AIRLINE: [COMPANY NAME]

Signature _____
 Printed Name: _____
 Title: _____
 Date: _____

Signature _____
 Printed Name: _____
 Title: _____
 Date: _____

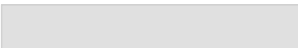




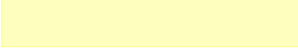

ACKNOWLEDGMENT

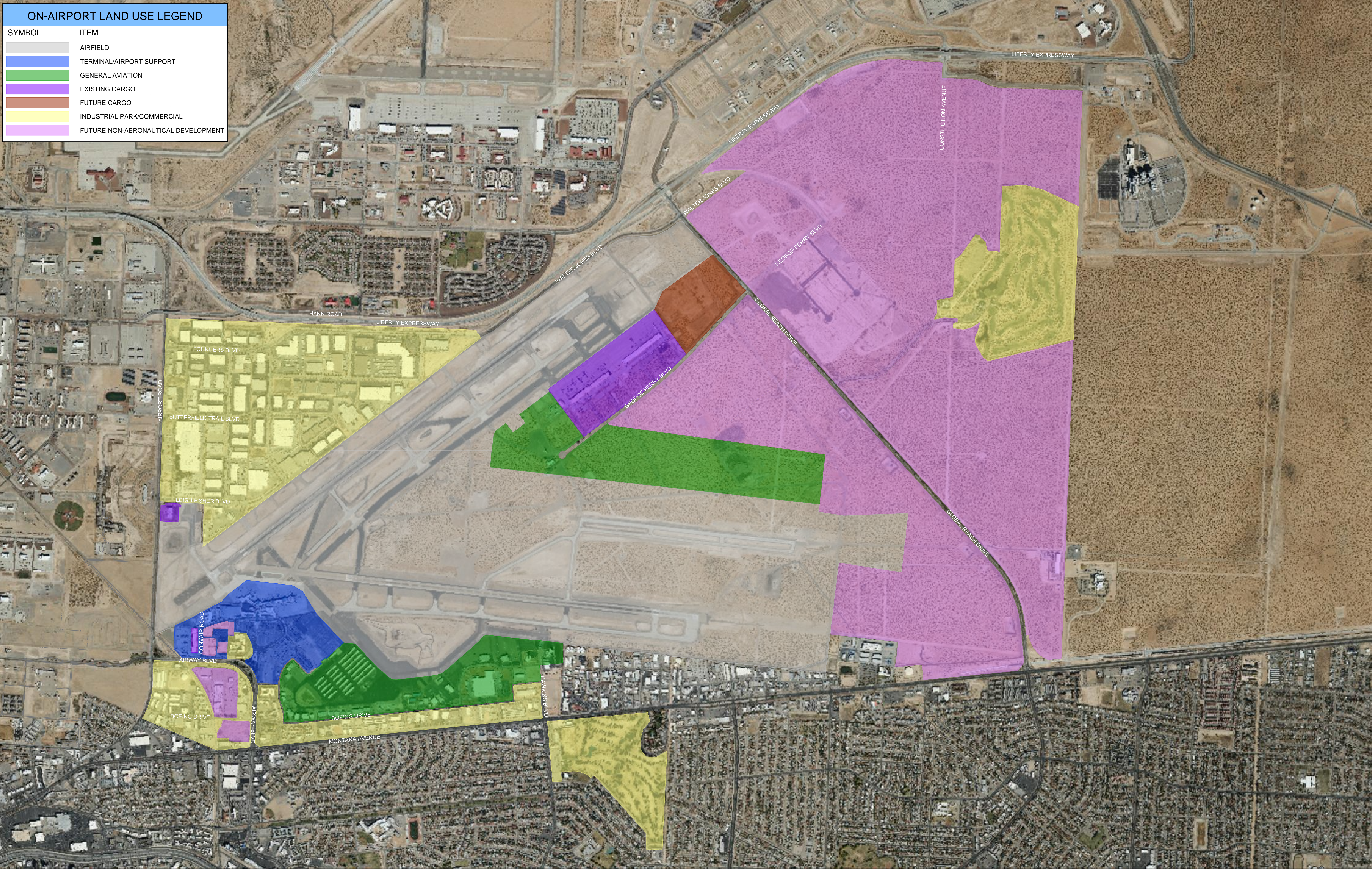
THE STATE OF _____)
_____)
COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of _____, 20__, by _____, as _____, of _____ (Airline).

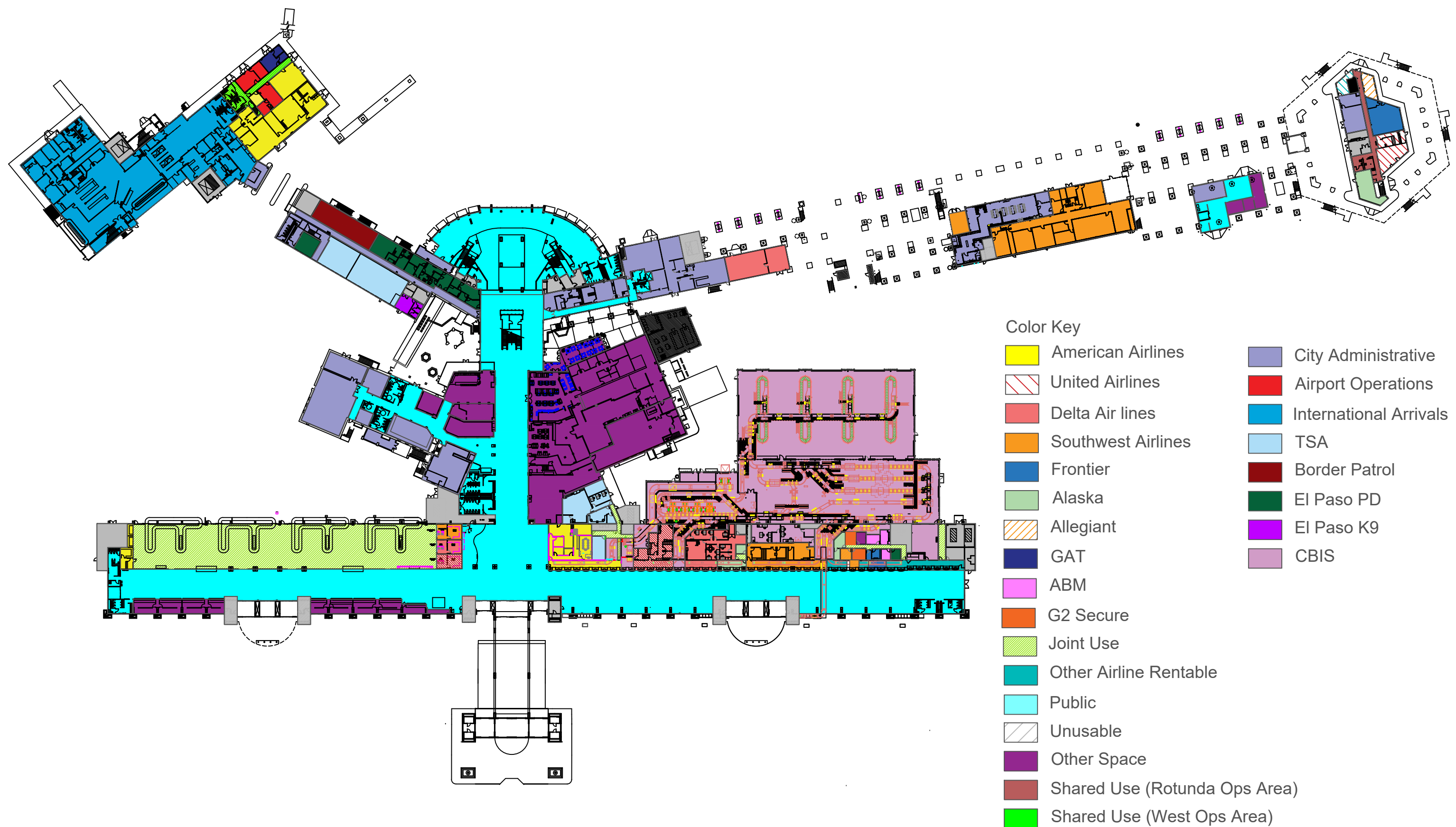
My Commission Expires:

Notary Public, State of _____

ON-AIRPORT LAND USE LEGEND	
SYMBOL	ITEM
	AIRFIELD
	TERMINAL/AIRPORT SUPPORT
	GENERAL AVIATION
	EXISTING CARGO
	FUTURE CARGO
	INDUSTRIAL PARK/COMMERCIAL
	FUTURE NON-AERONAUTICAL DEVELOPMENT

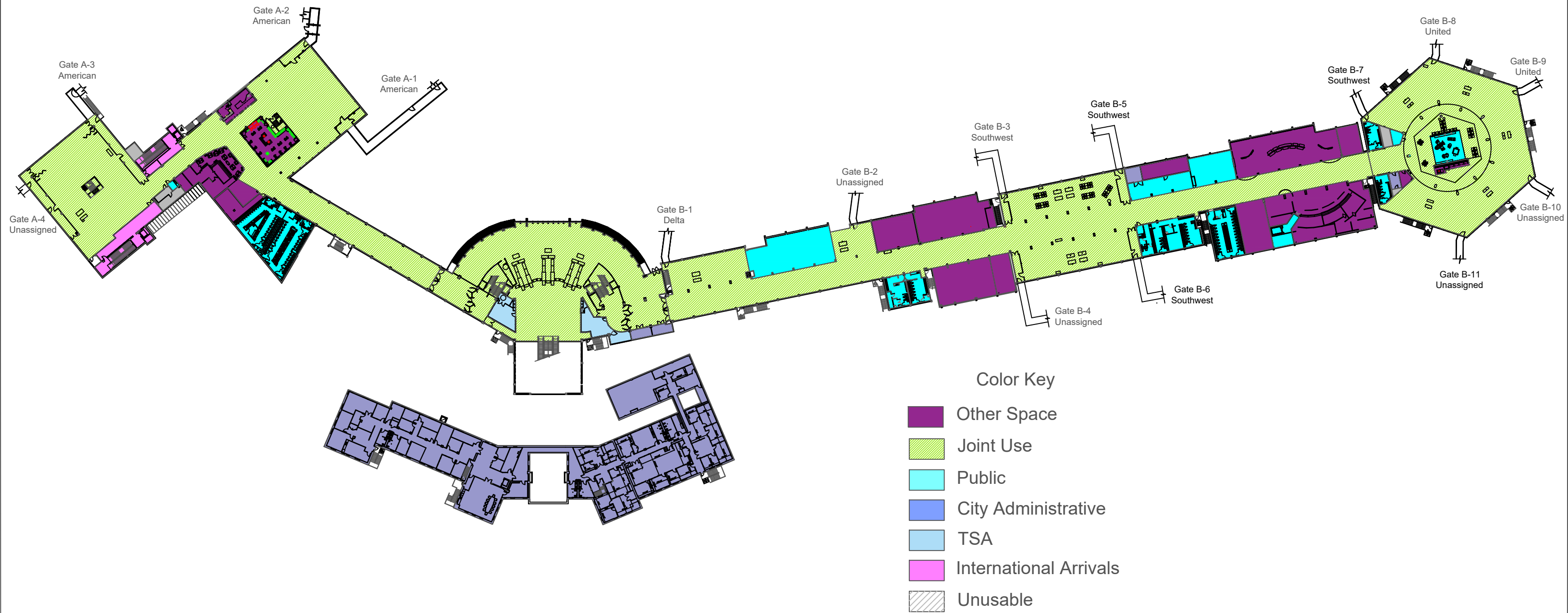


El Paso International Airport - Cost Center Map
Exhibit "A"



El Paso International Airport - Airline Operating Agreement and Terminal Building Lease

Exhibit "B", drawing depicts terminal as of March 25, 2024 - Level 1



El Paso International Airport - Airline Operating Agreement and Terminal Building Lease

Exhibit "B", drawing depicts terminal as of March 25, 2024 - Level 2

EXHIBIT “C”
To
The El Paso International Airport Airline Operating Agreement And Terminal
Building Lease (The Agreement)

RATE AND FEE SCHEDULE

SECTION 1 DEFINITIONS

The following words, terms and phrases used in this Exhibit “C” shall have the meanings set forth in this Section and the meanings shall apply to both the singular and plural forms of such words, terms, and phrases. Additional words, terms and phrases used in this Exhibit “C”, but not defined in this Section, shall have the meanings ascribed to them in the individual sections of this Exhibit “C”, the Agreement or Bond Ordinance. The specific methodologies for calculating the rates, fees and charges defined below can be found in Section 2 of this Exhibit “C”.

“Apron” means the area of the Airport where the aircraft are parked, unloaded or loaded, refueled or boarded.

“Checked Baggage Inspection System (CBIS)” means the automated baggage handling system overseen by the TSA that is responsible for detecting prohibited and dangerous items in passengers’ checked baggage.

“CBIS Fee” means any Air Transportation Company using the CBIS shall pay a CBIS Fee per passenger in accordance with Table C-6 of this Exhibit “C”.

“Federal Inspection Fee (FIS)” means a fee paid by an Air Transportation Company to process deplaned international passengers at the Airport.

“Fuel Flowage Fees” means total fees paid to the City for fuel distributed on the Airport.

“Gate Per Use Fee” means any non-Signatory Air Transportation Company using a gate, as described in Section 4.02 of the Agreement, on a non-preferential basis shall pay a Gate Per Use Fee for each Turn on such gate as presented in Table C-5 of this Exhibit “C”.

“Joint Use Fee” means any Air Transport Company using Joint Use Premises shall pay a Joint Use Fee for each enplanement and Signatory Airlines shall pay a Joint Use Fee for each gate in accordance with Table C-3 of this Exhibit “C”.

“Landing Area” means the area used or intended for use in landing, taking off, or taxiing of aircraft, excluding area and facilities for shelter, servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

“Landing Area Credit” means the sum of Non-Signatory Airline Landing Fees, equipment parking rentals, air cargo apron rentals, RON Fees, Fuel Flowage Fees, and other miscellaneous revenue that is used to offset the Landing Area Costs in the Signatory Airline Landing Fee Requirement.

“Landing Fee Rate” means the fee paid per one thousand (1,000) pound units of landed weight for use of the Landing Area, calculated pursuant to Table C-1 of this Exhibit “C”.

“Maintenance and Operating Reserve Account” means the reserve account for Maintenance and Operating Expenses that is required by the Bond Ordinance and described further in Section 8 of the Agreement.

“Non-Signatory Airline” means any Air Transportation Company that has not entered into an agreement, substantially similar to this Agreement, with the City.

“Non-Signatory Airline Premium” means the premium charged to airlines not signatory to the Agreement. For most fees, this is equal to 125 percent of the fees charged to Signatory Airlines.

“Passenger Security Screening Fees” means the fees charged for the security screening of passengers in the terminal, as calculated in Table C-7 of this Exhibit “C”.

“Remain Overnight (RON) Fees” means the fees charged to aircraft utilizing the Airport’s ramps/apron remaining overnight.

“Signatory Airline Landing Fee Requirement” means the Landing Area Cost credited with all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by the City.

“Terminal Building” means the terminal building and connected concourses which serve Air Transportation Companies and other terminal tenants, as indicated on Exhibit B as such exhibits may be amended from time to time.

“Terminal Building Rental Rate” means the rate charged to the airlines for use of the Terminal Building as calculated in Table C-2 of this Exhibit “C”.

“Ticket Counter Per Use Fee” means any Air Transportation Company using a ticket counter on a non-preferential basis shall pay a Ticket Counter Per Use Fee for each Turn on such ticket counter as calculated in Table C-4 of this Exhibit “C”.

“Turn” means the arrival and subsequent departure of an aircraft at a gate at the Airport for any reason, including any tow to or from a gate.

SECTION 2 RATE CALCULATIONS

This section includes the methodology for calculating the Landing Fee Rate, Terminal Rental Rate, Joint Use Fee, Gate Per Use Fee, Ticket Counter Per Use Fee, Checked Baggage Inspection System Fees, Security Screening Fee for the Term of the Agreement. The rates for Fiscal Year 2024 are presented in this Exhibit and will be recalculated annually, prior to the start of the Fiscal Year.

1. Explanation of Landing Fee Rate Calculation Line Items. The following line items listed in Table C-1 are included in the calculation of the Landing Fee Rate for each rate setting period. Each line item in Table C-1 is identified by the corresponding letter set forth below.

Line Item A. Total Landing Area Costs. This line item includes the total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the Landing Area, Equipment and Capital Outlays allocable to the Landing Area, Annual Amortization Recovery allocable to the Landing Area, the pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Landing Area, the estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Landing Area, the pro rata portion allocable to the Landing Area of deposits to the Maintenance and Operating Reserve Account required in the Bond Ordinance, the pro rata portion allocable to the Landing Area of any other deposits to reserve accounts as set forth in Article 8 of the Agreement and established pursuant to the Bond Ordinance, and the estimated amount of any assessment, judgment, settlement, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Landing Area.

Line Item B. Total Landing Area Credits. This line item includes all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by the City.

Line Item C. Signatory Airline Landing Fee Requirement. This line item includes Total Landing Area Costs less Total Landing Area Credits.

Line Item D. Signatory Airline Landed Weight (1,000 lb units) - Passenger. This line item shall be equal to the estimated Signatory Airline Landed Weight of passenger airlines for the upcoming Fiscal Year.

Line Item E. Signatory Airline Landed Weight (1,000 lb units) - Cargo. This line item shall be equal to the estimated Signatory Airline Landed Weight of cargo airlines for the upcoming Fiscal Year.

Line Item F. Signatory Airline Landing Fee Rate (1,000 lb units). This line item shall be equal to Signatory Airline Landing Fee Requirement divided by the sum of Signatory Airline Landed Weight - Passenger and Signatory Airline Landed Weight - Cargo.

Line Item G. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item H. Non-Signatory Airline Landing Fee Rate (1,000lb units). This line item shall be equal to the product of Signatory Airline Landing Fee Rate and Non-Signatory Airline Premium.

Table C-1. Landing Fees		
Description	Line Item	FY 2024
Total Landing Area Costs	A	\$5,492,117
Total Landing Area Credits	B	\$1,705,302
Signatory Airline Landing Fee Requirement	$C = A - B$	\$3,786,815
Signatory Airline Landed Weight (1,000 lb units)-Passenger	D	2,189,675
Signatory Airline Landed Weight (1,000 lb units)-Cargo	E	591,175
Signatory Airline Landing Fee Rate (1,000 lb units)	$F = C / (D + E)$	\$1.36
Non-Signatory Airline Premium	G	125%
Non-Signatory Airline Landing Fee Rate (1,000 lb units)	$H = F * G$	\$1.70

2. Explanation of Terminal Building Rental Rate Calculation Line Items. The following line items listed in Table C-2 are included in the calculation of Terminal Building Rental Rate for each rate setting period. Each line item in Table C-2 is identified by the corresponding letter set forth below.

Line Item A. Terminal Building Cost. This line item includes the total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the Terminal Building, Equipment and Capital Outlays allocable to the Terminal Building, Annual Amortization Recovery allocable to the Terminal Building, the pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Terminal Building, the estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Terminal Building, the pro rata portion allocable to the Terminal Building of deposits to the

Maintenance and Operating Reserve Account required in the Bond Ordinance, the pro rata portion allocable to the Terminal Building of any other deposits to reserve accounts as set forth in Article 8 of the Agreement and established pursuant to the Bond Ordinance, and the estimated amount of any assessment, judgment, settlement, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Terminal Building.

Line Item B. Terminal Building Credits. This line item shall be equal to the sum of direct electricity charges and Security Screening Fees.

Line Item C. Net Terminal Building Requirement. This line item shall be equal to the Signatory Terminal Building Cost less Terminal Building Credits.

Line Item D. Usable Space (square feet). This line includes the gross space in the Terminal Building at the Airport less mechanical and related storage space and service areas as identified on Exhibit B.

Line Item E. Signatory Airline Terminal Building Rental Rate. This line shall be equal to the estimated Net Terminal Building Requirement for the Fiscal Year divided by the total amount of Usable Space in the Terminal Building.

Line Item F. Non-Signatory Airline Premium. This line shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item G. Non-Signatory Airline Terminal Building Rental Rate. This line shall be equal to the product of the Signatory Airline Rental Rate and the Non-Signatory Airline premium.

Table C-2. Terminal Building Rental Rate		
Description	Line Item	FY 2024
Terminal Building Costs	A	\$16,918,847
Terminal Building Credits	B	\$668,076
Net Terminal Building Requirement	C = A - B	\$16,250,772
Usable Space (square feet)	D	334,811
Signatory Airline Terminal Building Rental Rate	E = C / D	\$48.54
Non-Signatory Airline Premium	F	125%

Non-Signatory Airline Terminal Building Rental Rate	$G = E * F$	\$60.67
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3. Explanation of Joint Use Fee Calculation Line Items. The following line items listed in Table C-3 are included in the calculation of Joint Use Fee for each rate setting period. Each line item in Table C-3 is identified by the corresponding letter set forth below.

Line Item A. Total Joint Use Space. This line item shall be equal to Total Joint Use Space in the Terminal Building.

Line Item B. Terminal Building Rental Rate. This line item shall be equal to the Signatory Terminal Building Rental Rate calculated in Table C-2.

Line Item C. Total Joint Use Premises Requirement. This line item shall be equal to the Total Joint Use Space multiplied by the Signatory Terminal Building Rental Rate.

Line Item D. Gate Per Use Fee Revenue. This line item shall be equal to the Gate Per Use Fee (\$125.00, as described in Table C-5) multiplied by the total number of Turns for all airlines in the upcoming Fiscal Year.

Line Item E. Net Joint Use Space Requirement. This line item shall be equal to Total Joint Use Premises Space multiplied by Signatory Terminal Building Rental Rate minus Gate Per Use Fee Revenue.

Line Item F. Total Enplaned Passengers. This line item is the sum of the estimated Signatory Airlines Enplaned Passengers and Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item G. Average Joint Use Fee Per Enplaned Passenger. This line item is the Net Joint Use Space Requirement divided by Total Enplaned Passengers.

Line Item H. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item I. Non-Signatory Joint Use Fee Per Enplaned Passenger. This line item is the Average Joint Use Fee Per Enplaned Passenger multiplied by the Non-Signatory Airline Premium.

Line Item J. Non-Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

- Line Item K.** Non-Signatory Joint Use Space Requirement. This line item shall be equal to the Non-Signatory Joint Use Fee Per Enplaned Passenger multiplied by Non-Signatory Airlines Enplaned Passengers.
- Line Item L.** Signatory Joint Use Space Requirement. This line item shall be equal to the Joint Use Space Requirement less the Non-Signatory Requirement.
- Line Item M.** Enplaned Passenger Share. This line item should be equal to Eighty percent (80%).
- Line Item N.** Gate Share. This line item should be equal to Twenty percent (20%).
- Line Item O.** Enplaned Passenger Joint Use Space Requirement. This line item shall be equal to the Signatory Joint Use Space Requirement multiplied by Enplaned Passenger Share.
- Line Item P.** Gate Joint Use Space Requirement. This line item shall be equal to the Signatory Joint Use Space Requirement multiplied by Gate Share.
- Line Item Q.** Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.
- Line Item R.** Signatory Joint Use Fee Per Enplaned Passenger. This line item shall be equal to the Signatory Joint Use Space Requirement divided by Signatory Airlines Enplaned Passengers.
- Line Item S.** Number of Preferentially Assigned Gates. This line item shall be equal to the number of preferentially assigned Gates in the upcoming Fiscal Year.
- Line Item T.** Signatory Joint Use Fee Per Gate. This line item shall be equal to the Gate Joint Use Space Requirement divided by the Number of Preferential Assigned Gates.

Table C-3. Joint Use Fee		
Description	Line Item	FY 2024
Total Joint Use Space (square feet)	A	103,004
Signatory Terminal Building Rental Rate	B	\$48.54
Total Joint Use Premises Requirement	$C = A * B$	\$4,999,521
Gate Per Use Revenues	D	\$272,500
Net Joint Use Space Requirement	$E = C - D$	\$4,727,021
Total Enplaned Passengers	F	2,071,635
Average Joint Use Fee Per Enplaned Passenger	$G = E / F$	\$2.28
Non-Signatory Airline Premium	H	125%
Non-Signatory Joint Use Fee Per Enplaned Passenger	$I = G * H$	\$2.85
Non-Signatory Airlines Enplaned Passengers	J	133,077
Non-Signatory Joint Use Space Requirement	$K = I * J$	\$379,566
Signatory Joint Use Space Requirement	$L = E - K$	\$4,347,454
Enplaned Passenger Share	M	80%
Gate Share	N	20%
Enplaned Passenger Joint Use Space Requirement	$O = L * M$	\$3,477,964
Gate Joint Use Space Requirement	$P = L * N$	\$869,491
Signatory Airlines Enplaned Passengers	Q	1,938,558
Signatory Joint Use Fee Per Enplaned Passenger	$R = O / Q$	\$1.79
Number of Preferentially Assigned Gates	S	10
Signatory Joint Use Fee Per Gate	$T = P / S$	\$86,949

4. Explanation of Ticket Counter Per Use Fee Calculation Line Items. The following line items listed in Table C-4 are included in the calculation of Ticket Counter Per Use Fee for each rate setting period. Each line item in Table C-4 is identified by the corresponding letter set forth below.

Line Item A. Average Ticket Counter Square Feet. This line item shall be equal to the average square footage for one ticket counter.

Line Item B. Signatory Airline Terminal Building Rental Rate. This line item includes the estimated Terminal Building Requirement for the Fiscal

Year divided by the total amount of Usable Space in the Terminal Building to determine the Signatory Airline Terminal Building Rental Rate per square foot, as shown in Exhibit C-2.

Line Item C. Annual Ticket Counter Cost. This line item shall be equal to the product of Average Ticket Counter Square Feet and the Signatory Airline Terminal Building Rental Rate.

Line Item D. Days Ticket Counter in Use. This line item shall be equal to Three Hundred and Sixty-Five (365).

Line Item E. Turns Per Day. This line item shall be equal to the estimated turns occurring per Gate per day.

Line Item F. Ticket Counter Per Use Fee. This Line item shall be equal to the Annual Ticket Counter Cost divided by Days Ticket Counter in Use divided by Turns Per Day.

Line Item G. Non-Signatory Airline Premium. This line shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item H. Non-Signatory Airline Ticket Counter Per Use Fee. This line item shall be equal to the product of the Signatory Airline Ticket Counter Per Use Fee and the Non-Signatory Airline Premium.

Table C-4. Ticket Counter Per Use Fee		
Description	Line Item	FY 2024
Average Ticket Counter Square Feet	A	253
Signatory Airline Terminal Building Rental Rate	B	\$48.54
Annual Ticket Counter Cost	$C = A * B$	\$12,280
Days Ticket Counter in Use	D	365
Turns Per Day	E	3
Ticket Counter Per Use Fee	$F = C / D / E$	\$11.21
Non-Signatory Airline Premium	G	125%
Non-Signatory Airline Ticket Counter Per Use Fee	$H = F * G$	\$14.02

5. Explanation of Gate Per Use Fee Calculation Line Items. The line item listed in Table C-5 is the Gate Per Use Fee for each rate setting period. The line item in Table C-5 is identified by the corresponding letter set forth below.

Line Item A. Gate Per Use Fee. This line item shall be equal to One Hundred and Twenty-Five (125) dollars.

Table C-5. Gate Per Use Fee		
Gate Per Use Fee (per turn)	A	\$125.00

6. Explanation of Checked Baggage Inspection System (CBIS) Fee Calculation Line Items. The following line items listed in Table C-6 are included in the calculation of CBIS Fee for each rate setting period. Each line item in Table C-6 is identified by the corresponding letter set forth below.

Line Item A. Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item B. Non-Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item C. Total Enplaned Passengers. This line item is the sum of the Signatory Airlines Enplaned Passengers and Non-Signatory Airlines Enplaned Passengers line items.

Line Item D. Total CBIS Costs. This line item shall be equal to the sum of M&O Expenses, back up parts, electricity, water, natural gas, and administration costs associated with the CBIS.

Line Item E. Non-Signatory Airline Revenue Credit. This line item shall be equal to the product of Non-Signatory CBIS Fee Per Enplaned Passenger and Non-Signatory Airlines Enplaned Passengers.

Line Item F. Signatory Airline CBIS Requirement. This line item shall be equal to the Total CBIS Costs less Non-Signatory Airline Revenue Credit.

Line Item G. Signatory Airline CBIS Fee Per Enplaned Passenger. This line item shall be equal to Signatory Airline CBIS Requirement divided by Signatory Airlines Enplaned Passengers.

Line Item H. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five Percent (125%).

Line Item I. Non-Signatory Airline CBIS Fee Per Enplaned Passenger. This line item shall be the product of Signatory Airline CBIS Fee Per Enplaned Passenger and the Non-Signatory Airline Premium.

Table C-6. CBIS Fee		
Description	Line Item	FY 2024
Signatory Airlines Enplaned Passengers	A	1,938,558
Non-Signatory Airlines Enplaned Passengers	B	135,052
Total Enplaned Passengers	$C = A + B$	2,073,609
Total CBIS Costs	D	\$1,278,300
Non-Signatory Airline CBIS Revenue Credit	$E = H * B$	\$102,400
Signatory Airline CBIS Requirement	$F = D - E$	\$1,175,900
Signatory Airline CBIS Fee Per Enplaned Passenger	$G = F / A$	\$0.61
Non-Signatory Airline Premium	H	125%
Non-Signatory Airline CBIS Fee Per Enplaned Passenger	$I = G * H$	\$0.76

7. Explanation of Security Screening Fee Calculation Line Items. The following line items listed in Table C-7 are included in the calculation of Security Screening Fee for each rate setting period. Each line item in Table C-7 is identified by the corresponding letter set forth below.

Line Item A. Law Enforcement Officer Operating Expenses. This amount shall be the City's actual cost of providing armed law enforcement support for the security screening operation in the Terminal Building as required by 49 CFR Part 1542.

Line Item B. Total Enplaned Passengers. This line item shall be equal to the estimated Total Enplaned Passengers for the upcoming Fiscal Year.

Line Item C. Security Screening Fee. This line shall be equal to the Law Enforcement Officer Operating Expenses divided by Total Enplaned Passengers.

Table C-7. Security Screening Fee		
Description	Line Item	FY 2024
Law Enforcement Officer Operating Expenses	A	\$322,355
Total Enplaned Passengers	B	2,073,609
Security Screening Fee	$C = A / B$	\$0.16

**ATTACHMENT “C-1”
TO EXHIBIT “C”**

**STATEMENT OF RATES
FISCAL YEAR 2024**

(September 1, 2023, through August 31, 2024)

Section 1 – FY 2024 SUMMARY OF RATES

1. Landing Fee Rate. Signatory Airline: \$1.36 per 1,000 pounds of Maximum Gross Landed Weight. Non-Signatory Airline: \$1.70 per 1,000 pounds of Maximum Gross Landed Weight.
2. Terminal Building Rental Rate. Signatory Airline: \$48.54 per square foot. Non-Signatory Airline: \$60.67 per square foot.
3. Joint Use Fee. Signatory Airline: \$1.79 per Enplaned Passenger, \$86,949 per Preferentially Assigned Gate. Non-Signatory Airline: \$2.85 per Enplaned Passenger.
4. Ticket Counter Per Use Fee. Signatory Airline: \$11.21 per Turn. Non-Signatory Airline: \$14.01 per Turn.
5. Gate Per Use Fee. Signatory Airline: \$125.00 per Turn. Non-Signatory Airline: \$125.00 per Turn.
6. Checked Baggage Inspection System Fee. Signatory Airline: \$0.61 per Enplaned Passenger. Non-Signatory Airline: \$0.76 per Enplaned Passenger.
7. Security Screening Fee. Signatory Airline: \$0.16 per Enplaned Passenger. Non-Signatory Airline: \$0.16 per Enplaned Passenger.
8. RON Fee. \$20.00 per Night.
9. Airline Direct Electricity Charges. \$3.24 per square foot of rented airline Exclusive Use Premises.
10. Equipment Parking Rentals. \$2.96 per square foot.
11. FIS Fee. \$7.00 per Deplaned Passenger utilizing FIS facilities in the International Arrivals Area.

OPERATIONS, MAINTENANCE AND SERVICE RESPONSIBILITIES AIRLINES AND CITY

The following matrix identifies the responsible party (either the City or Airline) who shall, at its sole cost, be responsible for the maintenance, repair, service, and/or provision of the specifically identified Premises, appurtenances, or services in connection with the operation or maintenance. The City shall not be responsible for any prior or subsequent installation, appurtenance or system by Airline. The City shall not be responsible for any prior or subsequent Airline modification of City-provided Airline Premises, appurtenance, system or service. Airline shall have the duty to restore the Premises, at its sole cost, into the original condition prior to vacating Airline's Premises, including the de-installation of any Airline modification and Airline appurtenance, system or service, at the sole discretion of the City. If Airline is positively determined to have damaged Premises or misused an City-provided appurtenance or system, said Airline may be charged for maintenance and repairs.

NOTE 1: All installations, repairs, replacements, alterations, or improvements undertaken by Airline must first be submitted for approval by the City.

NOTE 2: The responsibilities of the City listed below apply to normal wear and tear only. Any damage caused by Airline's negligence will be the responsibility of the Airline.

NOTE 3: All operations, maintenance and service responsibilities in Public Use Space is the responsibility of the City, except when damage is caused by Airline's negligence.

NOTE 4: Airline shall notify City, in writing, of any maintenance or repairs needed which are the responsibility of the City.

LEGEND	
ELP = City	N/A = Not Applicable
A = Airline	

A. OPS, MAINTENANCE AND SERVICE AREAS	SPACE						
	EXCLUSIVE				SHARED	JOINT	
	PREFERENTIAL SPACE (Ticket Counter)	ATO SPACE	BAGGAGE SERVICE OFFICE	OPS & MAINTENANCE SPACE	SHARED SPACE	HOLD ROOMS	BAG CLAIM
BUILDING - EXTERIOR							
Doors	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Insulation and Weather-stripping	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Lighting Mounted on Outside of Building	N/A	ELP	N/A	ELP	ELP	ELP	ELP
Roof	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Walls and Load-Bearing Structures	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Windows	N/A	N/A	N/A	ELP	ELP	ELP	ELP
BUILDING INTERIOR							
Backwall Finish and Signage	A	N/A	A	N/A	N/A	A	N/A
Counter Shell/Exterior Casement, Countertops	ELP	N/A	N/A	N/A	N/A	ELP	N/A
Counter Insert Cabinetry, Kiosks	A	N/A	N/A	N/A	N/A	A	N/A
Ceiling Tiles	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Doors	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Flooring: Carpet & Tile	A	A	A	A	A	ELP	ELP
Furnishings and Fixtures	A	A	A	A	A	ELP	ELP
HVAC: Building System Maintenance & Air Distribution	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Insulation/Weather-stripping	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Interior Wall Windows	A	A	A	A	A	ELP	ELP
Paint and Wall Finishes ¹	A	A	A	A	A	ELP	ELP
Passenger Seating - Installation and Maintenance	N/A	N/A	N/A	N/A	N/A	ELP	ELP
Stanchions	A	N/A	A	N/A	N/A	A	N/A
COMMUNICATIONS							
Public Address System	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Communication Lines/Conduit: To D-Mark ²	A	A	A	A	A	A	A
Communication Lines/Conduit: From D-Mark ²	ELP	ELP	ELP	ELP	ELP	ELP	ELP
FIDS (City owned)	N/A	N/A	N/A	N/A	N/A	ELP	ELP
DOOR LOCKS, LOCKSETS AND KEYS							
ELP-Required locks, locksets and keys ³	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Non-ELP required	A	A	A	A	A	ELP	ELP
EQUIPMENT AND COMPUTER SYSTEMS							
Airline Proprietary Computer System	A	A	A	A	N/A	A	N/A
Airline Ticketing and Gate Equipment	A	A	A	A	N/A	A	N/A
Broadband Access	A	A	A	A	N/A	A	N/A
Radio, Meteorological and Aerial Navigation Equipment	A	A	A	A	N/A	A	N/A
Ticket Counter Scales	A	N/A	N/A	N/A	N/A	N/A	N/A
FIRE ALARM SYSTEM & OTHER EQUIPMENT							
Fire Alarm System	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Fire Extinguishers ⁴	A	A	A	A	A	ELP	ELP

OPERATIONS, MAINTENANCE AND SERVICE RESPONSIBILITIES AIRLINES AND CITY

		SPACE						
		EXCLUSIVE				JOINT		
A. OPS, MAINTENANCE AND SERVICE AREAS		PREFERENTIAL SPACE	ATO SPACE	BAGGAGE SERVICE OFFICE	OPS & MAINTENANCE SPACE	SHARED	HOLD ROOMS	BAG CLAIM
	(CONT.)	(Ticket Counter)						
FIXTURES, ELECTRICAL/ENERGY								
Bulb & Tube Replacement (real property installed)		ELP	ELP	ELP	ELP	ELP	ELP	ELP
Maintenance		ELP	ELP	ELP	ELP	ELP	ELP	ELP
Power supply protection ⁵		A	A	A	A	A	A	ELP
JANITORIAL AND RECYCLING SERVICES								
Recycling of Paper, Plastic and Cardboard ⁶		A	A	A	A	N/A	ELP	ELP
Tenant Space (including Floors and Tenant Restroom Areas)		A	A	A	A	ELP	ELP	ELP
Window Cleaning - Appurtenant to Tenant Space (Int. & Ext.)		A	A	A	A	ELP	ELP	ELP
Window Cleaning - All Others (Interior & Exterior)						ELP	ELP	ELP
Shampoo Carpets/Wax Floors		ELP	A	A	A	ELP	ELP	ELP
PEST CONTROL								
Rodents and Insects ⁷		ELP	ELP	ELP	ELP	ELP	ELP	ELP
PLUMBING AND SEWER								
Incoming Water Line from Common Use Water Line to Fixture		N/A	ELP	N/A	ELP	ELP	N/A	N/A
Sanitary Sewer Line		N/A	ELP	N/A	ELP	ELP	N/A	N/A
Restrooms/Breakrooms (Fixture Repair & Replacement)		N/A	A	N/A	A	ELP	N/A	N/A
SIGNS								
Ticket Counter Backwall/Above Ticket Counter		A	N/A	A	N/A	N/A	N/A	N/A
Concourses: Podium Backwall/Holdroom walls		N/A	N/A	N/A	N/A	N/A	A	N/A
Directional/Informational Signage		ELP	N/A	N/A	N/A	N/A	ELP	ELP
TRASH REMOVAL								
Trash Removal (City will provide dumpster/compactor)		A ⁸	A	A	A	A	ELP ⁹	ELP

		SPACE		
		PREFERENTIAL SPACE	BAG	BAG
		(Ticket Counter)	MAKEUP	CLAIM
B. BAGGAGE CONVEYANCE SYSTEM				
BAGGAGE CONVEYANCE SYSTEM AND CAROUSELS				
Repair and Maintenance		A	A	ELP

		SERVICES					
		SNOW REMOVAL	RAMP SCRUBBING	PAVEMENT PAINTING	SPILLS	MAINTENANCE	JANITORIAL AND TRASH REMOVAL
C. RAMP AREAS							
JET BRIDGES (City Owned)						ELP	A ¹⁰
LIFTING DEVICE (City Owned)						ELP	
RAMP MAINTENANCE (Including Jet Bridge Ramp Areas)		ELP	ELP	ELP	A ¹¹		ELP

FOOTNOTES:

¹City will paint walls one time during the five year term of the agreement. Airline will be charged back for any additional paint requests.

²D-Mark is defined as the point in the terminal building where telecommunication's lines ends and the City's begins.

³Replacement of keys will be charged back to Airline

⁴Airlines are responsible for their own ramp gate fire extinguishers.

⁵Airline is responsible for providing adequate power supply protection for all vital services and important equipment sensitive to voltage drops, voltage spikes, or temporary power outages as may occur from time to time.

⁶City will provide dumpsters for recyclables.

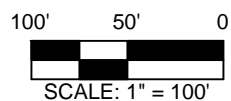
⁷ Regularly scheduled service only.

⁸Airline will remove trash from curbside check-in counter.

⁹City will remove trash from containers for public use. Airline will remove trash from their operations.

¹⁰Airline shall safely and properly collect and dispose of bio-hazards and other hazmat from their aircraft and provide trash removal from their jet bridges.

¹¹City will mitigate any ineffective response and charge Airline for the clean-up.





Monthly Activity Report - CHARTERS

Due on or before the 10th day of each month

Activity Report for the Month of:

Airport: ELP

Airline Name:

E-mail report to: ELPreports@elpasotexas.gov

For more info call: (915) 212-7303

Date:

Brenda Garcia-Olivas, Airport Terminal Services Manager

Passangers	Enplaned	Deplaned	Totals
Revenue	<input type="text"/>	<input type="text"/>	-
Non-Revenue	<input type="text"/>	<input type="text"/>	-
Total Passengers	-	-	

Aircraft Type	# of Landings	Aircraft Max Landing Weight (in lbs)	Total Weight
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
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<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
TOTALS	-		-

	Enplaned	Deplaned	Totals
Ticket counter	<input type="text"/>	<input type="text"/>	0
AIR Freight (lbs)	<input type="text"/>	<input type="text"/>	
International Freight (lbs)	<input type="text"/>	<input type="text"/>	0

Contact information for individual submitting reports:

Carrier Rep:
 Title:
 Telephone:
 Email:

EXHIBIT “G”

Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee.
2. The above provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Agreements, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the

information, the Contractor will so certify to Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975

and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.

1. Lessee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above Nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Lessee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin,

will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

Subcontracts. Lessee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).

EL PASO INTERNATIONAL AIRPORT
NON-SIGNATORY AIRLINE OPERATING
AGREEMENT

BY AND BETWEEN

THE CITY OF EL PASO

AND

AIRLINE

NON-SIGNATORY AIRLINE OPERATING AGREEMENT

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Exhibit A	Cost Center Plan
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**EL PASO INTERNATIONAL AIRPORT
NON-SIGNATORY AIRLINE OPERATING AGREEMENT**

THIS NON-SIGNATORY AIRLINE OPERATING AGREEMENT(hereinafter referred to as the "Agreement") is entered into this _____ day of _____, 20____, by and between the **CITY OF EL PASO, TEXAS** ("City") and _____], a corporation organized and existing under the laws of the State of (state) ("Airline").

W I T N E S S E T H:

WHEREAS, Chapter 22 of the Texas Transportation Code authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Airline is engaged in the business of transportation of persons, property, or mail by air and desires to use certain facilities at the El Paso International Airport ("Airport"); and

WHEREAS, the City has entered into the Signatory Airline Use and Lease Agreement dated _____, 20__ with certain Air Transportation Companies operating at the Airport ("Signatory Airline Use and Lease Agreement", through which agreement the City will set airline rates and charges as outlined therein;

WHEREAS, Airline wishes to operate at the Airport without entering into the Signatory Airline Use and Lease Agreement;

WHEREAS, in furtherance of its authority, City desires to permit Airline to use certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement, and consistent with the terms of the Signatory Airline Use and Lease Agreement as applicable; and

WHEREAS, the City and Airline have the power and authority to enter into this Agreement;

NOW, THEREFORE, and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

SECTION 1.01 DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

“Agreement” means this Non-Signatory Airline Operating Agreement between City and Airline, as the same may be amended, modified, or altered from time to time pursuant to the terms hereof.

“Air Transportation Business” means that business operated by Airline or another Air Transportation Company at the Airport for the commercial transportation by air of persons, property, mail, parcels, and/or cargo.

“Air Transportation Company” means the legal entity engaged in the business of scheduled or nonscheduled commercial transportation by air of persons, property, mail, parcels, and/or cargo.

“Aircraft Arrival” means any aircraft arrival at the Airport, including, without limitation, scheduled, non-scheduled, diverted, training, testing, charter, or any other flight operated by an Air Transportation Company. Aircraft Arrivals exclude flights, which are forced to return and land at the Airport because of meteorological conditions, mechanical or operating causes, or emergency or precautionary reasons.

“Airline” means the Air Transportation Company executing this Agreement.

“Airline Equipment or Improvement” means any item of equipment or any improvement to Airline’s Premises provided or installed at request by Airline.

“Airport” means the identified areas “Airfield”, “Terminal Building”, “Air Cargo”, “Aviation” and “Ground Transportation” at the El Paso International Airport: as shown in Exhibit A, Cost Center Map, attached hereto and made a part hereof, as it may be modified or developed from time to time, including all real property easements or any other interest within the identified areas therein as well as all improvements and appurtenances thereto, structures, buildings, fixtures, and all tangible personal property or interest in any of the foregoing, now or hereafter owned, leased, or operated by City.

“Airport Revenue Bonds” means any bonds issued by City for Airport purposes secured by a pledge of the revenues of the Airport except for any Special Facilities Revenue Bonds.

“Airline Terminal Support System” means any system or service supporting Airline operations in the Terminal Building, including but not limited to,

telecommunications, security, access control, paging, flight or baggage information display or similar systems or services.

“Bond Ordinance” means any ordinance of City regulating or authorizing the issuance of bonds, other than Special Facilities Revenue Bonds, for Airport purposes, or payable from Airport revenues, as the same may from time to time be adopted, amended, or supplemented.

“Bonds” means Airport Revenue Bonds or any other similar or substitute financing instruments issued for Airport purposes under and pursuant to authorizing legislation.

“Capital Improvement Program” means the Airport’s program of Capital Improvements as such program may be amended from time to time at City’s sole discretion.

“City” means the City of El Paso, a municipal corporation organized under the laws of the State of Texas and its officers, directors, agents, and employees.

“Department” means the Department of Aviation of the City.

“Deplaned Passenger” means any passenger disembarking an aircraft at the Airport and entering the Terminal Building including International Arrivals Area.

“Director” means the Director of Aviation of the Department of Aviation or other person properly authorized to act on behalf of Director.

“Enplaned Passengers” means all local, interline transfer, and intraline transfer passengers boarding flights of Airline including revenue and non-revenue passengers but excluding Airline employees.

“Environmental Laws” means all present or future local, state or federal statutes, ordinances, rules, regulations, permits, citations, orders, directives, or consent decrees or other enforceable requirement of any federal, state or local entity, agency or body, or subdivision thereof (including specifically but without limitation, the City of El Paso), having governmental authority, relating to:

- (1) the protection of health, safety and the indoor or outdoor environment;
- (2) the conservation, management or use of natural resources and wildlife;
- (3) the protection or use of surface water and ground water;
- (4) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release or

threatened release, abatement, removal, remediation or handling of, or exposure to any Hazardous Materials (as defined below); or

- (5) pollution (including any release or threatened release discharge or emission to air, land, surface water, or ground water);

including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. §18091 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), The Clean Water Act (33 U.S.C. §1251 et seq.), the Toxic Substances Control Act of 1976 (15 U.S.C. §2601 et seq.), the Safe Drinking Water Act (U.S.C. §300f-§300j-11 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Occupational Safety and Health Act, the Clean Air Act, 42 U.S.C. Section 7401 et seq. and any state counterpart, each as heretofore and hereafter amended or supplemented, and any analogous future or present local, state or federal statutes, rules and regulations promulgated thereunder or pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive regulating, relating to or imposing liability standards of conduct concerning any Hazardous Materials, or special wastes or by the federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions. The reference to Hazardous Materials in the immediately preceding sentence shall not limit the application of this paragraph to laws dealing with Hazardous Materials, it being the intention of the parties that all environmental laws dealing with activities having an impact on the environment be included within the scope of this paragraph.

“FAA” means the Federal Aviation Administration of the U.S. Department of Transportation or any federal agency(s) succeeding to its jurisdiction.

“Fiscal Year” means City’s fiscal year, which is the twelve-month period commencing September 1 and extending to August 31 of the following year, or such other twelve-month period as may be adopted for the operation of City or Airport.

“Hazardous Materials” means any hazardous or toxic substances, materials, or wastes, including, but not limited to, those substances, materials, and wastes listed in the U. S. Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) or as extremely hazardous substances under 40 CFR Part 355 and amendments thereto, or such substances, materials, and wastes that are or become regulated under any applicable Environmental Laws.

“International Arrivals Area” means that area in the Terminal Building at the Airport designated for federal inspection services (FIS).

“Joint Use Premises” means those Terminal Building areas which may be assigned to two or more Air Transportation Companies including on a common use or shared basis, along with all facilities, improvements, equipment, and services which are, or hereafter may be, provided for such use, as shown on Exhibit B, attached hereto.

“Premises” means any areas on the Airport assigned by City to Airline, whether on a Joint, common, Shared, non-preferential or temporary use basis, as depicted on Exhibit B as attached hereto and made a part hereof.

“Maximum Gross Landed Weight” means the maximum allowable landing weight of each aircraft operated by Airline at the Airport as authorized by the FAA and recited in Airline’s flight manual governing that aircraft.

“Passenger Facility Charge” or “PFC” means the fees authorized by 49 USC 40117 and regulated by 14 CFR Part 158 as such statutes and regulations currently exist or as they may be amended, modified, or supplemented during the Term of this Agreement.

“Renewal and Replacement Reserve” means that reserve defined in the Bond Ordinance for the purposes of funding renewal and replacement expenditures of the City for the Airport.

“Rules and Regulations” means those rules, regulations, policies, and procedures that have been established by City or the Department for the orderly and efficient use of the Airport by airlines and other tenants and users as the same may be amended, modified, or supplemented from time to time. Such Rules and Regulations shall be made available by City to Airline upon request of Airline.

“Shared Use Premises” means those portions of the Terminal Building shared by Airline with other Air Transportation Companies, as shown on Exhibit B, attached hereto.

“Signatory Airline” means each Air Transportation Company that has entered into a Signatory Airline Use and Lease Agreement with the City effective _____, 20__ or later and expiring _____, 20__.

“Special Facilities” means capital improvements or facilities located on any property owned or leased by City and located at Airport, which are financed by the issuance of Special Facilities Revenue Bonds.

“Special Facilities Revenue Bonds” means any debt of City which is permitted by, but not issued pursuant to, the terms of the Bond Ordinance and which is secured by and payable solely from rentals or other charges derived by City under a lease, sale or other agreement (or any document securing the same)

between City and the person, firm or corporation utilizing the Special Facilities financed thereby.

“Term” means the period of time during which Airline’s activities at the Airport are governed by this Agreement. Said Term shall begin on the Effective Date, and, except as otherwise set forth herein, terminate on the date set forth in Article 2.

“Title 14” means that portion of the El Paso City Code addressing aircraft and airports, as the same may be amended, modified, or supplemented from time to time.

“Total Airline Landed Weight” means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of Airline over a stated period of time.

“TSA” means the Transportation Security Administration of the Department of Homeland Security, or its authorized successor.

Additional words and phrases used in this Agreement but not defined either in this Article 1 or elsewhere herein shall have the meanings as defined in the Signatory Airline Use and Lease Agreement, or, if not defined therein either, under the Bond Ordinance or, if not so set forth, shall have their usual and customary meaning.

SECTION 1.02 CROSS-REFERENCES

References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections, or exhibits of this Agreement, unless otherwise specified.

ARTICLE 2 - TERM

SECTION 2.01 TERM

This Agreement shall commence on _____, 20__ (“Effective Date”) and terminate at midnight on the earlier of: (1) termination by either party with or without cause pursuant to Article 14; (2) the date upon which Airline becomes a Signatory Airline; or (3) the date upon which the Signatory Airline Use and Lease Agreement expires or is earlier terminated for all Signatory Airlines (“Term”).

SECTION 2.02 TERMINATION OF EXISTING AGREEMENTS

Any Terminal Building leases and operating agreements heretofore executed between the parties covering or pertaining to the Airport are canceled and terminated as of the Effective Date of this Agreement, provided that such cancellation and termination shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of action, or causes of action that either of the parties hereto may have

against the other under such existing leases and agreements and that have accrued before the Effective Date of this Agreement.

SECTION 2.03 [RESERVED]

SECTION 2.04 EXTENSION

In the event Airline is not in default of any terms of this Agreement, the Term of this Agreement may be extended for one (1) additional two-year renewal period, through the mutual written agreement of Airline and City. To extend the term of this Agreement, the Director shall give written notice to Airline of City's intent to extend the Agreement no less than three (3) months prior to the expiration of the term of the Agreement. If Airline is not willing to renew for the extension period, Airline will be released from its obligation to extend the Agreement term, provided it gives the Director written notice of its intent within thirty (30) days from the notification of the City's intent to extend the term. During any extension period, the Agreement shall be extended on the same terms and conditions, except Airline shall pay all rates, charges and provisions as set forth herein and in Title 14 and any applicable City Annual Budget Resolution.

ARTICLE 3 - RIGHTS AND SPECIFIC PRIVILEGES

SECTION 3.01 USE OF THE AIRPORT

Airline, its employees, passengers, guests, patrons, agents, independent contractors and invitees shall have the right to use, in common or jointly with other duly authorized users, those portions of the Airport, together with all facilities, improvements, equipment, and services that have been or may hereafter be provided for their common or joint use, subject to the provisions of this Agreement and the Rules and Regulations.

SECTION 3.02 SPECIFIC RIGHTS OF AIRLINE AT THE AIRPORT

Airline shall have the right, subject to conditions contained herein and in addition to all rights elsewhere granted in this Agreement, to use the Airport for the following purposes, subject to the provisions of this Agreement and the Rules and Regulations:

- A. The operation of an Air Transportation Business, including all activities reasonably necessary to such operation.
- B. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, repairing, maintaining, conditioning, servicing, parking, storing, or testing of aircraft or other equipment of or operated by Airline, subject to the availability of space, and subject to such reasonable charges, regulations, and/or restrictions City may establish; provided however, Airline shall not permit the use of the Airfield by any aircraft operated or controlled by Airline which exceeds the design strength or capability of the Airfield as described in the then-current FAA-approved Airport Layout Plan

(ALP) or other engineering evaluations performed subsequent to the then-current ALP, including the then-current Airport Certification Manual.

- C. The sale of air transportation tickets and services, the processing of passengers and their baggage for air travel, the sale, handling, and providing of mail, freight, and express services, and reasonable and customary airline activities.
- D. The training of persons and testing of aircraft and other equipment at the Airport, such training and testing to be limited to that incidental to Airline's Air Transportation Business, and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to the use of same. Flight training and aircraft testing shall be undertaken by Airline only to the extent permitted by and subject to the Rules and Regulations and in only those areas designated by Director. City reserves the right to restrict or prohibit such training and testing operations which it deems to interfere with the use of the Airport, including excessive noise as reasonably determined by City.
- E. The purchase of Airline's requirements of personal property or services, including fuel, lubricants, food, beverage, and other passenger supplies, and any other materials and supplies used by Airline from any person or company of Airline's choice for services to be performed for Airline that are incidental to the operation of Airline's Air Transportation Business. Nothing herein shall restrict City from levying nondiscriminatory concession or privilege fees or charges on any person or company conducting business at the Airport other than an Air Transportation Business and provided further that the City may require a third-party service provider or operator contracting with Airline to execute a written agreement with the City.
- F. The sale, disposal, and exchange of Airline's aircraft, engines, accessories, fuel, oil, lubricants, other equipment, and materials or supplies to other Air Transportation Companies subject to City's right to charge and collect fees or commissions for such sales or exchanges as provided in Section 3.04 (H). Such right shall not be construed as authorizing the conduct of a separate regular business by Airline, but as permitting Airline to perform only those functions that are incidental to the operation of its Air Transportation Business.
- G. The servicing by Airline, or by its suppliers of materials or its furnishers of services, of aircraft and other equipment operated by Airline with line maintenance or other materials or supplies, at aircraft parking positions designated by Director subject to the Rules and Regulations. Director reserves the right, at any time, to designate other locations reasonably accessible from the Terminal Building for the performance of aircraft maintenance and service activities if Director believes that such activities

would interfere with aircraft operations of other Air Transportation Companies at the Terminal Building.

- H. The installation and operation of identifying signs and graphics on Airline's Premises, subject to the prior written approval of Director, provided that such signs shall be: (1) substantially uniform in size, type, and location with those of other Air Transportation Companies; (2) consistent with Department's graphics standards as established from time to time by Director; (3) in compliance with the Rules and Regulations; and (4) in compliance with City Code and all local laws and ordinances. However, Airline shall not install any promotional displays or advertising displays in its Premises unless authorized in writing, in advance, by Director.
- I. The installation, maintenance, and operation of such radio, communication, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport, including computer equipment at passenger check-in counters in the Terminal Building, as may be necessary for Airline's operations; provided that such equipment and facilities do not interfere with other Airport communication, meteorological, or aerial navigation systems. The location of such equipment and facilities, method of installation and type of equipment shall require the prior written approval of Director and shall conform with all applicable federal, state, and local requirements. Airline is required to use the City's Multi-user Flight Information Display System (MUFIDS) and agrees to abide by the rules established by City for its use. Airline may use its own Flight Information Display System (FIDS) in its Premises subject to the prior written consent of Director and subject to such reasonable conditions as Director may require.
- J. The provision of baggage porter, skycap, or curbside airline baggage check-in services. Airline may arrange with other Air Transportation Companies to provide such services or may provide such services on its own behalf.
- K. The use of the International Arrivals Area, depicted on Exhibit B, in common with other authorized users, subject to availability and payment of then current use charges.
- L. The right to erect, maintain, and station security screening devices and to conduct a security check operation of passengers, baggage, and packages in the Airline's Joint Use Space at a location approved by Director in his or her reasonable discretion.
- M. The right, in common with other Air Transportation Companies, to the use of City's lifting device, as required by 14 CFR Part 382, and any amendments thereto, and permits the use of that equipment in the course of the Airline's operations, including the performance of passenger

handling/boarding services for other Air Transportation Companies at the Airport.

All rights and privileges not specifically granted to Airline for its use of and operations at the Airport pursuant to the Agreement are reserved for and to City.

SECTION 3.03 EMPLOYEE PARKING FACILITIES

Airline's employees working at the Terminal Building will be provided vehicular parking facilities, if available, in common with other employees. Such facilities shall be located in an area designated by Director. City reserves the right to assess a reasonable charge to Airline or its employees for such parking facilities.

SECTION 3.04 LIMITATIONS ON USE BY AIRLINE

In connection with the exercise of its rights under this Agreement, Airline:

- A. Shall not do or permit to be done anything at or about the Airport that may interfere with the use, operation, or maintenance of the Airport, including but not limited to effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, heating or ventilation system, air conditioning system, electrical system, natural gas, or other Airport systems installed or located on or within the Premises or the Airport.
- B. Shall not do or permit to be done anything, either by act or failure to act, that shall cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Airline shall do or permit to be done any act not permitted under this Agreement, or fail to do any act required under this Agreement, regardless of whether such act shall constitute a breach of this Agreement, which act or failure, in and of itself, causes an increase in City's insurance premiums, Airline shall immediately remedy such actions and/or pay the increase in premiums, upon notice from Director to do so.
- C. Shall not dispose of or permit any employee, agent or contractor to dispose of any waste material taken from, or products used with respect to, its aircraft into the sanitary or storm sewers at the Airport or any other location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials, unless such waste material or products first be properly treated by equipment installed with the approval of City and any other administrative body having appropriate jurisdiction.

- D. Shall not keep or store any Hazardous Materials such as flammable liquids and solids, corrosive liquids, compressed gases, or magnetized or radioactive materials on the Airport except when all the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any liquids having a flash point of less than one hundred degrees (100°) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said materials shall be under the control and care of designated and properly qualified Airline personnel; (3) said materials shall be packaged, handled and stored in compliance with applicable U.S. Department of Transportation, Environmental Protection Agency, and other applicable regulations for transport, pre-transport and storage of hazardous articles and materials, including the Airport's Spill Prevention, Control, and Countermeasure (SPCC) Plan; and (4) said materials shall be only stored in such storage areas as are designated. Director reserves the right to require Airline to relocate any stored hazardous material necessary.
- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft at the Airport without prior written approval of City. The granting of the right to store aviation fuels shall be subject to the execution of a separate agreement between Airline and City.
- F. Shall not maintain or operate in the Terminal Building or elsewhere at the Airport, a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public, its employees, or passengers; nor shall Airline in any manner otherwise provide for the sale or dispensing of food and beverages at the Airport except that Airline may dispense food and beverages on board Airline's aircraft or to passengers boarding Airline's aircraft for consumption on board and provide vending machines solely for the sale of hot and cold beverages, food, and confections to Airline employees in areas not accessible to the general public. However, in the event of originating flight delays greater than one hour, or for diverted flights or originating flights that have returned to the Airport, Airline may provide water and typical onboard snacks (e.g., peanuts, pretzels, etc.) at no charge to Airline's passengers in the holdroom area.
- G. Agrees to comply with all security measures required of Airline or City by the FAA or contained in City's FAA-approved Master Security Plan for the Airport, as such plan may be amended from time to time. Any fines and/or penalties levied against City for security violations at the Airport resulting from any non-compliance of Airline, its employees, officers, agents, affiliates, or suppliers while under its control, shall be immediately due and payable to City by Airline.

- H. May exercise the rights and privileges granted Airline under this Agreement with respect to the performance of ground services and activities in connection with its Air Transportation Business at the Airport, by Airline for and on behalf of Airline's regularly scheduled or unscheduled services Airline may, subject to the prior written approval of Director, and, where applicable, the payment of fees or commissions as provided for in this Agreement, perform ground services for any other Air Transportation Company using the Airport provided that Airline shall be solely responsible for the reporting to City of all such Air Transportation Company's landings, landed weights, and passengers and for the payment of all fees and amounts payable excluding PFCs, by or on account of such Air Transportation Company to City under this Agreement or under Title 14 unless such Air Transportation Company is a Signatory Airline. It is understood and agreed that City reserves the right to control access to restricted areas and to collect reasonable fees or commissions for the provision of in-flight catering, vending, ground transportation, ground support, or other services by Airline for any Air Transportation Company other than Airline and for any services or facilities provided by or for Airline in competition with concessionaires and operators operating under an agreement with City.
- I. Shall park ground service or other equipment on the Terminal Building aircraft apron only at areas designated on Exhibit E or otherwise designated by Director.
- J. Shall not install any coin-operated or card operated machine(s) or device(s), except for: (1) machines for the sale of Airline's tickets or issuance of boarding passes located on Airline's Premises or other areas approved in writing by Director; or (2) beverage or snack machines as provided in Section 3.04 (F) above.

SECTION 3.05 AIRPORT USE SUMMARY

Airline shall file with Director an Airport Use Summary, in a form acceptable to Director, providing the information specified below and such other non-commercially sensitive information as Director may reasonably request regarding Airline's operation at the Airport. Airline shall, at all times, maintain a current version of such Airport Use Summary on file with Director. The Airport Use Summary shall include the following information:

- Names, addresses, and telephone numbers of Airline officials responsible for station operations, flight operations, properties, and facilities.
- The current and proposed schedules of Airline's flight activity at the Airport. Airline shall notify Director of schedule changes or the addition or deletion of flights at the Airport prior to or no later than the public announcement thereof.

- The description of Airline's fleet and identification of the type of Airline's aircraft that are serving or will serve the Airport. Airline shall provide notice of the introduction of any aircraft that is not being operated by Airline at the Airport as of the date of this Agreement.

Such Airport Use Summary shall be updated and re-filed with Director whenever there is a change to the nature of Airline's operations at the Airport or whenever Director shall reasonably request the same.

ARTICLE 4 - PREMISES

SECTION 4.01 PREMISES

A. Categories of Space.

Airline may be assigned areas in or adjacent to the Terminal Building on a Joint Use or Shared Use (or combination thereof) as follows and as more particularly delineated on Exhibit B, as such exhibit may be modified. Non-Signatory Airlines will not be assigned space on a preferential or exclusive basis under this Agreement.

B. Space in Terminal Building.

At the Effective Date of this Agreement, Airline shall use the areas in or adjacent to the Terminal Building shown on Exhibit B. Airline's Premises in the Terminal Building shall be subject to change from time to time by Director, after consultation with Airline. Any such changes shall be incorporated herein by Director transmitting to Airline a replacement Exhibit B.

C. [RESERVED]

D. The dimensions on Exhibit B, as such exhibit may be modified in accordance with this Agreement, shall be the basis for determining the amount of the rentals payable pursuant to Articles 6 and 7. Director shall issue new Exhibit B after any Terminal Building expansion or modification.

SECTION 4.02 EQUIPMENT AND AIRCRAFT PARKING AREAS AND HOLDROOMS

A. Aircraft Parking Areas, including associated aircraft loading positions, apron areas and loading bridges ("gates") as shown on Exhibit "B-2" as such exhibit may be amended from time to time by Director, and associated Joint Use Space in the Terminal Building ("holdrooms") shall be assigned to Airline by Director on a common use, nonexclusive use basis.

B. [RESERVED]

- C. Airline shall park all its ground service equipment in its assigned Equipment Parking Area as set forth on Exhibit B or such other area designated by the Director. In the event Airline requires additional equipment parking, such parking shall be subject to availability, the written approval of Director, and applicable Rules and Regulations.
- D. [RESERVED]
- E. [RESERVED]
- F. Airline shall comply with any directive of the City to temporarily accommodate other Air Transportation companies at its assigned aircraft parking positions or other assigned space from time to time, as deemed necessary by Director for situations including, but not limited to, unscheduled flights (including charters), mechanical problems, and diversions due to weather.

SECTION 4.03 [RESERVED]

SECTION 4.04 USE OF CITY LOADING BRIDGES

- A. Any loading bridges owned and maintained by City shall be made available to all Air Transportation Companies serving the Airport on a common use basis unless assigned for preferential use.
- B. The use of City-owned loading bridges by Airline shall be subject to the following terms and conditions:
 - 1. The loading bridges shall be operated only by employees, contractors, or agents of Airline, who are approved and qualified by Airline to operate the loading bridges.
 - 2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the loading bridges by its employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.
 - 3. Airline shall be solely responsible for the costs to replace or repair any damage to loading bridges or other property caused by the operation of the loading bridges by its employees, contractors, or agents.

4. City, during the Term of this Agreement, shall reasonably maintain and keep in good repair the City-owned loading bridges referred to herein.
5. Airline shall pay the loading bridge charge as provided in Exhibit C.

SECTION 4.05 USE OF CITY LIFTING DEVICE

- A. Any lifting device owned and maintained by City shall be made available to all Air Transportation Companies serving the Airport on a common use basis unless assigned for preferential use.
- B. The use of City-owned lifting devices by Airline shall be subject to the following terms and conditions:
 1. The lifting devices shall be operated only by employees, contractors, or agents of Airline who are approved and qualified by Airline to operate the lifting devices.
 2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the lifting devices by its employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.
 3. Airline shall be solely responsible for the costs to replace or repair any damage to lifting devices or other property caused by the operation of the lifting devices by its employees, contractors, or agents.
 4. City, during the Term of this Agreement, shall reasonably maintain and keep in good repair the City-owned lifting devices referred to herein.

SECTION 4.06 [RESERVED]

SECTION 4.07 REASSIGNMENT OF SPACE DURING CONSTRUCTION

Director may temporarily reassign any Premises or Aircraft Parking Area during any construction after ninety (90) days' written notice is provided to Airline. The cost for any temporary relocation resulting from construction shall, at the discretion of City, be either borne by the airline necessitating the relocation or shall be included as part of the City's project cost. During the period when Airline is temporarily relocated, appropriate adjustments to rentals shall be made to reflect any differences between the area of the Premises and the area of temporarily assigned premises.

SECTION 4.08 CONDITION OF PREMISES; AIRLINE REMOVAL OF PERSONAL PROPERTY

- A. Airline covenants and agrees that on expiration of the term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the Premises as heretofore provided, it will vacate the Premises hereunder in good condition, reasonable wear and tear excepted.
- B. Airline shall, on expiration or early termination and no later than thirty (30) calendar days thereafter, at its expense, remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Airline in, on, or about the Airport, subject to any valid lien that City may have thereon for unpaid rents or fees.
- C. Any and all property not removed by Airline within the said thirty (30) day period shall, at the option of City, thereupon become a part of the property on which it is located, and title thereto shall thereupon vest in City. Airline agrees to reimburse City for any costs incurred by City if City elects to remove or dispose of any remaining Airline property after such thirty (30) day period.

SECTION 4.09 ACCESS

- A. Subject to the provisions herein, Title 14, the Rules and Regulations, and such other restrictions as City may impose with respect to Airline's use of Premises, City hereby grants to Airline, its agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of free and unrestricted access, ingress, and egress to Airline's Premises and to public areas and public facilities of the Terminal Building.
- B. The ingress and egress provided for in Section 4.09(A) shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized in advance and in writing by Director.
- C. City shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for Airline's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable notice to Airline and a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. City shall suffer no liability by reason thereof and such action shall in no way alter or affect any of Airline's obligations under this Agreement.
- D. Airline agrees that all of its tenants, subtenants, patrons, invitees, agents, employees, or independent contractors must be authorized by the City to

enter restricted areas as defined in Title 14. Airline agrees that no person authorized to enter a restricted area by virtue of this Agreement shall permit any person who is not otherwise authorized to enter a restricted area unless such unauthorized person is, at all times while in the restricted area, in the company of an authorized person.

- E. Airline understands and agrees that, in the event the Federal Aviation Administration assesses a civil penalty against the City or Department for any violation of 49 CFR Part 1542 or any successor or additional regulation pertaining to security at the Airport, as a result of any act or failure to act on part of Airline, its tenants, subtenants, patrons, agents, servants, employees, invitees, or independent contractors, Airline shall, upon demand of City, immediately reimburse the City in the amount of the civil penalty assessed.
- F. The City may promulgate Rules and Regulations from time to time in order to effectuate the provisions of this Article 4, including without limitation provisions related to gate use and assignment, accommodation, and prioritization of common use facilities.

ARTICLE 5 – [RESERVED]

ARTICLE 6 - REPORTS, RENTALS, CHARGES, AND FEES

SECTION 6.01 GENERAL

- A. Airline shall pay to City rentals, fees, and charges as calculated in accordance with Articles 6 and 7 of the Signatory Airline Use and Lease Agreement. In consideration for use of the Premises and for the various rights, licenses, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, during the Term of this Agreement, without deduction or set-off, rentals, charges, and fees to be calculated as set forth herein. City shall invoice Airline monthly for all such rentals, charges, and fees except landing fees, which shall be payable by Airline without invoice. Payment shall be made by Airline in accordance with Section 6.11 hereof.

SECTION 6.02 MONTHLY ACTIVITY REPORT

- A. Airline shall furnish to Director, on or before the tenth (10th) day of each month, an accurate report of Airline's operations at the Airport during the preceding month, setting forth all data necessary to calculate the rentals, fees, and charges due under this Agreement in the form attached hereto as Exhibit F, or on such standard forms of the City or other forms approved or prescribed by the Director. Said report shall include, but shall not necessarily be limited to: (1) Airline's total number of Aircraft Arrivals for

the month by type of aircraft, the Maximum Gross Landed Weight of each aircraft, and the Total Airline Landed Weight for the month to include any non-scheduled and charter operations; (2) the total number of Enplaned Passengers and Deplaned Passengers to include any non-scheduled and charter operations; (3) the number of Enplaned Passengers who are originating their air journeys at the Airport (rather than transferring from other flights of Airline or other Air Transportation Companies at the Airport); (4) the number of Enplaned Passengers who are non-revenue passengers or frequent flier award coupon passengers as such terms are defined in 14 CFR Part 158, as amended; (5) the total number of Aircraft Arrivals and departures from non-preferentially assigned gates or City-owned loading bridges; (6) the number of arriving international passengers using the International Arrivals Area; (7) the weight of cargo, freight, mail, and express for such month; and (8) any other data needed to establish and assess rates and charges. Airline shall also report the activities set forth herein for any other Air Transportation Company or charter, which is handled by or uses the Premises of Airline.

- B. If Airline fails to furnish Director with the report required by Section 6.02(A), it shall be considered in default under this Agreement and Airline's rentals, fees, and charges, as provided for hereafter, shall be determined by assuming that Airline's Total Airline Landed Weight and Enplaned Passengers for such month was one hundred fifty percent (150%) of its Total Airline Landed Weight and Enplaned Passengers during the most recent month for which such data are available for Airline and by applying the rates specified herein and the applicable City Annual Budget Resolution. Any necessary adjustment in such rentals, fees, and charges shall be calculated after an accurate report is delivered to Director by Airline for the month in question. Resulting surpluses or deficits shall be applied as credits or charges to the appropriate invoices in the succeeding month.

SECTION 6.03 [RESERVED]

SECTION 6.04 ELECTRICITY CHARGES FOR EXTRAORDINARY USAGE

Airline shall pay City charges for the extraordinary usage of electrical power in its Shared Use and Exclusive Use space and preferentially assigned gates based on the cost, without mark-up, to City for such extraordinary usage of electricity by Airline as arrived at through separate metering or computation by City. Airline shall report to Director any plans to decrease or increase its extraordinary usage of electrical equipment or electricity.

SECTION 6.05 LANDING FEES

Airline shall pay to City monthly Landing Fees to be determined by multiplying the number of one thousand (1,000) pound units of Total Airline Landed Weight for Airline during the month by the then-current Landing Fee Rate as calculated in Exhibit C.

SECTION 6.06 EQUIPMENT PARKING RENTALS

Airline shall pay City, for its assigned Equipment Parking Area, an annual rental computed in Exhibit C.

SECTION 6.07 SECURITY SCREENING FEE

Airline shall pay City amounts sufficient to reimburse City for its share of City's actual cost of providing armed law enforcement support for the security screening operation as required by 49 CFR Part 1542. The cost of such support shall be apportioned by City among Air Transportation Companies using the secured passenger boarding areas on the basis of the share of each Air Transportation Companies' Enplaned Passengers relative to the total Enplaned Passengers of all such Air Transportation Companies as calculated in Exhibit C.

SECTION 6.08 AIRLINE EQUIPMENT OR IMPROVEMENT CHARGES

Upon the installation or provision by City of any Airline Equipment or Improvement, Airline shall pay for the use of such equipment or improvement amounts sufficient to amortize the cost paid by City, including applicable maintenance and operating expenses, all as determined by City, as illustrated on Exhibit C attached hereto and made a part hereof.

SECTION 6.09 INTERNATIONAL ARRIVALS AREA CHARGES

Airlines shall pay amounts for the use of the common-use International Arrivals Area as stipulated in Exhibit C.

SECTION 6.10 CITY-OWNED LOADING BRIDGE CHARGE

Airline shall pay City a loading bridge charge on a monthly basis for the use of City-owned loading bridges preferentially assigned to Airline at a rate determined by City for the extraordinary costs of operation and maintenance required to support the operation of such loading bridges and the rate shall be set with the intent to recover such extraordinary costs over the course of a fiscal year or longer if the nature of such extraordinary costs would warrant doing so under standard accounting principles. Director may revise such loading bridge charge rate at the beginning of each Fiscal Year with prior written notice to Airline.

SECTION 6.11 PAYMENT PROVISIONS/INTEREST ON OVERDUE AMOUNTS

- A. All Exclusive Use and Shared Use Rentals, Apron Use Fees, Equipment Parking Rentals, Airline Equipment Charges and any City-owned loading bridge charges on preferentially assigned gates shall be due and payable the first day of each month, in advance, without invoice.

- B. Landing Fees shall be due and payable on or before the twentieth (20th) day of each month, without invoice.
- C. All Joint Use, Security Screening Fees, and other fees and charges shall be due and payable on invoice within thirty (30) days of the date of invoice.
- D. The acceptance by City of any payment made by Airline shall not preclude City from identifying the accuracy of computations in Airline's Monthly Activity Report, submitted to Director as provided in Section 6.02, or from recovering any additional payment actually due from Airline.
- E. If any payment is not received by City by the due date, City may, at its discretion, charge Airline interest at the highest rate permitted by law. All payments due and payable herein shall be paid in lawful money of the United States of America, without set-off, electronically by Automated Clearing House (ACH), or by check made payable to City and delivered or wired, as applicable, to the following address or account, or to such other address or account as City may notify Airline in writing from time to time:

Via Mail
Accounting Division
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79925-1278

SECTION 6.12 TAXES AND OTHER CHARGES

Airline shall pay all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Airline or City, with respect to the Premises, Airline's use and/or occupancy of the Premises, or any improvements thereon, during the term of this Agreement including any extensions or option periods granted thereto.

Airline in good faith may contest any tax or governmental charge; provided that Airline may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the City, such action will not adversely affect any right or interest of the City.

SECTION 6.13 PASSENGER FACILITY CHARGE

- A. City reserves the right to assess and collect PFC's subject to the terms and conditions set forth in 49 U.S.C. § 40117 (the "PFC Act") and the rules and regulations thereunder, 14 C.F.R. Part 158 (the "PFC Regulations"), as may be supplemented or amended from time to time. Airline shall collect and pay all PFC's for which it is responsible under the provisions of 14 CFR Part

158. Failure by Airline to remit PFC's within the time frame required by 14 CFR Part 158 shall be deemed an event of default pursuant to Section 13.01.

- B. If Airline transports passengers from the Airport on Airline's aircraft chartered by a charter Air Transportation Company or tour operator issuing passenger tickets other than Airline's, Airline will provide the City with a schedule detailing the date and time of the flight and the number of Enplaned Passengers. Excepting only passengers on flight chartered by an Air Transportation Company or tour operator not required to collect a PFC under the Airport's applicable record of decision, Airline agrees to pay the required PFC amount due the City in a timely manner and to seek reimbursement from the charter Air Transportation Company or tour operator with no liability to the City.
- C. Airline shall hold the net principal amount of all PFCs that are collected by Airline or its agents on behalf of the City pursuant to the PFC Act and the PFC Regulations in trust for the City. For purposes of this Section, net principal amount shall mean the total principal amount of all PFCs that are collected by Airline or its agents on behalf of the City, reduced by all amounts that Airline is permitted to retain pursuant to § 158.53(a) of the PFC Regulations (such net principal amount known as "PFC Revenue"). Airline acknowledges that all PFC Revenue collected for the City neither belongs to nor is owned by Airline except to the extent set forth in applicable Federal law and, unless the status of PFC Revenue in the possession of Airline is characterized in a separate manner under FAA regulations (in which case such characterization shall prevail), that such PFC Revenue is held in trust by Airline for the exclusive use and benefit of the City. Airline shall not make any claim in any document or proceeding that, for PFC Revenue collected by Airline on behalf of the City, the Airline has any legal or equitable interest in such PFC Revenue, except to the extent Airline is specifically granted such interest by Federal statute or regulation, including the right of reimbursement from such PFC funds for the Airline's costs of collection.
- D. Any late payment of the PFC may be subject to late fees computed at the rate of one and one-half percent (1.5%) per month or, if less, the highest rate permitted by Applicable Law, from the due date until paid, to the extent allowed by Applicable Law.
- E. Airline acknowledges that the City has given to the United States of America, acting by and through the FAA, certain assurances under the PFC Act and the PFC Regulations, including Appendix A thereto (the "PFC Assurances"), and Airline agrees that this Agreement shall be subordinate and subject to all PFC Assurances. In the event the FAA requires any modification of this Agreement as a condition precedent to the City's

collection of PFCs or as a means to effect the City's compliance with the PFC Act, the PFC Regulations, or the PFC Assurances, Airline shall not withhold its consent to any modification of this Agreement as may reasonably be required for the City to collect PFCs or to comply with the PFC Act, PFC Regulations, and/or PFC Assurances.

SECTION 6.14 RECORDS OF AIRLINE

Airline shall keep and maintain a complete and adequate set of records of all landing weights and other information specified in Section 6.02 hereof or otherwise required for the calculation or payment of fees required under this Agreement for the current Fiscal Year and the three (3) immediately preceding Fiscal Years, and shall make such records available for inspection by Director at any and all reasonable hours and times.

SECTION 6.15 OTHER FEES AND CHARGES

City expressly reserves the right to assess and collect (1) reasonable and nondiscriminatory fees for concessions and other services provided by Airline for others if such services provided by Airline would otherwise be available from a concessionaire or licensee of City; (2) reasonable and nondiscriminatory fees and charges for services or facilities not enumerated in this Agreement, but provided by City and accepted by Airline, including, but not limited to, FIS facility fees, special maintenance of airline Premises, equipment vehicle storage, disposal fees, utility fees, remote ramp aircraft parking fees, and gate usage per turn fees; and (3) reasonable and nondiscriminatory fee for any employee parking area(s) provided at the Airport.

Anything in this Agreement to the contrary notwithstanding, this Section 6.15 shall not be interpreted or understood as contracting away the City's governmental authority and shall not be construed to waive any lawfully assessed taxes or any governmental charges.

SECTION 6.16 RIGHT OF SET OFF

City shall have the right to set off any past due amount(s) by applying all or a portion of current payments to such past due amount(s). Past due amounts may include sums due under prior agreements, this Agreement, or for other usage of the Airport as a non-signatory airline. In the event City exercises the right of set off it shall notify Airline. Airline shall be responsible for immediately submitting such a sum as will reflect the total amount needed to satisfy current amounts due.

SECTION 6.17 SECURITY DEPOSIT

Airline agrees to pay a security deposit to City subject to the following conditions:

A. Unless Airline has provided regularly scheduled weekday passenger or

cargo flights to and from the Airport for the eighteen (18) months prior to Airline's execution of this Agreement without committing an act or omission that would have been an Event of Default under Section 13.01 of this Agreement, City shall have the right to require Airline to provide to City Security Deposit in an amount equal to three (3) months estimated fees and charges payable by Airline under Article 6 of this Agreement, to guarantee the faithful performance by Airline of its obligations under this Agreement and the payment of all fees and charges due hereunder. Airline shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months (including any period prior to Airline's execution of this Agreement or prior to the assignment of this Agreement to Airline during which Airline provided regularly scheduled passenger flights to and from the Airport) during which Airline commits no Event of Default under Section 13.01 of this Agreement (and for any such prior period, no act or omission that would have been such an Event of Default hereunder). City shall provide Airline with written notice that Airline must provide the Security Deposit required hereunder and Airline shall provide the Security Deposit within ten (10) days of issuance of the notice. Such Security Deposit shall be in such form and as shall be acceptable to City in its reasonable discretion. In the event that any such Security Deposit shall be for a period of less than the full period required by this Agreement, or if such Security Deposit is canceled, Airline shall provide a renewal or replacement Security Deposit for the period following the expiration or cancellation of such Security Deposit previously provided at least sixty (60) days prior to the date on which such previous Security Deposit expires or at least sixty (60) days prior to the effective date of such cancellation. City's rights under this Section 6.17 shall be in addition to all other rights and remedies provided to City under this Agreement.

- B. IF AIRLINE SHALL COMMIT AN EVENT OF DEFAULT UNDER SECTION 13.01 IN THE PAYMENT OF ANY FEES DUE UNDER THIS AGREEMENT, THE DEPARTMENT SHALL HAVE THE RIGHT, BY WRITTEN NOTICE TO AIRLINE GIVEN AT ANY TIME, TO IMPOSE OR REIMPOSE THE REQUIREMENTS OF SECTION 6.17(A) ON AIRLINE. IN SUCH EVENT, AIRLINE SHALL WITHIN TEN (10) DAYS FROM ITS RECEIPT OF SUCH WRITTEN NOTICE, PROVIDE THE DEPARTMENT WITH THE REQUIRED SECURITY DEPOSIT AND SHALL THEREAFTER MAINTAIN SUCH SECURITY DEPOSIT IN EFFECT UNTIL THE EXPIRATION OF A PERIOD OF EIGHTEEN (18) CONSECUTIVE MONTHS DURING WHICH AIRLINE COMMITS NO EVENT OF DEFAULT UNDER SECTION 13.01 OF THIS AGREEMENT. THE DEPARTMENT SHALL HAVE THE RIGHT TO REIMPOSE THE REQUIREMENTS OF SECTION 6.17(A) ON AIRLINE EACH TIME AIRLINE COMMITS SUCH AN EVENT OF DEFAULT DURING THE TERM OF THIS AGREEMENT. THE DEPARTMENT'S RIGHTS UNDER SECTION 6.17(B) SHALL BE IN ADDITION TO ALL OTHER RIGHTS AND REMEDIES PROVIDED TO

THE DEPARTMENT UNDER THIS AGREEMENT.

City will also have the option to charge non-signatory landing fee rates if Airline does not comply with Section 6.17(A) above when required to do so.

SECTION 6.18 [RESERVED]

ARTICLE 7 - CALCULATION OF RENTALS, CHARGES, AND FEES

Airline shall pay to City rentals, fees, and charges as calculated in accordance with Articles 6 and 7 of the Signatory Airline Use and Lease Agreement.

ARTICLE 8 - BOND ORDINANCE

SECTION 8.01 SUBORDINATION TO BOND ORDINANCE

- A. This Agreement and all rights of Airline hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by City pursuant to the terms, covenants, and conditions of the Bond Ordinance.
- B. In conflicts between this Agreement and the Bond Ordinance, the Bond Ordinance shall govern except that no change in the method of calculation of rentals and fees payable shall govern to the extent that it materially adversely affects the rights of Airline hereunder.
- C. All definitional terms in this Article 8 that are not specifically defined herein are to have the meanings set forth in the Bond Ordinance.

SECTION 8.02 [RESERVED]

SECTION 8.03 [RESERVED]

ARTICLE 9 - MAINTENANCE AND OPERATION OF AIRPORT

SECTION 9.01 DESIGNATION OF OPERATION AND MAINTENANCE RESPONSIBILITIES.

In addition to the obligations of Airline and City set forth in this Article 9, responsibilities for maintenance, cleaning, and operation of the Airport shall be as set forth in Exhibit D, attached hereto and made a part hereof.

SECTION 9.02 CITY'S RESPONSIBILITIES

- A. City shall, with reasonable diligence, prudently develop, improve, and at all times maintain and operate the Airport in a manner consistent with airports

of similar size with qualified personnel and keep the Airport in an orderly, clean, neat and sanitary condition, and good repair, unless such maintenance, operation, or repair shall be Airline's obligation pursuant to Section 9.03 and Exhibit D.

- B. City shall, to the extent it is legally able to do so, use reasonable efforts to keep the Airport and its aerial approaches free from ground obstruction for the safe and proper use thereof by Airline.
- C. City shall not be liable to Airline for temporary failure to furnish all or any of such services to be provided in accordance with this Section 9.02 and Exhibit D when such failure is due to mechanical breakdown or loss of electrical power not caused by City's negligence or any other cause beyond reasonable control of City.
- D. City shall operate the Airport and shall exercise these rights in accordance with applicable laws and regulations.

SECTION 9.03 AIRLINE'S RESPONSIBILITIES

Subject to the provisions of Section 9.05:

- A. Airline shall, at all times, preserve and keep its Premises in an orderly, clean, neat, and sanitary condition, free from trash and debris resulting from Airline's operations, provided, however, this requirement shall not be construed to mean Airline shall have janitorial responsibilities designated to be those of City pursuant to Exhibit D.
- B. Airline shall operate and maintain at its own expense any improvements and/or equipment installed by Airline for the exclusive use of Airline, except for infrastructure improvements and equipment and facilities serving the entire Terminal Building.
- C. Airline shall not erect, maintain, or display on its Premises or anywhere in the Terminal Building in the public view any billboards, banners, advertising, promotional signs, or materials without the prior written approval of Director.

SECTION 9.04 NO DENIAL OF CITY ACCESS TO PREMISES

City, by its Director or other authorized officers, employees, agents, contractors, subcontractors, or other representatives, shall have the right at any time to access any Premises assigned on a nonexclusive basis to Airline, including without limitation for the following purposes:

- A. To inspect such space to determine whether Airline has complied and is in compliance with the terms and conditions of this Agreement.

- B. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary if Airline fails to perform its obligations under this Agreement, and to recover the actual cost of such maintenance, cleaning, or repair from Airline, plus a fifteen-percent (15%) administrative charge from Airline on the next rent due.
- C. Upon reasonable notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary and which is the responsibility of City under this Agreement.
- D. For the purpose of exhibiting same to prospective tenants, purchasers or others.

SECTION 9.05 ALTERATIONS AND IMPROVEMENTS

- A. Airline shall make no repairs, alterations, additions, improvements to, or installations on the Premises without the prior written approval of Director.
- B. Plans and specifications for any such work shall be filed with and subject to the approval of Director and all work shall be done in accordance with local ordinances and State and Federal laws and regulations.
- C. All Airline alterations and improvements other than movable furniture, personal property, equipment, and trade fixtures shall become part of the realty and title shall vest with City upon expiration, or early termination, of this Agreement.

SECTION 9.06 ENVIRONMENTAL REGULATIONS

Airline shall comply with the following environmental regulations:

- A. Airline shall not cause or permit any Hazardous Materials, as defined in Section 1.01 herein, to be stored or used on or about the Airport by Airline, its agents, or employees, except in compliance with Environmental Laws as described below and as permitted by City in accordance with this Agreement.
- B. Airline shall, at all times and in all respects in connection with its use and occupancy of the Airport, comply with all present and hereinafter enacted local, state, and federal laws, ordinances, regulations, orders, and any amendments thereto relating to industrial hygiene, environmental protection, or the use, generation, manufacture, storage, disposal, or transportation of Hazardous Materials on, about, or from the Airport. Without limiting the foregoing, Airline shall comply with Environmental Laws

(as defined in Section 1.01 herein) at all times in connection with its use and occupancy of the Airport. Airline shall also comply with permits held by City as and to the extent Airline's activities may impact City's ability to comply with such permits including, but not limited to, the Airport stormwater permit issued pursuant to the Clean Water Act, the Municipal Separate Storm Water permit issued pursuant to the Clean Water Act or any reissued version of either permit, whether issued by the US EPA or the Texas Commission on Environmental Quality (TCEQ) or any predecessor agencies. This list of permits is provided by way of example only and is not intended to be fully inclusive. During the term of this Agreement, if City becomes aware of other permits, which are impacted by Airline's activities, it will provide Airline with written notice of those permits. When reasonably possible, City may provide Airline with written notice of any new permits or proposed changes to permits prior to issuance that may reasonably be expected to impact Airline's costs or operations in order to provide Airline with a reasonable opportunity to engage in the permitting process.

C. Airline shall, at its sole expense, procure, maintain in effect, and comply with all conditions of any permits, licenses, and other governmental and regulatory approvals required for Airline's use of the Airport, including, without limitation, discharge of materials or wastes into or through any storm or sanitary sewer serving the Airport. Airline shall cause any and all Hazardous Materials removed from the Airport to be removed and transported solely by duly licensed haulers to duly licensed facilities for disposal. Airline shall in all respects handle, treat and manage any and all Hazardous Materials on or about the Airport in conformity with all applicable Environmental Laws or any successor laws thereto and prudent industry practices regarding the management of such Hazardous Materials. Upon the expiration or earlier termination of the term of this Agreement, Airline shall cause all Hazardous Materials that are Airline's responsibility to be removed from the Airport as required by applicable Environmental Laws and to be transported for use, storage, or disposal in accordance and compliance with all applicable Environmental Laws. In addition, to the extent such Hazardous Materials are required by Environmental Laws to be remediated, Airline shall do so in compliance with such Environmental Laws provided, however, that Airline shall not take any remedial action in response to the presence of any Hazardous Materials on or about the Airport, nor enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Airport without first notifying City in writing of Airline's intention to do so (except in cases of emergency where such notice is impracticable in which case Airline shall immediately take steps to remediate and notify the City as soon as practicable) and affording City ample opportunity to appear, intervene, or otherwise appropriately assert and protect City's interest with respect thereto.

- D. If at any time Airline shall become aware, or have reasonable cause to believe, that any Hazardous Material has come to be located on or about the Airport in violation or potential violation of Environmental Laws, Airline shall, immediately upon discovering such presence or suspected presence of the Hazardous Material, provide City with written notice of that condition. In addition, Airline shall immediately notify City in writing of: (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted or threatened against Airline at the Airport pursuant to any Environmental Laws; (2) any claim made or threatened by any person against Airline or City relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials at the Airport. Airline shall make available for review by City any reports made by Airline to any local, state, or federal environmental agency arising out of or in connection with any Hazardous Materials on or removed from the Airport, including any complaints, notices, warnings, or asserted violations in connection therewith.

Airline shall also supply to City as promptly as possible, and in any event within five (5) business days after Airline first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations relating in any way to the Airport or Airline's use thereof. Airline shall promptly deliver to City copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Airport by or on behalf of Airline except for routine disposals such as used oil or absorbent material, which shall be delivered upon request, unless required to be provided by applicable Environmental Law.

ARTICLE 10 - DAMAGE OR DESTRUCTION OF PREMISES

SECTION 10.01 [RESERVED]

SECTION 10.02 DAMAGE CAUSED BY AIRLINE

In the event that due to the negligence or willful act or omission of Airline, its employees, or its agents, the Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of fees and charges under this Agreement during the repair or replacement of said Premises. To the extent that the costs of repair or replacement shall exceed the amount of any insurance proceeds paid to City by reason of such damage or destruction (whether paid by by Airline's insurer (which shall be the primary insurance) or by the City's insurer (which shall be the secondary insurance)), Airline shall pay the amount of such additional costs to City.

ARTICLE 11 - INSURANCE AND INDEMNIFICATION

SECTION 11.01 INSURANCE

- A. Airline shall, without expense to City, and upon commencement of the term hereof, obtain and cause to be kept in force liability insurance coverage, with limits and coverage types as hereinafter stated, insuring against the liabilities set forth in this Section.
- B. Such insurance shall include, by way of example but not by way of limitation, comprehensive general liability coverage and motor vehicle liability insurance coverage and shall not be in amounts less than hereinafter stated. Such insurance coverage shall be provided by policies issued by a company or companies of sound and adequate financial responsibility. Such insurance companies shall be qualified to do business and be in good standing in Texas. The comprehensive general liability policies shall include contractual liability coverage and shall make reference to this Agreement.
- C. Airline shall cause a certificate of insurance to be furnished to City within thirty (30) days from the effective date of this Agreement, evidencing such insurance coverage. A certificate of insurance shall be delivered to City at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Airline shall provide, at City's request, a copy of the endorsement page or declaration page in lieu of the certificate. Each such certificate of insurance shall contain:
 - 1. A statement of the coverage provided by the policy;
 - 2. A statement certifying the City and its officers, directors, agents, and employees are listed as an additional insured in the policy;
 - 3. A statement of the period during which the policy is in effect;
 - 4. An agreement by the insurance company issuing such policy that the policy shall not be cancelled or any of the provisions changed for any reason whatsoever without at least thirty (30) days' prior written notice to City.
- D. If City is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this Agreement, Airline shall, prior to the effective date of such cancellation or change, obtain and provide City with certificates evidencing the reestablishment of the insurance of the insurance coverage required hereby. If Airline does not notify City by the effective date of such cancellation or change, this will constitute a breach by Airline and permit City to terminate this Agreement pursuant to Section 14.03.
- A. Airline, at its own expense, shall procure and maintain for the benefit of City and itself, as their respective interests shall appear, liability insurance with

insurance underwriters, satisfactory to City and with the following minimum limits:

- i. Aircraft liability insurance and aviation general liability insurance, covering bodily injury, personal injury, property damage, products/completed operations liability, premise liability, and contractual liability, with a liability limit of not less than Two Hundred Fifty Million Dollars (\$250,000,000.00) combined single limit per occurrence, on occurrence form policy. Said limit shall be reduced to One Hundred Million Dollars (\$100,000,000.00) where Airline's maximum seating capacity on the largest aircraft operated at the Airport by Airline is sixty (60) or less. With respect to coverage for products/completed operations and personal injury, except with respect to passengers, a sublimit of not less than Twenty-Five Million Dollars (\$25,000,000.00) per occurrence, and in the annual aggregate, shall be permitted with the approval of the Director. Said aircraft liability shall be applicable to owned, non-owned, and hired aircraft.
 - ii. Auto liability policy in a minimum amount of five million dollars (\$5,000,000) for both bodily injury and property damage.
 - iii. Workers' compensation insurance in a minimum amount as required by State law and employer's liability in a minimum amount of one million (\$1,000,000) limit each accident, disease aggregate, and disease each employee.
 - iv. Environmental impairment liability insurance in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence. In lieu of environmental impairment liability insurance, Airline may submit proof of self-insurance by submitting a letter to City attesting to the limit and extent of coverage.
 - v. Liquor liability insurance for Airline serving alcoholic beverages in an amount not less than Ten Million Dollars (\$10,000,000.00) per occurrence.
- B. Insofar as said insurance provides protection against liability for damages to third parties for personal injury, death, and property damage, City shall be included as an additional insured throughout the term of the Agreement; provided such liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by, or resulting from the negligent work, acts, operations, or omissions of Airline, its officers, agents, employees, invitees, and independent contractors on the Airport. Airline may show City as an additional insured with respect to Airline's operation at the Airport, provided, that Airline

shall then also show on the insurance policy that liability insurance coverage also includes contractual liability.

- C. Any and all of the above insurance coverages shall be on an “occurrence” basis, not on a “claims made” basis.
- D. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Airline in its operations at the Airport.
- E. Airline shall require its contractors operating at the Airport to procure and maintain insurance coverage to adequately cover risks associated with such contractor, or sublessee, reasonably appropriate in their limits and other terms and conditions to the nature of the entity’s operations. Such coverage shall insure the interests of the City and the City Indemnified Parties including by naming the City and City Indemnified Parties as additional insureds on such policies (except with respect to workers’ compensation/employer’s liability policies). When requested by the City, Airline shall provide, or cause to be provided, to the City certificates of insurance and copies of additional insured endorsements or such other evidence of insurance, reasonably acceptable in form and content to the City. Failure of any contractor to comply with required coverage and terms and condition outlined herein will not limit Airline’s liability or responsibility hereunder.

SECTION 11.02 INDEMNIFICATION

- A. **INDEMNITY. EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY AS DETERMINED BY COURT OF COMPETENT JURISDICTION, AIRLINE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “INDEMNIFIED PARTIES”), FROM AND AGAINST ALL COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES, EXPENSES, AND COURT COSTS), LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS WHATSOEVER, TO THE EXTENT ARISING OUT OF THIS AGREEMENT OR AIRLINE’S USE OF THE PREMISES OR THE AIRPORT (“CLAIMS”).**

NOTHING HEREIN SHALL SERVE TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW NOR ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THIS PROVISION SHALL NOT CREATE ANY CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR AIRLINE NOR SHALL IT ENLARGE IN ANY WAY THE LIABILITY OF CITY OR AIRLINE, THIS PROVISION BEING INTENDED SOLELY TO PROVIDE FOR INDEMNIFICATION OF

CITY FROM LIABILITY FOR DAMAGE TO THIRD PERSONS OR PROPERTY AS SET FORTH IN THIS PARAGRAPH.

AIRLINE SHALL ASSUME ON BEHALF OF THE INDEMNIFIED PARTIES AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE OF ALL CLAIMS AGAINST ANY OF THE INDEMNIFIED PARTIES. AIRLINE SHALL UTILIZE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY, AND SUCH ACCEPTANCE SHALL NOT BE UNREASONABLY WITHHELD. AIRLINE WILL PROVIDE THE CITY WITH NOTICE OF ALL MEETINGS (INCLUDING THOSE RELATED TO SETTLEMENT) RELATED TO ANY CLAIM AGAINST THE CITY IN ADVANCE OF SUCH MEETING SO THAT THE CITY MAY ARRANGE TO OBSERVE PROVIDED THAT THE CITY SHALL BEAR THE COSTS OF SUCH OBSERVATION. THE CITY SHALL BE ALLOWED TO ATTEND AND PARTICIPATE IN ALL JUDICIAL PROCEEDINGS RELATED TO ANY CLAIM AGAINST THE CITY, PROVIDED THAT THE CITY SHALL BEAR THE COSTS OF SUCH PARTICIPATION. AIRLINE SHALL PROVIDE STATUS REPORTS AND INFORMATION REQUESTED BY THE CITY REGARDING ANY MEETINGS OR JUDICIAL PROCEEDINGS RELATED TO ANY CLAIM AGAINST THE CITY ON A TIMELY BASIS AND SHALL NOT UNREASONABLY WITHHOLD SUCH INFORMATION. MAINTENANCE OF THE INSURANCE REQUIRED UNDER THIS AGREEMENT SHALL NOT AFFECT AIRLINE'S INDEMNITY OBLIGATIONS. AIRLINE MAY CONTEST THE VALIDITY OF ANY CLAIMS, IN THE NAME OF CITY OR AIRLINE, AS AIRLINE MAY IN GOOD FAITH DEEM APPROPRIATE, PROVIDED THAT THE EXPENSES THEREOF SHALL BE PAID BY AIRLINE. IN NO EVENT MAY AIRLINE ADMIT LIABILITY ON THE PART OF CITY WITHOUT THE PRIOR WRITTEN CONSENT OF THE EL PASO CITY ATTORNEY.

- B. WAIVER OF CONSEQUENTIAL DAMAGES. EACH PARTY HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER ANY CONSEQUENTIAL INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES FROM THE OTHER PARTY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR INCOME, CLAIMS OF AIRLINE'S CUSTOMERS, SUBTENANTS, AND CONTRACTORS, AND OTHER SIMILAR CLAIMS OR DAMAGES.**
- C. CLAIMS AGAINST AIRLINE. IF ANY CLAIM, DEMAND, SUIT, OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON OR ENTITY AGAINST THE AIRLINE ARISING OUT OF OR CONCERNING THIS AGREEMENT, THE AIRPORT, OR THE PREMISES, AIRLINE SHALL GIVE WRITTEN NOTICE THEREOF TO CITY WITHIN TEN (10) BUSINESS DAYS AFTER BEING NOTIFIED OF SUCH CLAIM, DEMAND, SUIT, OR ACTION. SUCH NOTICE SHALL ENCLOSE A TRUE COPY OF ALL SUCH CLAIMS, AND IF THE CLAIM IS NOT WRITTEN OR THE INFORMATION IS NOT DISCERNABLE FROM THE WRITTEN CLAIM,**

THE WRITTEN NOTICE SHALL STATE THE DATE OF NOTIFICATION OF ANY SUCH CLAIM, DEMAND, SUIT, OR OTHER ACTION; THE NAMES AND ADDRESSES OF THE PERSON, FIRM, CORPORATION, OR OTHER ENTITY MAKING SUCH CLAIM OR THAT INSTITUTED OR THREATENED TO INSTITUTE ANY TYPE OF ACTION OR PROCEEDING; THE BASIS OF SUCH CLAIM, ACTION, OR PROCEEDING; AND THE NAME OF ANY PERSON AGAINST WHO SUCH CLAIM IS BEING MADE OR THREATENED. SUCH WRITTEN NOTICE SHALL BE DELIVERED EITHER PERSONALLY OR BY MAIL AND SHALL BE DIRECTLY SENT TO THE EL PASO CITY ATTORNEY, P.O. BOX 1890, EL PASO, TEXAS 79950-1890 OR TO SUCH REVISED ADDRESS AS NOTIFIED BY DIRECTOR.

- D. NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT CITY'S ABILITY TO ADJUST RENTAL RATES AND OTHER FEES IN ACCORDANCE WITH THE OTHER TERMS AND CONDITIONS OF THIS AGREEMENT, AND APPLICABLE LAWS AND REGULATIONS. FURTHERMORE, NO PROVISION IN THIS AGREEMENT IS INTENDED TO LIMIT CITY'S ABILITY TO ADJUST LANDING FEES OR IMPOSE OTHER FEES IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS.**
- E. THOSE PROVISIONS OF THIS SECTION THAT APPLY TO THE AIRLINE SHALL ALSO APPLY TO ANY PARTY HOLDING BY, THROUGH, OR UNDER THE AIRLINE.**
- F. CITY ASSUMES NO RESPONSIBILITY FOR ANY PROPERTY PLACED IN OR ON THE PREMISES OR ANY PART THEREOF, AND CITY IS HEREBY EXPRESSLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY FOR ANY LOSS, INJURY OR DAMAGE TO PERSONS OR PROPERTY THAT MAY BE SUSTAINED BY REASON OF THE OCCUPANCY OF THE PREMISES UNDER THIS AGREEMENT, UNLESS SAME IS CAUSED BY THE NEGLIGENCE OR WILLFUL ACT OF CITY, ITS OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES.**

SECTION 11.03 NON-LIABILITY OF CITY

City shall not in any event be liable for any acts or omissions of Airline, its officers, agents, employees, invitees and independent contractors, or for any conditions resulting from the operations or activities of any such lessee, tenant, or concessionaire, Airline officers, agents, employees, invitees, or independent contractors, or for any conditions resulting from the operations or activities of Airline's officers, agents, employees, invitees or independent contractors either to Airline or to any other person.

City shall not be liable for Airline's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof.

SECTION 11.04 RELEASE OF LIABILITY REGARDING CERTAIN DAMAGES

City shall not be liable for, and is hereby released from all liability to Airline, to Airline's insurance carrier, or to anyone claiming under or through Airline for any loss or damage whatsoever to the property or effects of Airline resulting from the accidental discharge or discharge beyond City's control, of water or other substances from pipes, sprinklers, or conduits, containers or appurtenances thereto, or for any damage resulting from the discharge or failure of electrical current regardless of cause or origin. The provisions of this Section 11.04 shall not be construed as a limitation of City's rights pursuant to Section 11.02, but are additional to the rights and exclusions from liability provided in Section 11.02.

ARTICLE 12 - NO ASSIGNMENT OR SUBLEASE

SECTION 12.01 GENERAL

Airline shall not at any time transfer, convey, sublet, mortgage, pledge, or encumber its interest under this Agreement or any part of the Premises. Airline shall not assign its interest under this Agreement or any part of the Premises to any party. Any attempted or actual transfer, conveyance, assignment or other such encumbrance shall be a material breach of this Agreement.

SECTION 12.02 BANKRUPTCY

Section 12.01 shall not apply to any valid assumption or assignment of this Agreement, the Premises, or any part thereof, by a trustee, or by Airline as a debtor in possession under the Bankruptcy Code of 1978, as amended, provided that adequate assurance of future performance as provided by the Bankruptcy Code of 1978, as amended, is to be provided, in writing, as a condition of the assumption or assignment of this Agreement. Such assurance shall include but shall not be limited to:

- A. Adequate assurance of the reliability of the proposed source for the rentals, fees, and charges due under this Agreement upon the assumption or assignment of this Agreement;
- B. Adequate assurance that all other consideration due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement; and
- C. The procurement of a bond from a financially reputable surety provider covering any costs or damages which City reasonably estimates City would incur in the event that City, within three (3) years following the assumption or assignment of this Agreement, becomes entitled to and exercises any right to reassign the Premises covered by this Agreement under Article 4.

SECTION 12.03 [RESERVED]

SECTION 12.04 [RESERVED]

SECTION 12.05 [RESERVED]

ARTICLE 13 - DEFAULTS

SECTION 13.01 DEFAULT

If Airline: (1) fails to pay any payment past due hereunder within ten (10) calendar days after receipt of written notice of a past due account; (2) fails to keep and perform any of its other covenants and agreements within ten (10) calendar days after receipt of written notice of such failure (or, if such failure cannot be cured in ten (10) days, Airline fails to commence within ten (10) days and diligently pursue such cure, subject to the prior written approval of the Director of Airline's plan to cure, which shall not be unreasonably withheld or delayed); or (3) after such agreed upon cure period as specified in (2) Airline still fails to continue to complete, in a timely manner, any of its covenants and agreements after performance is commenced, after receipt of written notice of such failure (and after the expiration of any applicable cure period as specified in such written notice, or, if such failure cannot be cured in such time, if Airline fails to commence within such time and diligently pursue such cure, subject to the prior written approval of the Director, which shall not to be unreasonably withheld or delayed); or (4) after the filing of any petition, proceedings, or action by, for, or against Airline under any insolvency, bankruptcy, or reorganization act of law, then, at the election of City:

- A. Without terminating this Agreement, City may enter the Premises and improve and assign all or any part of it to others at its sole discretion. Any costs of renovation necessitated by the neglect of Airline, its agents, or its employees and an administrative fee to City for all costs incurred, shall be paid by Airline.
- B. At any time, City may terminate Airline's rights under this Agreement as provided in Section 14.03, without any restriction upon recovery by City for past due rentals and other obligations of Airline. City shall have all additional rights and remedies as may be provided to landlords by law.

ARTICLE 14 - TERMINATION

SECTION 14.01 TERMINATION UPON SIXTY DAYS' NOTICE

Either City or Airline may terminate this Agreement for any reason by giving the other party sixty (60) days advance written notice.

SECTION 14.02 CONDITIONS OF PREMISES AT TERMINATION

Upon termination of this Agreement, Airline shall vacate the Premises promptly and in a clean, sanitary condition, and, if necessary, restored to the satisfaction of Director, reasonable wear and tear and casualty not caused by Airline or Airline's responsibility pursuant to the provisions of this Agreement excepted.

SECTION 14.03 EVENTS PERMITTING TERMINATION BY CITY

Subject to the provisions of Section 13, and in addition to the sixty- (60) day cancellation right provided in Section 2, City may terminate this Agreement and all of its obligations hereunder upon thirty (30) calendar days' written notice, with or without process of law, upon or after the occurrence of any one of the following events:

- A. Airline is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Director has notified Airline in writing that payment was not received when due;
- B. Airline files in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Airline's property;
- C. Airline makes any general assignment for the benefit of creditors;
- D. Airline abandons the Premises, which shall be defined as a cessation of Airline's activities at the Premises for more than thirty (30) days;
- E. Airline defaults in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Airline, and such default continues after receipt of written notice from Director to cure such default in accordance with the provisions of Section 13;
- F. Airline is adjudged bankrupt in involuntary bankruptcy procedures;
- G. Airline is made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Airline where such receivership is not vacated within sixty (60) days after the appointment of such receiver;
- H. [RESERVED];
- I. The abolition, limitation, or restriction by any act of the Texas Legislature or Law of Congress of the powers of City under which these premises are being assigned, except with respect to legislation that grants authority to a successor;
- J. Airline fails to remit PFC revenue to City within the time limits established by federal regulation;

- K. Required redevelopment of the Airport caused by circumstances unplanned or uncontrolled by the Airport which necessitates relocation of Airline from the Premises; or
- L. Airline violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement.

In any of the aforesaid events, City may directy Airline to vacate the Premises immediately, including any and all improvements thereon and City may remove Airline's effects, forcibly if necessary.

Failure of City to declare this Agreement canceled upon the default of Airline for any of the reasons set out shall not operate to bar or destroy the right of City to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by City from Airline after the expiration or cancellation of this Agreement, or after the service of any notice, or after the commencement of any suit, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which City's consent is required or operate as a waiver of any right of City under this Agreement.

ARTICLE 15 - GENERAL PROVISIONS

SECTION 15.01 RULES AND REGULATIONS

- A. Airline shall observe and obey all Rules and Regulations established, promulgated, or adopted consistent with this Agreement from time to time during the term hereof, by City governing conduct on and operations at the Airport and use of its facilities. Copies of the Rules and Regulations shall be forwarded to Airline's local manager upon request of Airline.
- B. Airline shall not violate, nor knowingly permit its officers, agents, employees, invitees or independent contractors acting on Airline's behalf to violate any such Rules and Regulations.

SECTION 15.02 COMPLIANCE WITH LAW

- A. Airline shall not use the Premises or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable ordinances and laws of any City, county, or state government or of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make

and enforce rules or regulations with respect to the uses hereunder or the Premises.

- B. At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:
1. Comply with and conform to all present and future statutes and ordinances, rules and regulations promulgated thereunder, of all federal, state, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or Airline's operations and activities under this Agreement.
 2. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its assigned space (subject to prior written approval of City), equipment, and personal property that are required to comply with or conform to any such statutes and ordinances, and regulations which are promulgated or enacted by City.
 3. Be and remain an independent contractor with respect to all installations, construction, and services performed by the Airline or on behalf of Airline hereunder.

SECTION 15.03 NONDISCRIMINATION

Airline acknowledges that the City is required by the FAA under the terms of its Grant Assurances to include in this Agreement certain required contract provisions, included as Exhibit G hereto ("Required Federal Provisions"). Airline agrees to comply with the Required Federal Provisions and, where applicable, include the Required Federal Provisions in each of its subcontracts without limitation or alteration. Airline acknowledges that a failure to comply with the Required Federal Provisions constitutes an event of default under this Agreement. Airline further acknowledges that the FAA may from time to time amend such required contract provisions and agrees that the City may unilaterally modify the Required Federal Provisions to the extent such modification is necessary to comply with its Grant Assurances by providing Airline with notification of such modification and an updated Exhibit G.

SECTION 15.04 AFFIRMATIVE ACTION

Airline assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from City, to insure that no person shall, on the grounds of race, creed, color, sex, age, disability, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Section. Airline assures that it will require that its covered suborganizations (sublessees) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and

that they will require assurance from their suborganizations (sublessees) to the same effect.

SECTION 15.05 NOTICES

- A. Any notice under the terms of this Agreement shall be in writing. If such notice is given by Airline, it shall be submitted to Director of Aviation, El Paso International Airport, 6701 Convair Road, El Paso, Texas 79925-1091, or to such revised address as notified by Director. If given by Director, such notice shall be submitted to the address of Airline at the following address:

Attn: _____
ADDRESS: _____

- B. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.
- C. Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) or more days prior written notice to the other party in the manner set forth in this Section.

SECTION 15.06 SUBORDINATION TO AGREEMENTS WITH U. S. GOVERNMENT

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time ("Grant Assurances"). In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates any such Grant Assurances, the City has the right to amend, alter, or otherwise modify the terms of this Agreement in order to resolve such conflict or violation. Airline further agrees that it shall not knowingly cause the City to violate any Grant Assurances made by the City to the federal government in connection with the granting of such Federal funds.

SECTION 15.07 NONWAIVER OF RIGHTS

The non-enforcement by either party of the breach of any term, covenant or condition herein stipulated shall never be construed to be a waiver of any other or

succeeding breach of any term, covenant or condition herein imposed upon the other party, and the acceptance of payments of any amounts due or to become due hereunder in any other way or manner, or at any other time than herein provided, shall never be construed as a waiver of the right of City of any of the provisions herein imposed upon Airline.

SECTION 15.08 FEDERAL AVIATION ACT, SECTION 308

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, as amended or succeeded, for the conduct of any activity on the Airport.

SECTION 15.09 SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there shall be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

SECTION 15.10 HEADINGS

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

SECTION 15.11 ASSIGNMENT BY CITY OR OTHER SUCCESSOR IN INTEREST

City may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest. City, airport authority, or other successor in interest may assign, pledge, or take other appropriate action with respect to this Agreement and their rights and interests hereunder for any purpose relating to the issuance of Bonds or other revenue generating devices.

SECTION 15.12 REDEVELOPMENT

If this Agreement is terminated as provided by Section 14.03 (K) as a result of physical changes associated with the development of the Airport, Airline waives any and all rights to reimbursements, allowances, loans, or other forms of payment for relocation, rental or any other costs which might apply to tenants in other locations who are required to relocate due to construction of public facilities.

SECTION 15.13 REMOVAL OF DISABLED AIRCRAFT

Airline shall promptly remove any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and aircraft parking positions)

and place any such disabled aircraft in such storage area as may be designated by Director. Airline may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by City. If Airline fails to remove any of its disabled aircraft promptly, City may, but shall not be obligated to, cause the removal of such disabled aircraft; provided, however, the obligation to remove or store such disabled aircraft shall be consistent with federal laws and regulations, including those of the FAA and the National Transportation Safety Board (NTSB). Airline agrees to reimburse City for all costs of such removal; and Airline, furthermore, hereby releases City from any and all claims for damage to the disabled aircraft or otherwise arising from or in any way connected with such removal by City.

SECTION 15.14 [RESERVED]

SECTION 15.15 AGREEMENT SUBJECT TO COVENANTS IN DEED

It is mutually agreed that this Agreement is made subject to the covenants, requirements, and restrictions contained in the Deed by which City obtained title to Airport from the Government of the United States.

SECTION 15.16 FORCE MAJEURE

No party to this Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

SECTION 15.17 ENTIRE AGREEMENT

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

SECTION 15.18 TIME IS OF THE ESSENCE

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

SECTION 15.19 ATTORNEY'S FEES

If either party brings any action or proceedings to enforce, protect, or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

SECTION 15.20 AGREEMENT MADE IN TEXAS

The laws of the State of Texas and any applicable federal law shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts in El Paso County, Texas or in the federal district courts of the Western District of Texas or in the U.S. Department of Transportation, as applicable.

SECTION 15.21 CUMULATIVE RIGHTS AND REMEDIES

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

SECTION 15.22 INTERPRETATION

Words of gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

SECTION 15.23 AGREEMENT MADE IN WRITING

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

SECTION 15.24 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon City and Airline and their successors, assigns, legal representatives, heirs, executors and administrators.

SECTION 15.25 AUTHORIZATION TO ENTER AGREEMENT

If Airline signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Airline warrants to City that Airline is a duly authorized and existing corporation, that Airline is qualified to do business in the State of Texas, that Airline has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Airline is authorized to do so. Upon Director's request, Airline will provide evidence satisfactory to Director confirming these representations.

SECTION 15.26 COMPLIANCE WITH ADA AND OTHER DISABLED ACCESS LAWS

Airline agrees that with respect to the Premises, Airline shall be responsible, at Airline's cost, for compliance with the Americans with Disabilities Act of 1990 ("ADA", 42 U.S.C. §§12101 et seq.) and the regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto. Airline recognizes that City is a public entity

subject to Title II of the ADA. To the extent permitted by law, Airline shall assume and be obligated to comply with any obligations to which City may be subject to under Title II of the ADA with respect to any programs, services, activities, alterations, or construction conducted or undertaken by Airline in the Premises. Airline shall also be responsible, at Airline's cost, for compliance with any other applicable disabled accessibility laws, including, but not limited to, the Air Carriers Access Act ("ACAA", 49 U.S.C. §41705), and regulations implementing the ACAA.

SECTION 15.27 [RESERVED]

SECTION 15.28 AIRLINE DEREGULATION ACT

Nothing contained in this Agreement is intended, nor shall be construed, as a waiver by either party of any right to assert any claim or defense, or raise any issue in any context or forum including, but not limited to, a court or administrative forum, regarding the preemption by federal law, including but not limited to the Airline Deregulation Act (49 U.S.C. § 41713), of any state or local law or ordinance, or the Rules and Regulations.

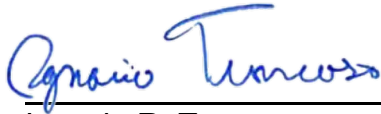
IN WITNESS WHEREOF, these presents have been executed, attested and ensealed by the parties hereto or their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

(Signatures begin on the following pages)

CITY OF EL PASO

Cary Westin
City Manager

APPROVED AS TO FORM:



Ignacio R. Troncoso
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E.
Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 20____, by Cary Westin, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

(Airline Signature Page)

ATTEST:

AIRLINE: _____

Signature
Printed Name: _____
Title: _____
Date: _____

Signature
Printed Name: _____
Title: _____
Date: _____

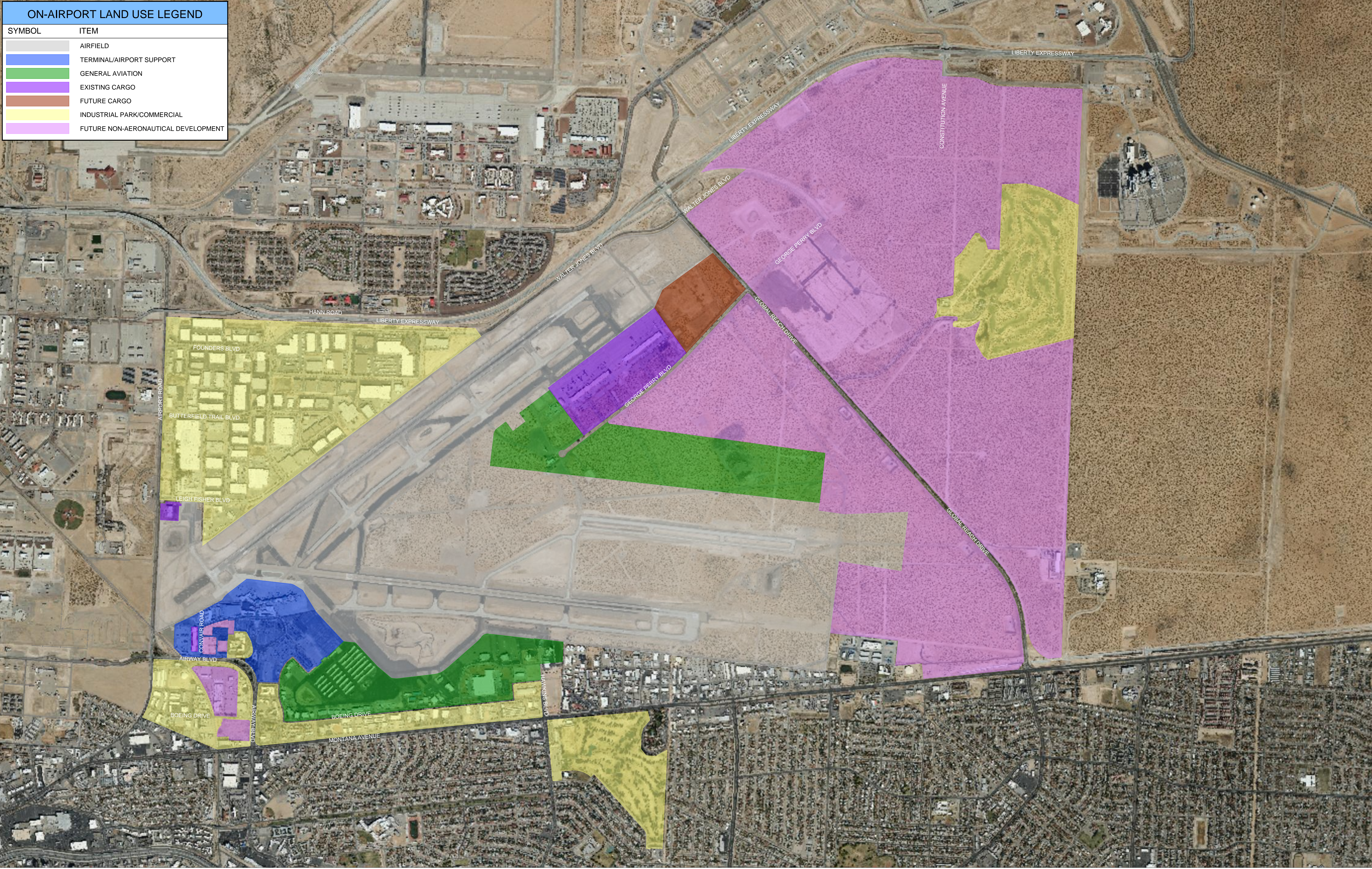
ACKNOWLEDGMENT

THE STATE OF _____)
_____)
COUNTY OF _____)

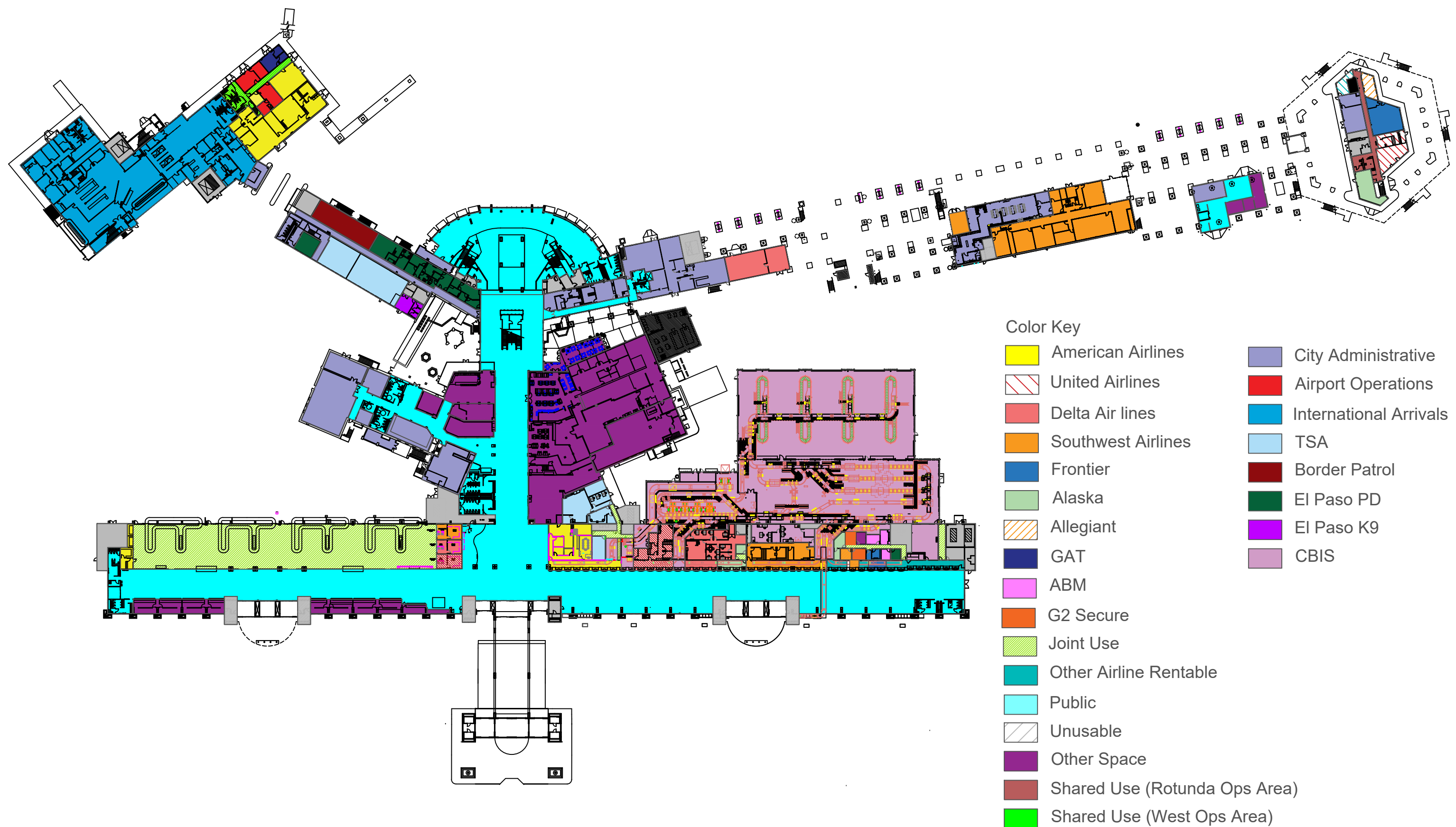
This instrument was acknowledged before me on this _____ day of _____, 20____, by _____, as _____, of _____ (Airline).

My Commission Expires:

Notary Public, State of _____

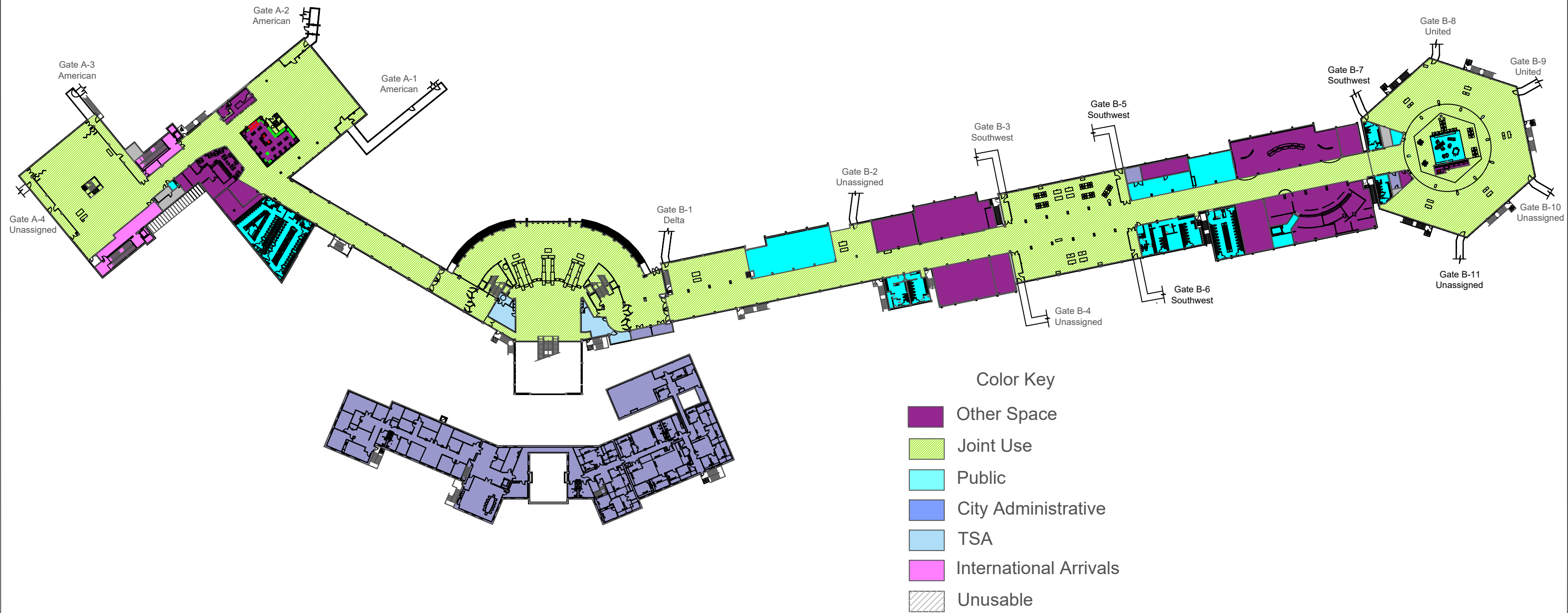


El Paso International Airport - Cost Center Map
Exhibit "A"



El Paso International Airport - Airline Operating Agreement and Terminal Building Lease

Exhibit "B", drawing depicts terminal as of March 25, 2024 - Level 1



El Paso International Airport - Airline Operating Agreement and Terminal Building Lease

Exhibit "B", drawing depicts terminal as of March 25, 2024 - Level 2

EXHIBIT “C”
To
The El Paso International Airport Airline Operating Agreement And Terminal
Building Lease (The Agreement)

RATE AND FEE SCHEDULE

SECTION 1 DEFINITIONS

The following words, terms and phrases used in this Exhibit “C” shall have the meanings set forth in this Section and the meanings shall apply to both the singular and plural forms of such words, terms, and phrases. Additional words, terms and phrases used in this Exhibit “C”, but not defined in this Section, shall have the meanings ascribed to them in the individual sections of this Exhibit “C”, the Agreement or Bond Ordinance. The specific methodologies for calculating the rates, fees and charges defined below can be found in Section 2 of this Exhibit “C”.

“Apron” means the area of the Airport where the aircraft are parked, unloaded or loaded, refueled or boarded.

“Checked Baggage Inspection System (CBIS)” means the automated baggage handling system overseen by the TSA that is responsible for detecting prohibited and dangerous items in passengers’ checked baggage.

“CBIS Fee” means any Air Transportation Company using the CBIS shall pay a CBIS Fee per passenger in accordance with Table C-6 of this Exhibit “C”.

“Federal Inspection Fee (FIS)” means a fee paid by an Air Transportation Company to process deplaned international passengers at the Airport.

“Fuel Flowage Fees” means total fees paid to the City for fuel distributed on the Airport.

“Gate Per Use Fee” means any non-Signatory Air Transportation Company using a gate, as described in Section 4.02 of the Agreement, on a non-preferential basis shall pay a Gate Per Use Fee for each Turn on such gate as presented in Table C-5 of this Exhibit “C”.

“Joint Use Fee” means any Air Transport Company using Joint Use Premises shall pay a Joint Use Fee for each enplanement and Signatory Airlines shall pay a Joint Use Fee for each gate in accordance with Table C-3 of this Exhibit “C”.

“Landing Area” means the area used or intended for use in landing, taking off, or taxiing of aircraft, excluding area and facilities for shelter, servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

“Landing Area Credit” means the sum of Non-Signatory Airline Landing Fees, equipment parking rentals, air cargo apron rentals, RON Fees, Fuel Flowage Fees, and other miscellaneous revenue that is used to offset the Landing Area Costs in the Signatory Airline Landing Fee Requirement.

“Landing Fee Rate” means the fee paid per one thousand (1,000) pound units of landed weight for use of the Landing Area, calculated pursuant to Table C-1 of this Exhibit “C”.

“Maintenance and Operating Reserve Account” means the reserve account for Maintenance and Operating Expenses that is required by the Bond Ordinance and described further in Section 8 of the Agreement.

“Non-Signatory Airline” means any Air Transportation Company that has not entered into an agreement, substantially similar to this Agreement, with the City.

“Non-Signatory Airline Premium” means the premium charged to airlines not signatory to the Agreement. For most fees, this is equal to 125 percent of the fees charged to Signatory Airlines.

“Passenger Security Screening Fees” means the fees charged for the security screening of passengers in the terminal, as calculated in Table C-7 of this Exhibit “C”.

“Remain Overnight (RON) Fees” means the fees charged to aircraft utilizing the Airport’s ramps/apron remaining overnight.

“Signatory Airline Landing Fee Requirement” means the Landing Area Cost credited with all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by the City.

“Terminal Building” means the terminal building and connected concourses which serve Air Transportation Companies and other terminal tenants, as indicated on Exhibit B as such exhibits may be amended from time to time.

“Terminal Building Rental Rate” means the rate charged to the airlines for use of the Terminal Building as calculated in Table C-2 of this Exhibit “C”.

“Ticket Counter Per Use Fee” means any Air Transportation Company using a ticket counter on a non-preferential basis shall pay a Ticket Counter Per Use Fee for each Turn on such ticket counter as calculated in Table C-4 of this Exhibit “C”.

“Turn” means the arrival and subsequent departure of an aircraft at a gate at the Airport for any reason, including any tow to or from a gate.

SECTION 2 RATE CALCULATIONS

This section includes the methodology for calculating the Landing Fee Rate, Terminal Rental Rate, Joint Use Fee, Gate Per Use Fee, Ticket Counter Per Use Fee, Checked Baggage Inspection System Fees, Security Screening Fee for the Term of the Agreement. The rates for Fiscal Year 2024 are presented in this Exhibit and will be recalculated annually, prior to the start of the Fiscal Year.

1. Explanation of Landing Fee Rate Calculation Line Items. The following line items listed in Table C-1 are included in the calculation of the Landing Fee Rate for each rate setting period. Each line item in Table C-1 is identified by the corresponding letter set forth below.

Line Item A. Total Landing Area Costs. This line item includes the total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the Landing Area, Equipment and Capital Outlays allocable to the Landing Area, Annual Amortization Recovery allocable to the Landing Area, the pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Landing Area, the estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Landing Area, the pro rata portion allocable to the Landing Area of deposits to the Maintenance and Operating Reserve Account required in the Bond Ordinance, the pro rata portion allocable to the Landing Area of any other deposits to reserve accounts as set forth in Article 8 of the Agreement and established pursuant to the Bond Ordinance, and the estimated amount of any assessment, judgment, settlement, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Landing Area.

Line Item B. Total Landing Area Credits. This line item includes all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by the City.

Line Item C. Signatory Airline Landing Fee Requirement. This line item includes Total Landing Area Costs less Total Landing Area Credits.

Line Item D. Signatory Airline Landed Weight (1,000 lb units) - Passenger. This line item shall be equal to the estimated Signatory Airline Landed Weight of passenger airlines for the upcoming Fiscal Year.

Line Item E. Signatory Airline Landed Weight (1,000 lb units) - Cargo. This line item shall be equal to the estimated Signatory Airline Landed Weight of cargo airlines for the upcoming Fiscal Year.

Line Item F. Signatory Airline Landing Fee Rate (1,000 lb units). This line item shall be equal to Signatory Airline Landing Fee Requirement divided by the sum of Signatory Airline Landed Weight - Passenger and Signatory Airline Landed Weight - Cargo.

Line Item G. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item H. Non-Signatory Airline Landing Fee Rate (1,000lb units). This line item shall be equal to the product of Signatory Airline Landing Fee Rate and Non-Signatory Airline Premium.

Table C-1. Landing Fees		
Description	Line Item	FY 2024
Total Landing Area Costs	A	\$5,492,117
Total Landing Area Credits	B	\$1,705,302
Signatory Airline Landing Fee Requirement	$C = A - B$	\$3,786,815
Signatory Airline Landed Weight (1,000 lb units)-Passenger	D	2,189,675
Signatory Airline Landed Weight (1,000 lb units)-Cargo	E	591,175
Signatory Airline Landing Fee Rate (1,000 lb units)	$F = C / (D + E)$	\$1.36
Non-Signatory Airline Premium	G	125%
Non-Signatory Airline Landing Fee Rate (1,000 lb units)	$H = F * G$	\$1.70

2. Explanation of Terminal Building Rental Rate Calculation Line Items. The following line items listed in Table C-2 are included in the calculation of Terminal Building Rental Rate for each rate setting period. Each line item in Table C-2 is identified by the corresponding letter set forth below.

Line Item A. Terminal Building Cost. This line item includes the total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the Terminal Building, Equipment and Capital Outlays allocable to the Terminal Building, Annual Amortization Recovery allocable to the Terminal Building, the pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Terminal Building, the estimated amount of any deficiency in the Renewal and Replacement Account as of the last day of the current Fiscal Year resulting from an expenditure allocable to the Terminal Building, the pro rata portion allocable to the Terminal Building of deposits to the

Maintenance and Operating Reserve Account required in the Bond Ordinance, the pro rata portion allocable to the Terminal Building of any other deposits to reserve accounts as set forth in Article 8 of the Agreement and established pursuant to the Bond Ordinance, and the estimated amount of any assessment, judgment, settlement, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Terminal Building.

Line Item B. Terminal Building Credits. This line item shall be equal to the sum of direct electricity charges and Security Screening Fees.

Line Item C. Net Terminal Building Requirement. This line item shall be equal to the Signatory Terminal Building Cost less Terminal Building Credits.

Line Item D. Usable Space (square feet). This line includes the gross space in the Terminal Building at the Airport less mechanical and related storage space and service areas as identified on Exhibit B.

Line Item E. Signatory Airline Terminal Building Rental Rate. This line shall be equal to the estimated Net Terminal Building Requirement for the Fiscal Year divided by the total amount of Usable Space in the Terminal Building.

Line Item F. Non-Signatory Airline Premium. This line shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item G. Non-Signatory Airline Terminal Building Rental Rate. This line shall be equal to the product of the Signatory Airline Rental Rate and the Non-Signatory Airline premium.

Table C-2. Terminal Building Rental Rate		
Description	Line Item	FY 2024
Terminal Building Costs	A	\$16,918,847
Terminal Building Credits	B	\$668,076
Net Terminal Building Requirement	C = A - B	\$16,250,772
Usable Space (square feet)	D	334,811
Signatory Airline Terminal Building Rental Rate	E = C / D	\$48.54
Non-Signatory Airline Premium	F	125%

Non-Signatory Airline Terminal Building Rental Rate	$G = E * F$	\$60.67
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3. Explanation of Joint Use Fee Calculation Line Items. The following line items listed in Table C-3 are included in the calculation of Joint Use Fee for each rate setting period. Each line item in Table C-3 is identified by the corresponding letter set forth below.

Line Item A. Total Joint Use Space. This line item shall be equal to Total Joint Use Space in the Terminal Building.

Line Item B. Terminal Building Rental Rate. This line item shall be equal to the Signatory Terminal Building Rental Rate calculated in Table C-2.

Line Item C. Total Joint Use Premises Requirement. This line item shall be equal to the Total Joint Use Space multiplied by the Signatory Terminal Building Rental Rate.

Line Item D. Gate Per Use Fee Revenue. This line item shall be equal to the Gate Per Use Fee (\$125.00, as described in Table C-5) multiplied by the total number of Turns for all airlines in the upcoming Fiscal Year.

Line Item E. Net Joint Use Space Requirement. This line item shall be equal to Total Joint Use Premises Space multiplied by Signatory Terminal Building Rental Rate minus Gate Per Use Fee Revenue.

Line Item F. Total Enplaned Passengers. This line item is the sum of the estimated Signatory Airlines Enplaned Passengers and Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item G. Average Joint Use Fee Per Enplaned Passenger. This line item is the Net Joint Use Space Requirement divided by Total Enplaned Passengers.

Line Item H. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item I. Non-Signatory Joint Use Fee Per Enplaned Passenger. This line item is the Average Joint Use Fee Per Enplaned Passenger multiplied by the Non-Signatory Airline Premium.

Line Item J. Non-Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

- Line Item K.** Non-Signatory Joint Use Space Requirement. This line item shall be equal to the Non-Signatory Joint Use Fee Per Enplaned Passenger multiplied by Non-Signatory Airlines Enplaned Passengers.
- Line Item L.** Signatory Joint Use Space Requirement. This line item shall be equal to the Joint Use Space Requirement less the Non-Signatory Requirement.
- Line Item M.** Enplaned Passenger Share. This line item should be equal to Eighty percent (80%).
- Line Item N.** Gate Share. This line item should be equal to Twenty percent (20%).
- Line Item O.** Enplaned Passenger Joint Use Space Requirement. This line item shall be equal to the Signatory Joint Use Space Requirement multiplied by Enplaned Passenger Share.
- Line Item P.** Gate Joint Use Space Requirement. This line item shall be equal to the Signatory Joint Use Space Requirement multiplied by Gate Share.
- Line Item Q.** Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.
- Line Item R.** Signatory Joint Use Fee Per Enplaned Passenger. This line item shall be equal to the Signatory Joint Use Space Requirement divided by Signatory Airlines Enplaned Passengers.
- Line Item S.** Number of Preferentially Assigned Gates. This line item shall be equal to the number of preferentially assigned Gates in the upcoming Fiscal Year.
- Line Item T.** Signatory Joint Use Fee Per Gate. This line item shall be equal to the Gate Joint Use Space Requirement divided by the Number of Preferential Assigned Gates.

Table C-3. Joint Use Fee		
Description	Line Item	FY 2024
Total Joint Use Space (square feet)	A	103,004
Signatory Terminal Building Rental Rate	B	\$48.54
Total Joint Use Premises Requirement	$C = A * B$	\$4,999,521
Gate Per Use Revenues	D	\$272,500
Net Joint Use Space Requirement	$E = C - D$	\$4,727,021
Total Enplaned Passengers	F	2,071,635
Average Joint Use Fee Per Enplaned Passenger	$G = E / F$	\$2.28
Non-Signatory Airline Premium	H	125%
Non-Signatory Joint Use Fee Per Enplaned Passenger	$I = G * H$	\$2.85
Non-Signatory Airlines Enplaned Passengers	J	133,077
Non-Signatory Joint Use Space Requirement	$K = I * J$	\$379,566
Signatory Joint Use Space Requirement	$L = E - K$	\$4,347,454
Enplaned Passenger Share	M	80%
Gate Share	N	20%
Enplaned Passenger Joint Use Space Requirement	$O = L * M$	\$3,477,964
Gate Joint Use Space Requirement	$P = L * N$	\$869,491
Signatory Airlines Enplaned Passengers	Q	1,938,558
Signatory Joint Use Fee Per Enplaned Passenger	$R = O / Q$	\$1.79
Number of Preferentially Assigned Gates	S	10
Signatory Joint Use Fee Per Gate	$T = P / S$	\$86,949

4. Explanation of Ticket Counter Per Use Fee Calculation Line Items. The following line items listed in Table C-4 are included in the calculation of Ticket Counter Per Use Fee for each rate setting period. Each line item in Table C-4 is identified by the corresponding letter set forth below.

Line Item A. Average Ticket Counter Square Feet. This line item shall be equal to the average square footage for one ticket counter.

Line Item B. Signatory Airline Terminal Building Rental Rate. This line item includes the estimated Terminal Building Requirement for the Fiscal

Year divided by the total amount of Usable Space in the Terminal Building to determine the Signatory Airline Terminal Building Rental Rate per square foot, as shown in Exhibit C-2.

Line Item C. Annual Ticket Counter Cost. This line item shall be equal to the product of Average Ticket Counter Square Feet and the Signatory Airline Terminal Building Rental Rate.

Line Item D. Days Ticket Counter in Use. This line item shall be equal to Three Hundred and Sixty-Five (365).

Line Item E. Turns Per Day. This line item shall be equal to the estimated turns occurring per Gate per day.

Line Item F. Ticket Counter Per Use Fee. This Line item shall be equal to the Annual Ticket Counter Cost divided by Days Ticket Counter in Use divided by Turns Per Day.

Line Item G. Non-Signatory Airline Premium. This line shall be equal to One Hundred and Twenty-Five percent (125%).

Line Item H. Non-Signatory Airline Ticket Counter Per Use Fee. This line item shall be equal to the product of the Signatory Airline Ticket Counter Per Use Fee and the Non-Signatory Airline Premium.

Table C-4. Ticket Counter Per Use Fee		
Description	Line Item	FY 2024
Average Ticket Counter Square Feet	A	253
Signatory Airline Terminal Building Rental Rate	B	\$48.54
Annual Ticket Counter Cost	$C = A * B$	\$12,280
Days Ticket Counter in Use	D	365
Turns Per Day	E	3
Ticket Counter Per Use Fee	$F = C / D / E$	\$11.21
Non-Signatory Airline Premium	G	125%
Non-Signatory Airline Ticket Counter Per Use Fee	$H = F * G$	\$14.02

5. Explanation of Gate Per Use Fee Calculation Line Items. The line item listed in Table C-5 is the Gate Per Use Fee for each rate setting period. The line item in Table C-5 is identified by the corresponding letter set forth below.

Line Item A. Gate Per Use Fee. This line item shall be equal to One Hundred and Twenty-Five (125) dollars.

Table C-5. Gate Per Use Fee		
Gate Per Use Fee (per turn)	A	\$125.00

6. Explanation of Checked Baggage Inspection System (CBIS) Fee Calculation Line Items. The following line items listed in Table C-6 are included in the calculation of CBIS Fee for each rate setting period. Each line item in Table C-6 is identified by the corresponding letter set forth below.

Line Item A. Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item B. Non-Signatory Airlines Enplaned Passengers. This line item shall be equal to the estimated Non-Signatory Airlines Enplaned Passengers for the upcoming Fiscal Year.

Line Item C. Total Enplaned Passengers. This line item is the sum of the Signatory Airlines Enplaned Passengers and Non-Signatory Airlines Enplaned Passengers line items.

Line Item D. Total CBIS Costs. This line item shall be equal to the sum of M&O Expenses, back up parts, electricity, water, natural gas, and administration costs associated with the CBIS.

Line Item E. Non-Signatory Airline Revenue Credit. This line item shall be equal to the product of Non-Signatory CBIS Fee Per Enplaned Passenger and Non-Signatory Airlines Enplaned Passengers.

Line Item F. Signatory Airline CBIS Requirement. This line item shall be equal to the Total CBIS Costs less Non-Signatory Airline Revenue Credit.

Line Item G. Signatory Airline CBIS Fee Per Enplaned Passenger. This line item shall be equal to Signatory Airline CBIS Requirement divided by Signatory Airlines Enplaned Passengers.

Line Item H. Non-Signatory Airline Premium. This line item shall be equal to One Hundred and Twenty-Five Percent (125%).

Line Item I. Non-Signatory Airline CBIS Fee Per Enplaned Passenger. This line item shall be the product of Signatory Airline CBIS Fee Per Enplaned Passenger and the Non-Signatory Airline Premium.

Table C-6. CBIS Fee		
Description	Line Item	FY 2024
Signatory Airlines Enplaned Passengers	A	1,938,558
Non-Signatory Airlines Enplaned Passengers	B	135,052
Total Enplaned Passengers	$C = A + B$	2,073,609
Total CBIS Costs	D	\$1,278,300
Non-Signatory Airline CBIS Revenue Credit	$E = H * B$	\$102,400
Signatory Airline CBIS Requirement	$F = D - E$	\$1,175,900
Signatory Airline CBIS Fee Per Enplaned Passenger	$G = F / A$	\$0.61
Non-Signatory Airline Premium	H	125%
Non-Signatory Airline CBIS Fee Per Enplaned Passenger	$I = G * H$	\$0.76

7. Explanation of Security Screening Fee Calculation Line Items. The following line items listed in Table C-7 are included in the calculation of Security Screening Fee for each rate setting period. Each line item in Table C-7 is identified by the corresponding letter set forth below.

Line Item A. Law Enforcement Officer Operating Expenses. This amount shall be the City's actual cost of providing armed law enforcement support for the security screening operation in the Terminal Building as required by 49 CFR Part 1542.

Line Item B. Total Enplaned Passengers. This line item shall be equal to the estimated Total Enplaned Passengers for the upcoming Fiscal Year.

Line Item C. Security Screening Fee. This line shall be equal to the Law Enforcement Officer Operating Expenses divided by Total Enplaned Passengers.

Table C-7. Security Screening Fee		
Description	Line Item	FY 2024
Law Enforcement Officer Operating Expenses	A	\$322,355
Total Enplaned Passengers	B	2,073,609
Security Screening Fee	$C = A / B$	\$0.16

**ATTACHMENT “C-1”
TO EXHIBIT “C”**

**STATEMENT OF RATES
FISCAL YEAR 2024**

(September 1, 2023, through August 31, 2024)

Section 1 – FY 2024 SUMMARY OF RATES

1. Landing Fee Rate. Signatory Airline: \$1.36 per 1,000 pounds of Maximum Gross Landed Weight. Non-Signatory Airline: \$1.70 per 1,000 pounds of Maximum Gross Landed Weight.
2. Terminal Building Rental Rate. Signatory Airline: \$48.54 per square foot. Non-Signatory Airline: \$60.67 per square foot.
3. Joint Use Fee. Signatory Airline: \$1.79 per Enplaned Passenger, \$86,949 per Preferentially Assigned Gate. Non-Signatory Airline: \$2.85 per Enplaned Passenger.
4. Ticket Counter Per Use Fee. Signatory Airline: \$11.21 per Turn. Non-Signatory Airline: \$14.01 per Turn.
5. Gate Per Use Fee. Signatory Airline: \$125.00 per Turn. Non-Signatory Airline: \$125.00 per Turn.
6. Checked Baggage Inspection System Fee. Signatory Airline: \$0.61 per Enplaned Passenger. Non-Signatory Airline: \$0.76 per Enplaned Passenger.
7. Security Screening Fee. Signatory Airline: \$0.16 per Enplaned Passenger. Non-Signatory Airline: \$0.16 per Enplaned Passenger.
8. RON Fee. \$20.00 per Night.
9. Airline Direct Electricity Charges. \$3.24 per square foot of rented airline Exclusive Use Premises.
10. Equipment Parking Rentals. \$2.96 per square foot.
11. FIS Fee. \$7.00 per Deplaned Passenger utilizing FIS facilities in the International Arrivals Area.

OPERATIONS, MAINTENANCE AND SERVICE RESPONSIBILITIES AIRLINES AND CITY

The following matrix identifies the responsible party (either the City or Airline) who shall, at its sole cost, be responsible for the maintenance, repair, service, and/or provision of the specifically identified Premises, appurtenances, or services in connection with the operation or maintenance. The City shall not be responsible for any prior or subsequent installation, appurtenance or system by Airline. The City shall not be responsible for any prior or subsequent Airline modification of City-provided Airline Premises, appurtenance, system or service. Airline shall have the duty to restore the Premises, at its sole cost, into the original condition prior to vacating Airline's Premises, including the de-installation of any Airline modification and Airline appurtenance, system or service, at the sole discretion of the City. If Airline is positively determined to have damaged Premises or misused an City-provided appurtenance or system, said Airline may be charged for maintenance and repairs.

NOTE 1: All installations, repairs, replacements, alterations, or improvements undertaken by Airline must first be submitted for approval by the City.

NOTE 2: The responsibilities of the City listed below apply to normal wear and tear only. Any damage caused by Airline's negligence will be the responsibility of the Airline.

NOTE 3: All operations, maintenance and service responsibilities in Public Use Space is the responsibility of the City, except when damage is caused by Airline's negligence.

NOTE 4: Airline shall notify City, in writing, of any maintenance or repairs needed which are the responsibility of the City.

LEGEND	
ELP = City	N/A = Not Applicable
A = Airline	

A. OPS, MAINTENANCE AND SERVICE AREAS	SPACE						
	EXCLUSIVE				SHARED	JOINT	
	PREFERENTIAL SPACE (Ticket Counter)	ATO SPACE	BAGGAGE SERVICE OFFICE	OPS & MAINTENANCE SPACE	SHARED SPACE	HOLD ROOMS	BAG CLAIM
BUILDING - EXTERIOR							
Doors	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Insulation and Weather-stripping	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Lighting Mounted on Outside of Building	N/A	ELP	N/A	ELP	ELP	ELP	ELP
Roof	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Walls and Load-Bearing Structures	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Windows	N/A	N/A	N/A	ELP	ELP	ELP	ELP
BUILDING INTERIOR							
Backwall Finish and Signage	A	N/A	A	N/A	N/A	A	N/A
Counter Shell/Exterior Casement, Countertops	ELP	N/A	N/A	N/A	N/A	ELP	N/A
Counter Insert Cabinetry, Kiosks	A	N/A	N/A	N/A	N/A	A	N/A
Ceiling Tiles	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Doors	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Flooring: Carpet & Tile	A	A	A	A	A	ELP	ELP
Furnishings and Fixtures	A	A	A	A	A	ELP	ELP
HVAC: Building System Maintenance & Air Distribution	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Insulation/Weather-stripping	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Interior Wall Windows	A	A	A	A	A	ELP	ELP
Paint and Wall Finishes ¹	A	A	A	A	A	ELP	ELP
Passenger Seating - Installation and Maintenance	N/A	N/A	N/A	N/A	N/A	ELP	ELP
Stanchions	A	N/A	A	N/A	N/A	A	N/A
COMMUNICATIONS							
Public Address System	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Communication Lines/Conduit: To D-Mark ²	A	A	A	A	A	A	A
Communication Lines/Conduit: From D-Mark ²	ELP	ELP	ELP	ELP	ELP	ELP	ELP
FIDS (City owned)	N/A	N/A	N/A	N/A	N/A	ELP	ELP
DOOR LOCKS, LOCKSETS AND KEYS							
ELP-Required locks, locksets and keys ³	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Non-ELP required	A	A	A	A	A	ELP	ELP
EQUIPMENT AND COMPUTER SYSTEMS							
Airline Proprietary Computer System	A	A	A	A	N/A	A	N/A
Airline Ticketing and Gate Equipment	A	A	A	A	N/A	A	N/A
Broadband Access	A	A	A	A	N/A	A	N/A
Radio, Meteorological and Aerial Navigation Equipment	A	A	A	A	N/A	A	N/A
Ticket Counter Scales	A	N/A	N/A	N/A	N/A	N/A	N/A
FIRE ALARM SYSTEM & OTHER EQUIPMENT							
Fire Alarm System	ELP	ELP	ELP	ELP	ELP	ELP	ELP
Fire Extinguishers ⁴	A	A	A	A	A	ELP	ELP

OPERATIONS, MAINTENANCE AND SERVICE RESPONSIBILITIES AIRLINES AND CITY

		SPACE						
		EXCLUSIVE				JOINT		
A. OPS, MAINTENANCE AND SERVICE AREAS		PREFERENTIAL SPACE (Ticket Counter)	ATO SPACE	BAGGAGE SERVICE OFFICE	OPS & MAINTENANCE SPACE	SHARED	HOLD ROOMS	BAG CLAIM
FIXTURES, ELECTRICAL/ENERGY								
(CONT.)								
Bulb & Tube Replacement (real property installed)		ELP	ELP	ELP	ELP	ELP	ELP	ELP
Maintenance		ELP	ELP	ELP	ELP	ELP	ELP	ELP
Power supply protection ⁵		A	A	A	A	A	A	ELP
JANITORIAL AND RECYCLING SERVICES								
Recycling of Paper, Plastic and Cardboard ⁶		A	A	A	A	N/A	ELP	ELP
Tenant Space (including Floors and Tenant Restroom Areas)		A	A	A	A	ELP	ELP	ELP
Window Cleaning - Appurtenant to Tenant Space (Int. & Ext.)		A	A	A	A	ELP	ELP	ELP
Window Cleaning - All Others (Interior & Exterior)						ELP	ELP	ELP
Shampoo Carpets/Wax Floors		ELP	A	A	A	ELP	ELP	ELP
PEST CONTROL								
Rodents and Insects ⁷		ELP	ELP	ELP	ELP	ELP	ELP	ELP
PLUMBING AND SEWER								
Incoming Water Line from Common Use Water Line to Fixture		N/A	ELP	N/A	ELP	ELP	N/A	N/A
Sanitary Sewer Line		N/A	ELP	N/A	ELP	ELP	N/A	N/A
Restrooms/Breakrooms (Fixture Repair & Replacement)		N/A	A	N/A	A	ELP	N/A	N/A
SIGNS								
Ticket Counter Backwall/Above Ticket Counter		A	N/A	A	N/A	N/A	N/A	N/A
Concourses: Podium Backwall/Holdroom walls		N/A	N/A	N/A	N/A	N/A	A	N/A
Directional/Informational Signage		ELP	N/A	N/A	N/A	N/A	ELP	ELP
TRASH REMOVAL								
Trash Removal (City will provide dumpster/compactor)		A ⁸	A	A	A	A	ELP ⁹	ELP

		SPACE		
		PREFERENTIAL SPACE (Ticket Counter)	BAG MAKEUP	BAG CLAIM
B. BAGGAGE CONVEYANCE SYSTEM				
BAGGAGE CONVEYANCE SYSTEM AND CAROUSELS				
Repair and Maintenance		A	A	ELP

		SERVICES					
		SNOW REMOVAL	RAMP SCRUBBING	PAVEMENT PAINTING	SPILLS	MAINTENANCE	JANITORIAL AND TRASH REMOVAL
C. RAMP AREAS							
JET BRIDGES (City Owned)						ELP	A ¹⁰
LIFTING DEVICE (City Owned)						ELP	
RAMP MAINTENANCE (Including Jet Bridge Ramp Areas)		ELP	ELP	ELP	A ¹¹		ELP

FOOTNOTES:

¹City will paint walls one time during the five year term of the agreement. Airline will be charged back for any additional paint requests.

²D-Mark is defined as the point in the terminal building where telecommunication's lines ends and the City's begins.

³Replacement of keys will be charged back to Airline

⁴Airlines are responsible for their own ramp gate fire extinguishers.

⁵Airline is responsible for providing adequate power supply protection for all vital services and important equipment sensitive to voltage drops, voltage spikes, or temporary power outages as may occur from time to time.

⁶City will provide dumpsters for recyclables.

⁷ Regularly scheduled service only.


⁸Airline will remove trash from curbside check-in counter.

⁹City will remove trash from containers for public use. Airline will remove trash from their operations.

¹⁰Airline shall safely and properly collect and dispose of bio-hazards and other hazmat from their aircraft and provide trash removal from their jet bridges.

¹¹City will mitigate any ineffective response and charge Airline for the clean-up.



100' 50' 0'

 SCALE: 1" = 100'

El Paso International Airport - Airline Operating Agreement

Exhibit "E"



Monthly Activity Report - CHARTERS

Due on or before the 10th day of each month

Activity Report for the Month of:

Airport: ELP

Airline Name:

E-mail report to: ELPreports@elpasotexas.gov

For more info call: (915) 212-7303

Date:

Brenda Garcia-Olivas, Airport Terminal Services Manager

Passangers	Enplaned	Deplaned	Totals
Revenue	<input type="text"/>	<input type="text"/>	-
Non-Revenue	<input type="text"/>	<input type="text"/>	-
Total Passengers	-	-	

Aircraft Type	# of Landings	Aircraft Max Landing Weight (in lbs)	Total Weight
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
<input type="text"/>	<input type="text"/>	<input type="text"/>	-
TOTALS	-		-

	Enplaned	Deplaned	Totals
Ticket counter	<input type="text"/>	<input type="text"/>	0
AIR Freight (lbs)	<input type="text"/>	<input type="text"/>	
International Freight (lbs)	<input type="text"/>	<input type="text"/>	0

Contact information for individual submitting reports:

Carrier Rep:
 Title:
 Telephone:
 Email:

EXHIBIT “G”

Federal Aviation Administration Required Provisions

A. General Civil Rights Clause.

1. In all its activities within the scope of its airport program, Lessee agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Lessee transfers its obligation to another, the transferee is obligated in the same manner as Lessee.
2. The above provision obligates Lessee for the period during which the property is owned, used or possessed by Lessee and the Airport remains obligated to the Federal Aviation Administration.

B. Compliance with Nondiscrimination Provisions. During the performance of this Lease, Lessee, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Agreements, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Lessor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the

information, the Contractor will so certify to Lessor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, Lessor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as Lessor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request Lessor to enter into any litigation to protect the interests of Lessor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975

and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

D. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.

1. Lessee for itself, its, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: In the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above Nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

E. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. Lessee, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin,

will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

2. With respect to the Lease, in the event of breach of any of the above Non-discrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

Subcontracts. Lessee agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (E) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Lessee shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (E).



Legislation Text

File #: 24-531, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement, granting an easement to the El Paso Electric Company to provide electrical power to property located in the vicinity of El Paso International Airport, said easement more particularly described as:

A portion of Tracts 1C and 1C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys, El Paso County, Texas, as further described in the real property records of Clerk of El Paso County in the State of Texas in Book 123, Page 398 and Document No. 20220086561 and more particularly described on Exhibit "A" of the agreement, more commonly referred to as 8915 Montana Avenue, El Paso Texas.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: 4/23/2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, P.E. CM, Aviation Director
(915) 212-7301

DISTRICT(S) AFFECTED: ALL

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT: Disclosure of Campaign Contributions and Donations Form has been requested from applicant

A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement, granting an easement to the El Paso Electric Company to provide electrical power to property located in the vicinity of El Paso International Airport, said easement more particularly described as:

A portion of Tracts 1C and 1C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys, El Paso County, Texas, as further described in the real property records of Clerk of El Paso County in the State of Texas in Book 123, Page 398 and Document No. 20220086561 and more particularly described on Exhibit "A", more commonly referred to as 8915 Montana Avenue, El Paso Texas

BACKGROUND / DISCUSSION:

The easement is needed to provide electric service to the facility.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement to accommodate an electrical transmission line to provide electrical power to property in the vicinity of the El Paso International Airport, said easement more particularly described as:

A portion of Tracts 1C and 1 C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys, El Paso County, Texas, as further described in the real property records of the Clerk of El Paso County in the State of Texas in Book 123, Page 398 and Document No. 20220086561 and more particularly described on Exhibit "A", which is attached hereto and incorporated herein for all purposes.

APPROVED this _____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leoser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E.
Director of Aviation

THE STATE OF TEXAS	§	
	§	UNDERGROUND ELECTRICAL AND
COUNTY OF EL PASO	§	TRANSFORMER PAD EASEMENT

For and in consideration of the sum of One Dollar and No/100 (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the City of El Paso (Grantor) grants unto El Paso Electric Company (Grantee), its successors and assigns, the right and privilege to enter and erect, relocate, construct, operate, remove, inspect, access, and maintain an underground electric system consisting of transformers (conventional or pad mount), ducts, conduits, fixtures, manholes, handholes, vaults, and any other usual appurtenances pertaining thereto, and underground crossings with all necessary cables, lines, conduit, wires pertaining thereto, with the right of access, ingress, and egress, thereto for the installation, construction, operation, inspection, repair, maintenance, replacement, renewal or removal thereof, for the distribution of electricity, for any and all purposes for which same is or may hereafter be used, over or under, upon, and along the areas identified in Exhibit "A" attached hereto and incorporated herein for all purposes, said areas being in the following described premises in El Paso, El Paso County, Texas, to wit:

A portion of Tracts 1C and 1C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys, El Paso County, Texas, as further described in the real property records of the Clerk of El Paso County in the State of Texas in Book 123, Page 398 and Document No. 20220086561 and more particularly described on Exhibit "A", which is attached hereto and incorporated herein for all purposes

With the right to trim any trees and flora around said electrical facilities so as to keep the electrical facilities cleared and to do anything proper and necessary to operate and maintain same.

This easement shall be for the term of Grantee's franchise and any extension and renewal thereof by the Grantor. In accepting this easement, Grantee agrees that Grantor shall have the power at any time to require Grantee to remove and abate, at Grantee's expense, any installation or structure that is dangerous to life or property and that Grantor shall have the power at any time to require Grantee to change the route and position of its poles, lines, conduits or other construction at Grantee's expense when the El Paso City Council (the "City Council") shall find, by resolution, that such change is necessary in the closing, opening or relocation of streets or alleys, or water or sewer lines, the changing of grade of streets or alleys, the construction and maintenance of public improvements, the construction of private buildings, the construction or use of driveways or under other conditions which the City Council shall find necessary. Provided, however, that Grantee shall be entitled to be paid for its costs and expense of any relocation, raising or lowering of its wires or cables required by Grantor if such expenses or costs are reimbursable or payable to Grantee or Grantor by the State of Texas, the United States, or any agency or subdivision of either whether directly or indirectly. Grantor shall use its best reasonable efforts to consult and confer with Grantee before requiring any such relocation or raising or lowering of its lines or cables, with a view to accomplishing the result reasonably and economically.

In accepting this grant, Grantee agrees that it will replace or repair, as reasonable, landscaping and paving if disturbed by Grantee's construction, maintenance or repairs of or to its facilities in and upon such easement. Grantee shall promptly restore to as good condition as before working thereon, and to the reasonable satisfaction of the Grantor all streets excavated by it. Grantee may, from time to time and as may be required by prudent utility practices in connection with the construction, maintenance, or repair of its facilities, restrict access to or interfere with the use of Grantor's structures(s) or tangible personal property located on or in the vicinity of the easement. In such event, Grantee shall endeavor to provide Grantor reasonable written notice of any such restriction or interference and shall use commercially reasonable efforts to coordinate its activities with Grantor so as to minimize the duration and extent of such restriction or interference. The preceding sentence notwithstanding, certain events or circumstances may occur or arise that require Grantee to take immediate action to address imminent public safety concerns, the integrity of Grantee's facilities or system, or the reliability of service provided by Grantee. Under such or similar exigencies, Grantee shall provide Grantor notice of any restrictions or interference as soon as reasonably practicable, and shall use commercially reasonable efforts to minimize the duration and extent of such restriction or interference. Grantee agrees to call for utility spotting by a third party prior to any excavation by Grantee in the easement.

Grantor reserves the right to full use and enjoyment of said property except for the purposes herein granted. Grantor agrees not to erect permanent structures or obstruct access in, over, or under Grantee's facilities.

Grantor will not be held responsible for any damage to Grantee's underground facilities from excessive erosion due to flood run-off.

Should Grantee abandon the easement, then the easement hereinabove described shall revert to Grantor or its successors and assigns. Such abandonment shall be conclusively presumed following non-use by the Grantee for one year and with use not being resumed within sixty (60) days following receipt of notice of abandonment from Grantor to Grantee, and on such abandonment, Grantee will then execute any and all necessary documents to evidence such abandonment.

Grantee shall maintain the surface over the length and width of the easement to the satisfaction, as reasonable, of Grantor and in accordance with all applicable laws, ordinances, regulations, and City Code provisions.

WITNESS THE FOLLOWING SIGNATURES AND SEAL on the dates entered below.

GRANTOR:
THE CITY OF EL PASO

Cary Westin
City Manager

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

Samuel Rodriguez,
P.E. Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2024 by
Cary Westin as City Manager of the City of El Paso.

Type text here

Notary Public in and for
the State of Texas

The above instrument, together with all conditions thereto is hereby accepted on the date entered below.

GRANTEE:
EL PASO ELECTRIC COMPANY

By: _____
Printed Name: Denise Garcia
Title: Supervisor – Land Management

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2024 by Denise Garcia as Supervisor - Land Management of El Paso Electric Company, on behalf of the El Paso Electric Company, a Texas corporation.

Notary Public in and for
the State of Texas

EPIA Addendum to EPEC Easement - FAA

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises comprising the easement are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. The Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) in the event facilities are constructed, maintained, or otherwise operated on the property described in this easement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Grantee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the “Acts and Regulations”) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the easement, in the event of breach of any of the above nondiscrimination covenants, Grantor will have the right to terminate the easement and to enter or re-enter and repossess said land and the facilities thereon (excepting Grantee’s electrical facilities, which shall be removed by Grantee as soon as reasonably practical upon notice by Grantor), and hold the same as if said easement had never been made or issued. [See FAA Order 1400.11, Appendix C of Appendix 4]

2. A. The Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Grantee will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

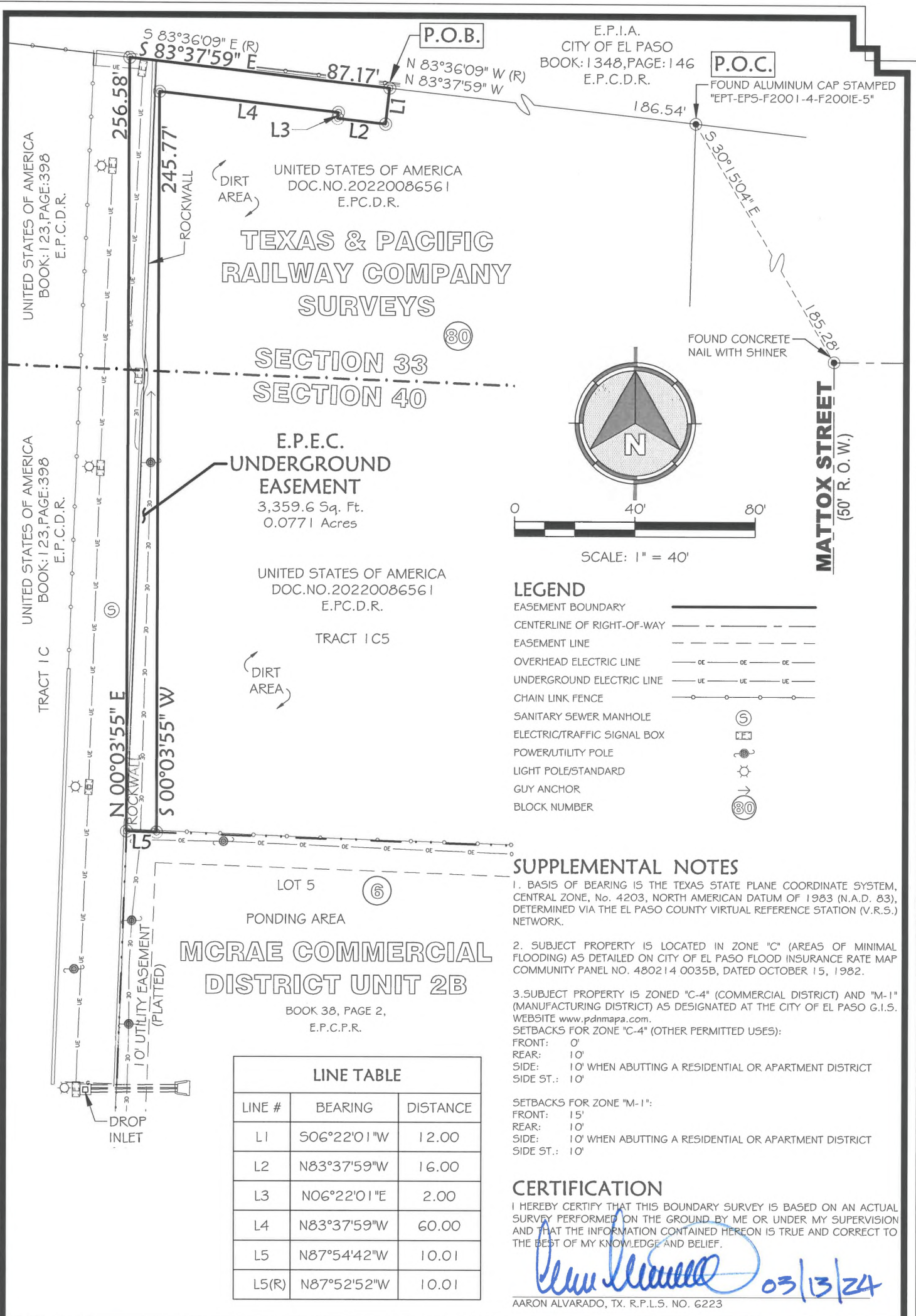
B. With respect to the easement, in the event of breach of any of the above nondiscrimination covenants, Grantor will have the right to terminate the easement and to enter or re-enter and repossess said land and the facilities thereon (excepting Grantee’s electrical facilities, which shall be removed by Grantee as soon as reasonably practical upon notice by Grantor), and hold the same as if said easement had never been made or issued. [See FAA Order 1400.11, Appendix D of Appendix 4]

3. A. During the term of this easement, Grantee for itself, its successors in interest, and assigns, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms —programs or activities to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). Grantee shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this section 3, Grantor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E of Appendix 4]

Mar 13, 2024 - 3:50pm
S:\Projects\05347 - EL PASO ELECTRIC\EFEC EASEMENT\05347-058-C3D05347-058-EFEC EASE-ICE.dwg
agorazalez



FILE NO: 05347-058

E.P.E.C. UNDERGROUND EASEMENT
8901 MONTANA AVENUE

DRAWN BY: A.G. CHECKED BY: A.A. DATE: 03-13-2024 SCALE: 1" = 40'

A PORTION OF TRACTS 1C AND 1C5, SECTION 40 AND A PORTION OF SECTION 33,
BLOCK 80, TOWNSHIP 2, TEXAS & PACIFIC RAILWAY COMPANY SURVEYS,
CITY OF EL PASO, EL PASO COUNTY, TEXAS.

BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS
TBPE REG. NO. F-737
TBPLS REG. NO. 101314-00

417 EXECUTIVE CENTER-EL PASO, TX 79902~PH (915) 542-4900
FAX (915) 542-2867~WWW.BROCKBUSTILLOS.COM

EXHIBIT "A-1"

METES AND BOUNDS DESCRIPTION
"10 FEET E.P.E.C. UNDERGROUND EASEMENT"

A 0.0771 acre parcel situate within the corporate limits of the City of El Paso, El Paso County as a portion of Tracts 1C and 1C5, Section 40, Block 80, Township 2 and a portion of Section 33, Block 80, Township 2, Texas and Pacific Railway Company Surveys as described in Book 123, Page 398 and Document No. 20220086561, El Paso County Deed Records and being more particularly described by metes and bounds as follows:

COMMENCING for reference at an Aluminum Cap stamped "EPT-EPS-F2001-4-2001E-5" found for the northeast corner of said parcel located within Section 33 as described in Document No. 20220086561 and on the south boundary line of the El Paso International Airport (City of El Paso) parcel as described in Book 1348, Page 146, El Paso County Deed Records; **WHENCE**, a Concrete Nail with Shiner found at the right-of-way centerline of Mattox Street (50 feet wide) bears, South 30°15'04" East, a distance of 185.28 feet; **THENCE**, following the boundary line common to said parcel located within Section 33 and the El Paso International Airport (City of El Paso) parcel, North 83°37'59" West (North 83°36'09" West~record), a distance of 186.54 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set for the northeast corner and the **POINT OF BEGINNING** of the parcel herein described;

THENCE, leaving the boundary line common to said parcel located within Section 33 and the El Paso International Airport (City of El Paso) parcel, South 06°22'01" West, a distance of 12.00 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set for an angle point of the parcel herein described;

THENCE, North 83°37'59" West, a distance of 16.00 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set for an angle point of the parcel herein described;

THENCE, North 06°22'01" East, a distance of 2.00 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set for an angle point of the parcel herein described;

THENCE, North 83°37'59" West, a distance of 60.00 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set for an angle point of the parcel herein described;

THENCE, South 00°03'55" West, a distance of 245.77 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set on the south boundary line of said parcel located within Section 33 as described in Document No. 20220086561 for the southeast corner of the parcel herein described, identical to north boundary line of Lot 5, Block 6, McRae Commercial District Unit 2B, recorded in Book 38, Page 2, El Paso County Plat Records;

THENCE, following the boundary line common to said parcel located with Section 33 and Lot 5, North 87°54'42" West (North 87°52'52" West~record), a distance of 10.01 feet to a Mag Nail

with shiner No. "TX 6223" set on rockwall for the southwest corner of the parcel herein described, identical to the northwest corner of said Lot 5;

THENCE, leaving the boundary line common to said parcel located with Section 33 and Lot 5, North 00°03'55" East, a distance of 256.58 feet to a 1/2-inch rebar with survey cap No. "TX 6223" set on the north boundary line of said parcel located within Section 33 as described in Book 123, Page 398 for the northwest corner of the parcel herein described, identical to the south boundary line of said El Paso International Airport (City of El Paso) parcel;

THENCE, following the boundary line common to said parcel located within Section 33 and the El Paso International Airport (City of El Paso) parcel, South 83°37'59" East (South 83°36'09" East~record), a distance of 87.17 feet to the **POINT OF BEGINNING**.

Said parcel containing 0.0771 acres (3,359.6 square feet), more or less, and being subject to all easements, restrictions and covenants of record.



Aaron Alvarado, TX R. P. L. S. No. 6223

Date: March 13, 2024

05347-058-10 FEET E.P.E.C UNDERGROUND EASE-DESC



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.090

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name

Robert L. Ramirez

Business Name

El Paso Electric Co.

Agenda Item Type

Airport land utility easement

Relevant Department

EP International Airport

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



☒ I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.

Signature: _____

Roberto Ramirez

Date: _____

April 09, 2024

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

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- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
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Contributor / Donor Information:

Full Name

Robert L. Ramirez

Business Name

El Paso Electric Co.

Agenda Item Type

Airport land utility easement

Relevant Department

EP International Airport

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District 1		
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District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.

Signature: _____

Roberti Ramirez

Date: _____

April 09, 2024



Legislation Text

File #: 24-545, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement to accommodate an electrical transmission line to provide electrical power to property in the vicinity of the El Paso International Airport, said easement more particularly described as:

All of Lot 2, Block, 15, El Paso International Airport Tracts, Unit 11, City of El Paso, El Paso County, Texas, more commonly referred to as 1749 Hawkins, El Paso, Texas.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBGOAL: N/A

SUBJECT:

A Resolution that the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement to accommodate an electrical transmission line to provide electrical power to property in the vicinity of the El Paso International Airport, said easement more particularly described as:

All of Lot 2, Block, 15, El Paso International Airport Tracts, Unit 11, City of El Paso, El Paso County, Texas, more commonly referred to as 1749 Hawkins, El Paso, Texas.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval for an Underground Electrical and Transformer Pad Easement Agreement for El Paso Electric to enter and erect, relocate, construct, operate, remove, inspect, access and maintain an underground electrical system to provide electrical power to the property.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

for 

Sam Rodriguez, Aviation Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign an Underground Electrical and Transformer Pad Easement to accommodate an electrical transmission line to provide electrical power to property in the vicinity of the El Paso International Airport, said easement more particularly described as:

All of Lot 2, Block, 15, El Paso International Airport Tracts, Unit 11, City of El Paso, El Paso County, Texas, more commonly referred to as 1749 Hawkins, El Paso, Texas.

APPROVED this _____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

for 

Samuel Rodriguez, P.E.
Director of Aviation

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

**UNDERGROUND ELECTRICAL AND
TRANSFORMER PAD EASEMENT**

For and in consideration of the sum of One Dollar and No/100 (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the City of El Paso (Grantor) grants unto El Paso Electric Company (Grantee), its successors and assigns, the right and privilege to enter and erect, relocate, construct, operate, remove, inspect, access, and maintain an underground electric system consisting of transformers (conventional or pad mount), ducts, conduits, fixtures, manholes, handholes, vaults, and any other usual appurtenances pertaining thereto, and underground crossings with all necessary cables, lines, conduit, wires pertaining thereto, with the right of access, ingress, and egress, thereto for the installation, construction, operation, inspection, repair, maintenance, replacement, renewal or removal thereof, for the distribution of electricity, for any and all purposes for which same is or may hereafter be used, over or under, upon, and along the areas identified in Exhibit "A" attached hereto and incorporated herein for all purposes, said areas being in the following described premises in El Paso, El Paso County, Texas, to wit:

All of Lot 2, Block 15, EL PASO INTERNATIONAL AIRPORT TRACTS UNIT 11, City of El Paso,
El Paso County, Texas more commonly referred to as 1749 Hawkins, El Paso, Texas.

The easement is as depicted in Exhibit "A" |

With the right to trim any trees and flora around said electrical facilities so as to keep the electrical facilities cleared and to do anything proper and necessary to operate and maintain same.

This easement shall be for the term of Grantee's franchise and any extension and renewal thereof by the Grantor. In accepting this easement, Grantee agrees that Grantor shall have the power at any time to require Grantee to remove and abate, at Grantee's expense, any installation or structure that is dangerous to life or property and that Grantor shall have the power at any time to require Grantee to change the route and position of its poles, lines, conduits or other construction at Grantee's expense when the El Paso City Council (the "City Council") shall find, by resolution, that such change is necessary in the closing, opening or relocation of streets or alleys, or water or sewer lines, the changing of grade of streets or alleys, the construction and maintenance of public improvements, the construction of private buildings, the construction or use of driveways or under other conditions which the City Council shall find necessary. Provided, however, that Grantee shall be entitled to be paid for its costs and expense of any relocation, raising or lowering of its wires or cables required by Grantor if such expenses or costs are reimbursable or payable to Grantee or Grantor by the State of Texas, the United States, or any agency or subdivision of either whether directly or indirectly. Grantor shall use its best reasonable efforts to consult and confer with Grantee before requiring any such relocation or raising or lowering of its lines or cables, with a view to accomplishing the result reasonably and economically.

In accepting this grant, Grantee agrees that it will replace or repair, as reasonable, landscaping and paving if disturbed by Grantee's construction, maintenance or repairs of or to its facilities in and upon such

easement. Grantee shall promptly restore to as good condition as before working thereon, and to the reasonable satisfaction of the Grantor all streets excavated by it. Grantee may, from time to time and as may be required by prudent utility practices in connection with the construction, maintenance, or repair of its facilities, restrict access to or interfere with the use of Grantor's structures(s) or tangible personal property located on or in the vicinity of the easement. In such event, Grantee shall endeavor to provide Grantor reasonable written notice of any such restriction or interference and shall use commercially reasonable efforts to coordinate its activities with Grantor so as to minimize the duration and extent of such restriction or interference. The preceding sentence notwithstanding, certain events or circumstances may occur or arise that require Grantee to take immediate action to address imminent public safety concerns, the integrity of Grantee's facilities or system, or the reliability of service provided by Grantee. Under such or similar exigencies, Grantee shall provide Grantor notice of any restrictions or interference as soon as reasonably practicable, and shall use commercially reasonable efforts to minimize the duration and extent of such restriction or interference. Grantee agrees to call for utility spotting by a third party prior to any excavation by Grantee in the easement.

Grantor reserves the right to full use and enjoyment of said property except for the purposes herein granted. Grantor agrees not to erect permanent structures or obstruct access in, over, or under Grantee's facilities.

Grantor will not be held responsible for any damage to Grantee's underground facilities from excessive erosion due to flood run-off.

Should Grantee abandon the easement, then the easement hereinabove described shall revert to Grantor or its successors and assigns. Such abandonment shall be conclusively presumed following non-use by the Grantee for one year and with use not being resumed within sixty (60) days following receipt of notice of abandonment from Grantor to Grantee, and on such abandonment, Grantee will then execute any and all necessary documents to evidence such abandonment.

Grantee shall maintain the surface over the length and width of the easement to the satisfaction, as reasonable, of Grantor and in accordance with all applicable laws, ordinances, regulations, and City Code provisions.

WITNESS THE FOLLOWING SIGNATURES AND SEAL on the dates entered below.

GRANTOR:
THE CITY OF EL PASO

Cary Westin
City Manager

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

for Samuel Rodriguez, P.E.
Airport Director

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 20__ by
Cary Westin as City Manager of the City of El Paso.

Notary Public in and for
the State of Texas

The above instrument, together with all conditions thereto is hereby accepted on the date entered below.

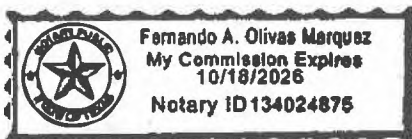
GRANTEE:
EL PASO ELECTRIC COMPANY

By: Aurea D. Garcia
Printed Name: Aurea D. Garcia
Title: Supervisor - Land Management

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 27th day of March, 2024 by
Aurea D. Garcia as Supervisor - Land Management of El Paso Electric Company, on behalf of the El Paso
Electric Company, a Texas corporation.



Seen
Notary Public in and for
the State of Texas

EPIA Addendum to EPEC Easement - FAA

Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises comprising the easement are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. The Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) in the event facilities are constructed, maintained, or otherwise operated on the property described in this easement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Grantee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the easement, in the event of breach of any of the above nondiscrimination covenants, Grantor will have the right to terminate the easement and to enter or re-enter and repossess said land and the facilities thereon (excepting Grantee's electrical facilities, which shall be removed by Grantee as soon as reasonably practical upon notice by Grantor), and hold the same as if said easement had never been made or issued. [See FAA Order 1400.11, Appendix C of Appendix 4]

2. A. The Grantee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Grantee will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

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- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms —programs or activities to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). Grantee shall take reasonable steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this section 3, Grantor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E of Appendix 4]

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION

That certain parcel of land, being a portion of Lot 2, Block 15, El Paso International Airport Tracts Unit 11, a subdivision of record in Volume 71, Page 29, Plat Records of El Paso County, Texas, and being more particularly described by Metes and Bounds as follows:

COMMENCING at a brass disk in hand hole found for city monument at the centerline intersection of Boeing Drive and Hawkins Boulevard, from which another brass disk in hand hole found for city monument at the centerline intersection of said Hawkins Boulevard and Centurion Drive bears N 05°42'39" W, a distance of 847.83 feet (record: N 08°49'53" W), said Point of Commencement having modified Texas Coordinate System (central zone, U.S. survey feet, NAD83) ground coordinates of N=10,669,766.31, E=421,389.98;

THENCE N 05°42'39" W, with the centerline of said Hawkins Boulevard, a distance of 423.63 feet (record: N 08°49'53" W) to the centerline intersection of said Hawkins Boulevard and Stinson Avenue, witnessed by a found city monument at N 07°33' W, a distance of 1.5 feet;

THENCE S 84°17'21" W, with the centerline of said Stinson Avenue, a distance of 224.58 feet (record: S 81°10'07" W);

THENCE N 05°42'39" W, leaving the centerline of said Stinson Avenue, a distance of 35.00 feet to the **POINT OF BEGINNING**, being the southwest corner of the herein described parcel, and being the northerly right-of-way line of said Stinson Avenue, from which a chiseled "X" found for the southwest corner of said Lot 2 bears S 84°17'21" W, a distance of 160.31 feet (record: S 81°10'07" W), said Point of Beginning having modified Texas Coordinate System (central zone, U.S. survey feet, NAD83) ground coordinates of N=10,670,200.32, E=421,120.87;

CONTINUED ON SHEET 2

DT067560

PAGE 1 OF 4

HZ HUITT ZOLLARS
5822 Cromo Drive, Suite 210
El Paso, TX 79912
PH. 915-587-4339
Tx. Firm No. 10025603
www.huitt-zollars.com

PROJECT: EPEC SCHATZMAN CONST.
JOB #: R317188.01
DATE: MARCH, 2024
SCALE: N / A
DRAWN: JZ
CHECKED: CMW
PATH: 6:\proj\R317188.01-EPEC-DT067560 Schatzman Construction\Survey\Civil3D

0.009 ACRES (409 SQ. FT.)
SITUATED IN LOT 2, BLOCK 15
EL PASO INTERNATIONAL AIRPORT
TRACTS UNIT 11, CITY OF EL PASO
EL PASO COUNTY, TEXAS

THENCE leaving said right-of-way line, over and across said Lot 2, Block 15, the following six (6) courses and distances:

- 1) N 62°08'45" E, a distance of 33.27 feet,
- 2) N 05°58'00" W, a distance of 2.94 feet,
- 3) N 83°58'32" E, a distance of 18.00 feet,
- 4) S 05°58'00" E, a distance of 12.00 feet,
- 5) S 83°58'32" W, a distance of 13.71 feet, and
- 6) S 62°08'45" W, a distance of 9.30 feet to the south line of said Lot 2, being also the northerly right-of-way line of said Stinson Avenue, from which a chiseled "x" found at the southeast corner of said Lot 2 for the point of curvature bears N 84°17'21" E , a distance of 144.16 feet (record: N 81°10'07" E);

THENCE S 84°17'21" W, with the southerly line of said Lot 2, being also the northerly right-of-way line of said Stinson Avenue, a distance of 26.53 feet (record: S 81°10'07" W) to the **POINT OF BEGINNING**, containing 0.009 acres or 409 square feet of land.

Note: This property description is accompanied by a survey plat of even date.
Huitt-Zollars, Inc.


Christian M. Wegmann,
Texas RPLS No. 6794



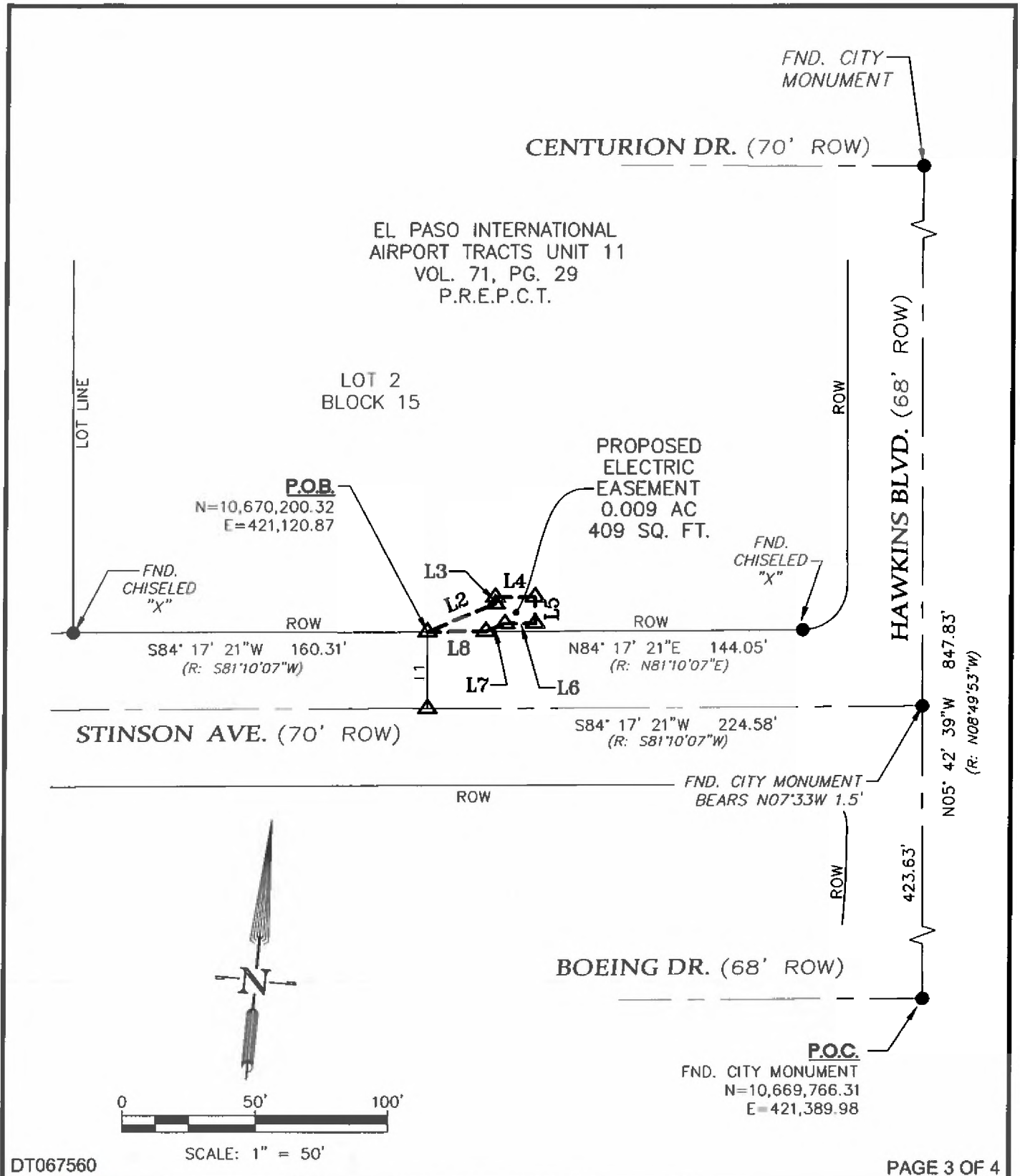
DT067560

PAGE 2 OF 4

**HUITT
ZOLLARS**
5822 Cromo Drive, Suite 210
El Paso, TX 79912
PH. 915-587-4339
Tx. Firm No. 10025603
www.huitt-zollars.com

PROJECT: EPEC SCHATZMAN CONST.
JOB #: R317188.01
DATE: MARCH, 2024
SCALE: N / A
DRAWN: JZ
CHECKED: CMW
PATH: G:\proj\R317188.01-EPEC-07067560 Schatzman Construction\Survey\Civil3D

0.009 ACRES (409 SQ. FT.)
SITUATED IN LOT 2, BLOCK 15
EL PASO INTERNATIONAL AIRPORT
TRACTS UNIT 11, CITY OF EL PASO
EL PASO COUNTY, TEXAS



**HUITT
ZOLLARS**
5822 Cromo Drive, Suite 210
El Paso, TX 79912
PH. 915-587-4339
Tx. Firm No. 10025603
www.huitt-zollars.com

PROJECT: EPEC SCHATZMAN CONST.
JOB #: R317188.01
DATE: MARCH, 2024
SCALE: 1"=50'
DRAWN: JZ
CHECKED: CMW
PATH: C:\proj\R317188.01-EPEC-DT067560 Schatzman
Construction\Survey\Civil3D

0.009 ACRES (409 SQ. FT.)
SITUATED IN LOT 2, BLOCK 15
EL PASO INTERNATIONAL AIRPORT
TRACTS UNIT 11, CITY OF EL PASO
EL PASO COUNTY, TEXAS

LINE TABLE		
LINE No.	DIRECTION	LENGTH
L1	N05° 42' 39"W	35.00'
L2	N62° 08' 45"E	33.27'
L3	N05° 58' 00"W	2.94'
L4	N83° 58' 32"E	18.00'
L5	S05° 58' 00"E	12.00'
L6	S83° 58' 32"W	13.71'
L7	S62° 08' 45"W	9.30'
L8	S84° 17' 21"W	26.53'

(R: N81°10'07"E)

LEGEND

●	FND. SURVEY MARKER (AS NOTED)
△	CALCULATED CORNER
P.R.E.P.C.T.	PLAT RECORDS OF EL PASO COUNTY, TEXAS
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING
BK.	BOOK
PG.	PAGE
ROW	RIGHT OF WAY
DOC.	DOCUMENT
FND.	FOUND

SURVEY NOTES

1. BASIS OF BEARING IS THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE (4203).
2. DISTANCES AND COORDINATES SHOWN HEREON ARE SURFACE VALUES, USING A GROUND SCALE FACTOR OF 1.000231, SCALED AT N=0, E=0.
3. VALUES SHOWN ARE BASED ON GPS MEASUREMENTS MADE WITHIN THE EL PASO ISLAND OF THE TEXAS RTK CO-OP ADMINISTERED BY ALTERRA CENTRAL (RTKNET.COM)
4. UNIT OF MEASURE IS U.S. SURVEY FOOT
5. BEARINGS AND DISTANCES SHOWN IN PARENTHESIS () ARE LISTED TO RECITE RECORD DIMENSIONS PER THE FOLLOWING DOCUMENTS: EL PASO INTERNATIONAL AIRPORT TRACTS UNIT 11, IN VOLUME 71, PAGE 29, PLAT RECORDS OF EL PASO COUNTY, TEXAS.
6. THIS PLAT OF SURVEY SHALL ACCOMPANY THE ATTACHED METES AND BOUNDS DESCRIPTION FOR RECORDING PURPOSES.

SURVEYOR'S CERTIFICATION

I, CHRISTIAN M. WEGMANN, A TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY SUPERVISION, AND THAT IT IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED ON THE GROUND.

CHRISTIAN M. WEGMANN
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 6794



DT067560

03-21-2024

PAGE 4 OF 4

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0.009 ACRES (409 SQ. FT.)
SITUATED IN LOT 2, BLOCK 15
EL PASO INTERNATIONAL AIRPORT
TRACTS UNIT 11, CITY OF EL PASO
EL PASO COUNTY, TEXAS

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.

Signature: Olivas, Fernando Digitally signed by Olivas, Fernando
Date: 2024.03.25 12:25:27 -06'00' Date: 03/25/2024



Legislation Text

File #: 24-550, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Fire, Chief Jonathan P. Killings, (915) 212-5665

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Fire Department

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: May 7, 2024

CONTACT PERSON NAME AND PHONE NUMBER: Chief Jonathan P. Killings, 915-212-5665

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 2: Set the Standard for a Safe and Secure City

SUBGOAL: 2.3 Increase public safety operational efficiency

SUBJECT:

That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

BACKGROUND / DISCUSSION:

EPFD is an institution committed to providing emergency services, including fire-fighting and medical services, primarily to residents and visitors of the City of El Paso, Texas. EPFD desires to gain access to a high-quality air medical transport service program to provide Medically Necessary patient transports. AMC is an organization with experience and expertise in the provision of air medical transport services; and EPFD and AMC have expressed a desire to cooperate in pursuing a mutually beneficial approach to operating the Flight Program from the Base Site located in El Paso, Texas, offering Medically Necessary air medical transport services.

PRIOR COUNCIL ACTION:

No

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Fire Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign, on behalf of the City of El Paso, an Air Medical Services and Support Agreement between Air Methods, LLC, a Missouri limited liability company and the City of El Paso for operating the Flight Program from the Base Site located in the City of El Paso, El Paso County, Texas, offering medically necessary air medical transport services for an initial term of five (5) years with three (3) successive options to extend for 1 (one) year terms beyond the initial term.

APPROVED this the _____ day of _____ 2024.

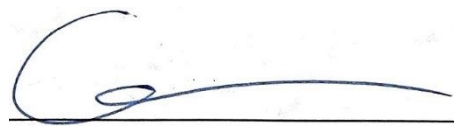
THE CITY OF EL PASO

Oscar Lesser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings, Chief
El Paso Fire Department

AIR MEDICAL SERVICES AND SUPPORT AGREEMENT

by and between

City of EL PASO

and

AIR METHODS, LLC

Dated August 1, 2024

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EXHIBITS

Exhibit A – Primary Helicopter

Exhibit B – Base Site Requirements

Exhibit C – Fees

Exhibit D – Medical Equipment List

Exhibit E – Clinical Crew, Program Manager and Medical Director Qualifications

Exhibit F – Standards of Conduct

Exhibit G – Joint Marketing Program

Exhibit H – HIPAA Business Associate Agreement

GLOSSARY OF TERMS

“AMC Area Manager” means the representative AMC designates as the management contact responsible for the day-to-day administrative oversight for the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“AMC Billing Entities” means (i) Mercy Air Service, Inc., a California corporation and a wholly-owned subsidiary of AMC; (ii) LifeNet, Inc., a Missouri corporation and a wholly-owned subsidiary of Mercy Air Service, Inc.; and (iii) Rocky Mountain Holdings, L.L.C., a Delaware limited liability company and a wholly-owned subsidiary of AMC.

“AMC Regional Vice President” means the AMC regional representative assigned to the Flight Program with responsibility for business operations of the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“Backup Helicopter” means one or more Helicopters, as set forth in Section 5.5 that provides air medical services when a Primary Helicopter is not available.

“Base Site” means a base of operations for the Primary Helicopter.

“CAMTS” means The Commission on Accreditation of Medical Transport Systems.

“EPFD Program Director” means the EPFD appointed representative with overall responsibility for the clinical aspects of the Flight Program and such other duties and responsibilities as set forth in this Agreement.

“FAA” means the Federal Aviation Administration.

“FARs” means the Federal Aviation Regulations set forth in 14 C.F.R. Part 135.

“Flight Program” means the air medical services program contemplated by this Agreement operating and licensed under the name “El Paso Fire STAR”.

“Helicopter” means the Primary Helicopter, any Backup Helicopter, and any other helicopter operated in connection with the Flight Program as a result of this Agreement.

“IFR” means Instrument Flight Rules of the FAA.

“Medically Necessary” means the patient’s condition is such that the time needed to transport a patient by land, or the instability of transportation by land, poses a threat to the patient’s survival or seriously endangers the patient’s health, as more fully defined in the rules, regulations and manuals of Medicare.

“Primary Helicopter” means each Helicopter described in Exhibit A.

“VFR” means Visual Flight Rules of the FAA.

AIR MEDICAL SERVICES AND SUPPORT AGREEMENT

This Air Medical Services and Support Agreement (this “Agreement”) is made on the last date of signature below by and between the **City of El Paso**, on behalf of the El Paso Fire Department, having its principal place of business at 300 North Campbell, El Paso, Texas 79901 (“EPFD”), and **Air Methods, LLC**, a Delaware limited liability company having its principal place of business at 5500 South Quebec Street, Suite 300, Greenwood Village, CO 80111 (“AMC”). AMC and EPFD are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

WHEREAS, EPFD is an institution committed to providing emergency services, including fire-fighting and medical services, primarily to residents and visitors of the City of El Paso, Texas;

WHEREAS, EPFD desires to gain access to a high-quality air medical transport service program to provide Medically Necessary patient transports;

WHEREAS, AMC is an organization with experience and expertise in the provision of air medical transport services; and

WHEREAS, EPFD and AMC have expressed a desire to cooperate in pursuing a mutually beneficial approach to operating the Flight Program from the Base Site located in El Paso, Texas, offering Medically Necessary air medical transport services;

NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1.0 PURPOSE AND SCOPE

1.1 Purpose

The purpose of this Agreement is to establish the Flight Program through cooperation between EPFD and AMC. This service will be available 24 hours per day, 365 days per year through the Base Sites.

1.2 Transport Decisions

AMC will accept Medically Necessary transport requests from any medical institution or emergency medical service agency within the community. AMC shall honor all transport requests directed to AMC on a “first come-first served” basis or utilizing standard triage principles whenever 2 transports are requested for the same period. The Parties hereby acknowledge that the Flight Program is for the benefit of the community as a whole and that neither AMC nor EPFD shall have any influence, control over or involvement in decisions regarding the referral or transport of patients from one facility to another. Referring and receiving physicians make referral and transport decisions and patients will be transported to the closest appropriate facility in accordance with the needs and best interest of the patient.

1.3 EPFD Use of Air Medical Transport Services

During the Term (defined below), except where the patient or patient’s legal representative has specifically requested otherwise, or where applicable laws or regulations otherwise require, EPFD shall use AMC as EPFD’s preferred provider of air medical transport services. This means that if EPFD has a need for any air medical transport services and such transport is Medically Necessary, EPFD shall request that AMC provide such services before EPFD requests such services from any other provider of air medical transport services. To this end, EPFD shall cause all of its officers, directors, agents and

employees, together with any and all other persons providing or rendering any medical services at, on behalf of, or through EPFD or its facilities, to request any necessary or desirable air medical services from AMC prior to requesting such services from any other provider thereof. EPFD shall utilize the applicable communications center for requests to AMC for air transport services. Subject to the availability of the Helicopter, AMC shall dispatch and launch the Helicopter. If the Helicopter is unavailable or unable to respond to EPFD's request for any reason (including without limitation that such Helicopter is responding to another call or request, is out of service, or is experiencing mechanical or other difficulties or if weather conditions preclude safe flight operations), or if AMC refuses the flight for any other reason, or if it is advisable or required that the patient be transported by another provider for medical or regulatory reasons, then EPFD may request emergency air medical services from another provider.

1.4 No Exclusivity

Nothing in this Agreement shall be construed as creating an exclusive arrangement between EPFD and AMC.

2.0 TERM AND TERMINATION

2.1 Term

This Agreement will commence on August 1, 2024 (the "Commencement Date") and will expire on July 31, 2029 (the "Initial Term") and may be extended for three (3) successive 1-year terms beyond the Initial Term (each, a "Renewal Term", and together with the Initial Term, the "Term") if both parties agree. If AMC wishes to renew, then, AMC shall give notice to the City at least ninety (90) calendar days prior to the expiration of the Initial or Renewal Term.

2.2 Termination for Cause

Either Party may terminate this Agreement immediately due to an uncured breach by the other Party pursuant to Section 4.1.

2.3 Termination for Decline in Revenue

In the event that the revenue producing flight volume or payor mix drops to a financially unviable situation that is beyond AMC's reasonable expectations, AMC may terminate this Agreement with respect to one or more Base Sites (up to and including termination of the entire Agreement) with a written notice served to EPFD at least ninety (90) days prior to the ceasing of operations.

2.4 Termination without Cause

After the first twelve (12) months of the Initial Term, each party shall have the right to terminate this Agreement by giving the other party at least one hundred eighty (180) days' written notice to terminate.

3.0 LEGAL OR REGULATORY CONCERNS

Notwithstanding any other provision in this Agreement, in the event that either Party has reasonably determined that: (i) any federal or state law or regulation makes it unlawful for either Party to be bound by the terms of this Agreement; (ii) one or more of the provisions of this Agreement may jeopardize either Party's participation in or payments under Medicare, Medicaid, any successors to these programs, or any other material payor

arrangement; (iii) this Agreement does not conform with any federal or state laws or regulations or accreditation standards passed subsequent to the Commencement Date; or (iv) the provisions of this Agreement may jeopardize EPFD's tax-exempt status or may subject either Party to monetary penalties under any state or federal law, either Party may give the other notice of intent to amend this Agreement to the Parties' satisfaction. The Parties agree to immediately enter into good faith negotiations to adjust or amend this Agreement accordingly. Notwithstanding Section 2.0, if after 30 days of such negotiations the Parties cannot reach agreement, either Party may terminate this Agreement upon 60 days' prior written notice to the other Party.

4.0 EVENTS OF DEFAULT

The following occurrences are events of "default" pursuant to this Agreement:

4.1 Breach by Either Party

In the event that either Party has breached any material representation, warranty, or covenant in this Agreement, the non-breaching Party shall provide to the breaching Party a written description of such breach ("Notice"). If the breaching Party is unable to correct such breach within 60 days of the Notice, the non-breaching Party shall have the right to terminate this Agreement immediately upon written notice; provided, however, that if such breach is not susceptible to being cured within 60 days, and the breaching Party is diligently working to cure such breach, then such Party shall have an additional 30 days.

4.2 Resolution of Disputes

In order to have a productive and efficient relationship, the Parties will strive to maintain open, direct, and efficient communications with each other. The EPFD Program Director will communicate with the appropriate AMC representative regularly and as necessary regarding the Parties' performance of obligations under this Agreement.

All claims, disputes, and controversies arising out of or in relation to an alleged breach of this Agreement shall follow the following procedure.

Either Party may request a peer-to-peer review to resolve any issues or disputes. Upon such a request, both Parties shall make available an individual with appropriate credentials for a telephone call or other communication within 15 days of the request.

With respect to issues for which the peer-to-peer review process has been exhausted, either Party may request an in-person meeting to resolve the issue. Within 45 days of such request, senior position delegates from the Parties shall meet in-person in a good faith effort to resolve the dispute.

If the Parties are unable to resolve the dispute through peer-to-peer review or a good faith meeting, the Parties shall resolve the dispute through binding arbitration conducted in accordance with the procedures in this Agreement and administered by the American Arbitration Association under its Commercial Arbitration Rules (the "AAA Rules"), and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof; provided, however, a Party shall not be required to use the foregoing dispute resolution procedures or otherwise follow the provisions of this Section regarding any dispute with respect to which a Party is seeking purely injunctive or other equitable, nonmonetary relief, and such Party shall be entitled to seek such relief before any court having jurisdiction over such dispute and the Parties. In the event of a conflict between the AAA Rules and this Agreement, the provisions of this Agreement shall control. For all disputes regardless of the amount in dispute, the

arbitration shall be conducted by one arbitrator mutually agreed upon by the Parties. The arbitrator may construe or interpret this Agreement but may not vary or ignore any of the terms of this Agreement. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrator. No potential arbitrator may serve unless he or she has agreed in writing to abide and be bound by these procedures. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrator have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction. All aspects of the arbitration shall be treated as confidential. Neither the Parties nor the arbitrator shall disclose the content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a Party shall give written notice to the other Party and shall afford such other Party a reasonable opportunity to protect its interests. The Parties shall be permitted to conduct reasonable discovery consistent with the AAA Rules, taking into consideration the idea of proportionality as appropriate to limit the costs and burden of discovery. The Parties shall conduct all arbitration in a location mutually agreeable to the Parties. The prevailing Party shall be entitled to recover attorneys' fees, expert fees, and other expenses of the arbitration.

5.0 AVIATION SERVICES

5.1 Aircraft Type and Configuration

On the Commencement Date, AMC will provide and operate, at AMC's own expense, one (1) EC130T2 single-engine helicopter in single pilot VFR configuration located in El Paso, Texas (the "Primary Helicopter") and equipped as outlined in Exhibit A. The Primary Helicopter will be painted and identified in colors and paint scheme as AMC and EPFD mutually agree. Subsequent aircraft selection will be at AMC's discretion in consultation with EPFD.

5.2 Aviation Crew

AMC shall provide, at AMC's own expense, a sufficient number of pilots to staff the Flight Program.

All pilots assigned to the Flight Program shall: (i) possess a Commercial Pilots Certificate Rating; (ii) have an FAA Instrument Helicopter Rating with instrument experience; (iii) have a minimum of 2,000 hours helicopter flight experience, at least 100 of those hours at night, 5 hours in type and 2 hours of local orientation flight time; (iv) possess a valid FAA Second Class Medical Certificate; (v) have completed the Helicopter approved ground and flight training programs as specified by AMC's FAA-approved pilot training program, as well as AMC indoctrination and any other applicable training programs; (vi) prior to assignment to the Flight Program, have successfully completed a pilot proficiency flight in the applicable Helicopter completed by an FAA examiner or an AMC check airman; (vii) be familiar and knowledgeable of the helipads, heliports, hospitals, refueling centers and airports ordinarily served by the Flight Program and all applicable regulatory requirements; (viii) conform to EPFD and AMC dress code and conduct guidelines while on duty; (ix) adhere to the Standards of Conduct described in Exhibit F; and (x) be available to participate in appropriate committees, monthly staff meetings and training and orientation programs as requested by EPFD and approved by AMC. AMC shall provide aviation staff uniforms, to include helmets, and night vision goggles ("NVGs").

5.3 Aircraft Maintenance

AMC shall ensure the airworthiness of each Helicopter operated in the Flight Program. AMC may either maintain the Helicopters with its own staff or retain a qualified third party to do so. AMC shall conduct

the maintenance of the Helicopters at its sole cost and in accordance with all current FAA regulations, manufacturer issued mandatory Service Bulletins, FAA issued Helicopter Airworthiness Directives, applicable federal and state laws, and AMC's maintenance practices and procedures.

AMC will assign a sufficient number of maintenance technicians to each Base Site. All maintenance technicians assigned to the Flight Program shall possess an FAA Airframe and Powerplant License and be rated and licensed to maintain the Helicopters. Maintenance shall be available 24 hours per day, 365 days per year, in accordance with AMC policies and procedures. AMC shall, at its sole cost, be responsible for providing any facilities needed for major maintenance.

5.4 Aircraft Modification

EPFD shall follow AMC's established policies and procedures to request any modifications to the Helicopters. All modifications are subject to AMC's prior written approval and shall be at EPFD's sole cost and expense. Modifications include, but are not limited to, any changes, additions, or substitutions to the interior or exterior of the Helicopter and any changes to the portable medical equipment. EPFD shall not purchase any equipment, fixtures, components, or parts to be installed on or carried in the Helicopter without AMC's prior written approval.

5.5 Backup Services

AMC shall use reasonable efforts to arrange for backup services through the availability of a similarly equipped Backup Helicopter, as necessary. AMC shall determine, in its sole discretion, the most effective way to provide backup services during periods when the Primary Helicopter is not available.

5.6 Licenses and Certification

AMC shall obtain and maintain, at AMC's own expense, all licenses, permits, and operating permits from the FAA, the State of Texas and/or other agencies necessary for operation of the Helicopters.

AMC shall comply with all federal, state and local laws, statutes, rules, regulations, and orders applicable to the operation of the Helicopters, including 14 C.F.R. Part 135.

5.7 Operational Control

AMC shall have operational control of all aspects of the Flight Program at all times, as it relates to non-clinical matters. Notwithstanding any other provision of this Agreement, AMC shall have sole and exclusive authority over initiating, conducting, and terminating each flight. All transport requests pursuant to this Agreement shall be subject to and conducted in accordance with AMC's operational procedures. The pilot on duty shall have complete authority to make all decisions concerning the suitability of weather conditions, landing areas, condition of the Helicopter for flight, loading of the Helicopter, and all other factors affecting flight safety and compliance with FAA regulations.

EPFD agrees that all written material it publishes, in whatever media, including its billing statements and pages on any website EPFD maintains referring to the Flight Program or any air medical services thereunder, shall contain the legend: AVIATION SERVICES PROVIDED BY AIR METHODS CORPORATION or such similar legend as the Parties may agree upon. In addition, each Helicopter shall bear a legend on its fuselage, legible from the ground (when the aircraft is stationary), identifying AIR METHODS CORPORATION as the operator of the Helicopter.

Both AMC and EPFD shall comply with any and all applicable FAA flight safety requirements for air medical programs.

AMC shall make a copy of AMC's proprietary operating standards available to EPFD upon reasonable request. EPFD will not release any information that is identified by AMC to be proprietary or trade secret information, unless authorized by AMC in writing or otherwise required by law.

AMC shall participate in EPFD requested training, public relations, disaster situations, and other non-medical related flights, subject to AMC's approval and in accordance with Exhibit G.

5.8 Base Sites

As of the Commencement Date, EPFD shall provide at its sole cost one (1) Base Site located at 12230 Pine Spring Dr. El Paso, Texas 79936 (Fire Station 35) for the purpose of basing the Primary Helicopter, aviation crew, Clinical Crew (defined below) and maintenance facilities. Each Base Site shall include the items outlined in Exhibit B attached hereto. The Parties agree to negotiate a separate lease for the Base Site in parallel with this Agreement and will execute such lease within sixty (60) days of the El Paso City Council's approval of both agreements. EPFD and AMC shall mutually agree in writing upon any new Base Site or change in a Base Site location.

AMC will provide access to a hangar in the region for weather and maintenance considerations as needed.

Each of EPFD and AMC shall obtain and maintain, at such Party's own expense, all licenses, approvals and operating permits from the FAA, the State of Texas and/or other agencies necessary for operation at the Base Site.

5.9 AMC Area Manager

AMC shall designate an AMC Area Manager who will be responsible for the day-to-day administrative oversight of the Flight Program.

6.0 CLINICAL SERVICES

6.1 Clinical Crew

The Flight Program will be staffed at all times with a qualified medical crew composed of one (1) Registered Nurse supplied by AMC and one (1) Paramedic supplied by EPFD (the "Clinical Crew"). The Parties shall mutually agree upon any change in the Clinical Crew composition. The Clinical Crew shall be available to allow AMC to respond immediately to all flight requests on a 24 hours per day, 365 days per year basis. Clinical Crew members will meet the minimum qualifications listed on Exhibit E and will adhere to the standards of conduct described in Exhibit F. For clarification, the Parties acknowledge that there may be certain transports in which a local hospital provides a specialty team to provide clinical care for a specific patient and that such transports may not include one or both Clinical Crew members.

AMC shall reimburse EPFD for the provision of Paramedics to the Flight Program in accordance with Exhibit C.

The Clinical Crew shall meet and comply with all AMC, Texas Department of Health, and CAMTS standards, policies, protocols and procedures. AMC shall share such proprietary standards, policies, protocols and procedures with the Clinical Crew and EPFD concurrently with the execution and delivery of this Agreement and from time to time following the Commencement Date upon EPFD's reasonable request, subject to confidentiality obligations set forth below.

The Clinical Crew shall participate in AMC safety, compliance and quality audits and programs, at AMC's request. AMC shall provide proprietary training programs about its standards, policies, protocols and procedures at the Base Site. For the benefit of integrity of care, EPFD Paramedics, both those onboarding at the commencement of the Agreement and those onboarding at any other point during the Term, shall receive clinical training for purposes of the Flight Program at EPFD's sole cost through AMC's Ascend Clinical Training Program pursuant to a Clinical Education Agreement between EPFD and AMC affiliate AMC CE, LLC to be entered into contemporaneously with this Agreement; provided, however, that notwithstanding any training provided by AMC or its affiliate, AMC and its affiliate shall have no liability or responsibility for the clinical competency or actions of the EPFD Paramedics assigned to the Flight Program. EPFD will have the sole responsibility to train its Paramedics and to ensure each Paramedic meets the requirements set forth on Exhibit E. Likewise, EPFD shall have no responsibility or liability for the clinical competency or actions of the AMC Registered Nurses assigned to the Flight Program.

EPFD shall participate in the Flight Program's CAMTS accreditation process. Each Clinical Crew member shall be required to meet all educational, certification, and experience standards recommended by CAMTS and outlined in the proprietary Air Methods Medical Operations Manual, which AMC shall provide to EPFD and the Clinical Crew subject to the confidentiality obligations set forth below. The Parties recognize that compliance with such minimum standards is material to this Agreement.

EPFD, at its sole cost, will also provide safety and communications equipment for its Paramedics as approved by the AMC safety department. AMC will provide uniforms, helmets and NVGs for the Clinical Crew.

In addition to the Ascend Clinical Training, the EPFD Paramedics shall participate in appropriate committees, monthly staff meetings and training and orientation programs at AMC's request and will be expected to adhere to the same performance standards as AMC employees.

6.2 Medical Oversight

AMC shall provide physician medical oversight including online and offline medical command for the Flight Program. A medical director (the "Medical Director") who is mutually agreed upon by the Parties shall provide medical oversight. The Medical Director shall comply with all state and federal regulations as applicable for emergency medical service medical directors. The Medical Director will implement clinical care protocols for the Clinical Crew and operate a quality improvement program in accordance with AMC procedures. The Medical Director shall meet all educational and experience recommendations of CAMTS and all other qualifications described in Exhibit E. The Medical Director shall be responsible for all medical aspects of, and all medical decisions and directions relating to the Flight Program, and AMC shall be responsible for all decisions, directions and actions of the Medical Director.

6.3 Medical Equipment

AMC shall provide and maintain all of the medical equipment for each Helicopter. The equipment list, as set forth on Exhibit D, shall be adjusted from time to time to remain in compliance with state EMS regulations and applicable governmental regulations, and to remain consistent with medical equipment used by AMC in the Flight Program.

6.4 Medical Supplies

AMC shall provide all of the medical supplies used on each Helicopter. AMC may adjust the supply inventory list from time to time to remain in compliance with state EMS regulations and applicable governmental regulations, and to remain consistent with medical equipment used by AMC in the Flight Program.

6.5 Program Management

EPFD shall provide, at its sole expense, a Program Director with oversight responsibility for the Flight Program. The Program Director, who shall meet regularly with designated contacts to obtain Flight Program performance feedback. The Program Director will participate as requested by AMC in AMC regional meetings, conference calls, and other initiatives. The Parties agree that the Program Director will be EPFD's Fire Chief or designee.

6.6 Paramedic Staffing and Out-of-Service Time

In the event that EPFD is unable to provide qualified and fully trained Paramedics during the first one hundred twenty (120) days following the Commencement Date, AMC reserves the right to provide its own paramedics to staff open shifts during such time period, and AMC shall reduce the Clinical Crew Fee set forth on Exhibit C as described below for any shift in which EPFD does not provide a Paramedic.

In the event the Flight Program is out of service for lack of a Paramedic, AMC reserves the right to reduce the Clinical Crew Fee set forth on Exhibit C accordingly. AMC's payment of fixed monthly clinical crew fees for the Clinical Crew, as described in Exhibit C, will be reduced by 1/30th for each 24-hour shift in which EPFD does not provide an EPFD Paramedic.

7.0 TRAINING

AMC shall provide, at AMC's sole expense, all of the necessary aviation and flight safety training for aviation staff in accordance with AMC's pilot training program, as well as all necessary aviation and flight safety training for Clinical Crew in accordance with AMC's training procedures. AMC shall use reasonable efforts to provide additional aviation and flight safety training for Clinical Crew as EPFD may reasonably request or as AMC may recommend. The Parties shall mutually agree in advance in writing on the allocation of cost for such additional training.

8.0 COMMUNICATION CENTER SERVICES

AMC shall provide communication center services for the Flight Program through an established communication center ("AirCom"), 24 hours per day, 365 days per year. AirCom shall accept critical care transport requests from any referral source and any receiving facility in accordance with AMC's policies and procedures. AirCom shall be responsible for assigned operational aspects of communications including, but not limited to, alerts, communication and coordination with the flight team and ground agencies, and flight-following, in compliance

with AMC policies and FAA regulations and standards. AMC shall provide guidance and training for AirCom to ensure that all communication center functions meet these requirements.

EPFD shall supply radios and cell phones for the EPFD Paramedics.

9.0 ADDITIONAL SERVICES

9.1 Community Education and Outreach

AMC and EPFD shall, upon mutual agreement, develop a comprehensive community education and outreach plan for the Flight Program (the “Plan”). The Plan shall be consistent with EPFD’s mission and goals and AMC’s capabilities and shall cause no conflict of interest between AMC and EPFD. The Plan shall include development of specific services that will be provided by the Flight Program, identification of regional hospital affiliations and a budget for the resources necessary to implement the Plan. AMC will assign a business development manager (“Account Executive”), as further described in Exhibit G, to support the Flight Program in addition to his/her other duties for AMC. AMC and EPFD shall share equally the costs of implementing the Plan, in addition to all other costs each pays pursuant to this Agreement, including but not limited to personnel costs, aviation costs beyond those enumerated in Exhibit G, advertising costs and the cost of educational materials, which shall not exceed \$800 per Party, per Base Site, per month. AMC and EPFD representatives shall jointly review the Plan and progress against the Plan on a quarterly basis. The Parties shall make modifications and alteration of the Plan upon mutual agreement.

9.2 Customer Conference

If deemed necessary at AMC’s sole discretion, AMC may sponsor EPFD representatives to attend the annual AMC customer conference in accordance with AMC’s policies. AMC conducts the conference for the purpose of continuing education with regard to air medical transport, trends in the air medical industry, and updates on AMC policies, procedures, performance, objectives and other operational issues.

10.0 THIRD PARTY BILLING

AMC shall, at AMC’s sole expense, have sole authority to bill and collect, or cause the AMC Billing Entities to bill and collect, any and all fees for services provided under this Agreement. AMC and the AMC Billing Entities shall set the fee schedule and billing policies for all critical care transport services provided by the Flight Program.

AMC or the AMC Billing Entities as the licensed and billing entity shall be responsible for all patient records and documentation created on behalf of AMC and the AMC Billing Entities pursuant to this Agreement, including patient care records, billing records, and other related documents. EPFD agrees that it will retain and, subject to all applicable patient privacy rules and regulations, provide to AMC and the AMC Billing Entities or their authorized representatives all documents and records necessary for billing and collection for Flight Program services on a timely basis, or via virtual private network into EPFD’s system. Additionally, EPFD shall obtain all consents for AMC and the AMC Billing Entities which may be needed for AMC and the AMC Billing Entities to perform services under this Section including but not limited to consents to use patient information to the extent additional consent is necessary and consents necessary to contact responsible parties via cellular phone (including via an autodialer and similar equipment). AMC and the AMC Billing Entities, on the one hand, and EPFD, on the other hand, shall retain all such documents and records, and to hold them available for such

inspection until the expiration of 10 years after the patient's age of majority, regardless of the date of termination of this Agreement.

All EPFD and Flight Program employees responsible for the submission of data necessary for billing and collection purposes will be responsible for submission of such data in an accurate and timely fashion in AMC's assigned charting system. AMC shall be the sole administrator and holder of the electronic charting system account that will be used for the patient transports provided pursuant to this Agreement. Additionally, EPFD's employees shall use AMC's standard, pre-approved forms related to patient transports, including but not limited to the Physician Certification Statement and the patient Authorization and Consent Form. EPFD and its employees shall cooperate fully with AMC's and the AMC Billing Entities' billing processes, including but not limited to, AMC's and the AMC Billing Entities' documentation requirements, and relevant billing guidelines, policies and procedures, all of which shall be made available to EPFD upon request.

EPFD will assist in obtaining information from patients concerning insurance coverage when the data is available and when appropriate based upon the medical condition of the patient. EPFD clinical personnel will attempt to provide this information as part of the patient charting process.

EPFD will make staff available at reasonable times for training by AMC in methods and procedures regarding and/or required for proper billing. AMC faculty may deliver such training in person and/or via live webcast and/or distributive learning system approaches. AMC will provide all training for EPFD clinical staff at EPFD designated training facilities. AMC will provide training at least annually and at no additional cost to EPFD.

AMC shall, at EPFD's request, conduct an annual review of documentation practices and shall work with EPFD and its employees to ensure awareness of and compliance with AMC's billing and documentation standards.

11.0 QUALITY MANAGEMENT TOOLS

11.1 Real-Time Multidisciplinary Quality Management Tool

EPFD agrees to use the real-time multidisciplinary quality management tool AMC provides ("QM Tool") for all patient transports provided as part of this Agreement. Each of the Clinical Crew must upload all relevant professional licenses and certifications to the QM Tool before providing services under this Agreement. Additionally, EPFD shall give certain AMC management access to all patient records and information uploaded by the Clinical Crew for the purpose of quality assurance and review practices, responses to patient inquiries, and any other appropriate purpose.

EPFD will provide each employee from EPFD providing services pursuant to this Agreement with unique login and access codes to the QM Tool. EPFD and its employees will be solely responsible for maintaining the confidentiality and security of these unique access codes and logins, and EPFD shall not authorize access to the QM Tool except for those employees providing services under this Agreement. EPFD shall promptly inform AMC if an employee no longer provides services under this Agreement so that AMC may terminate that employee's access to the QM Tool.

EPFD shall not take or allow any action that attempts to defeat, disable, or circumvent any security measures that restrict or prevent unauthorized access to, use or copying of any portion of the QM Tool. EPFD's use of the QM Tool shall be subject to the Parties' business associate agreement attached hereto as Exhibit H, a business associate agreement with the third party provider of the QM Tool, and an End User License Agreement or the like, if necessary, to be separately entered into between EPFD and the third party provider of the QM Tool. EPFD's access to the QM Tool shall terminate upon the expiration or earlier termination of this Agreement or EPFD's breach of this Section 11.1.

AMC shall not be responsible for any of its third party software provider's acts and/or omissions in providing and/or supporting the QM Tool, and EPFD hereby affirmatively waives all such claims against AMC for liabilities, losses, lawsuits, claims, judgments, fines, demands, and expenses of any type or kind relating to or arising from its third party software provider's acts and/or omissions in providing and/or supporting the QM Tool.

12.0 PROGRAM FEES AND COSTS

12.1 Program Aviation Costs

AMC shall pay all costs associated with the operation of the Primary Helicopter, and any Backup Helicopter, which may be assigned from time to time. These costs include, but are not limited to, aircraft ownership or lease costs, insurance, operating costs, fuel, landing permits, parking fees, ground ambulance fees, hangar rental, and pilot training costs; provided, however, AMC shall not be responsible for those aviation costs associated with non-clinical or non-training flights except as set forth in Exhibit G. AMC shall be responsible for all taxes, fees, assessments, sales tax, personal property tax, license and registration fees which relate to ownership, use or operation of the Primary Helicopter and any Backup Helicopter.

12.2 Program Clinical Costs

EPFD shall pay all clinical costs of the Paramedics assigned to the Flight Program. AMC shall pay to EPFD a clinical service fee and other fees as identified in Exhibit C, to be adjusted in accordance with Section 13.0. The fees set forth in Exhibit C shall be the sole and complete compensation for the provision of the Paramedics in association with the terms of this Agreement as defined herein.

12.3 Payment of Fees

EPFD shall invoice AMC monthly in arrears for all amounts owed to EPFD, pursuant to Exhibit C, and the invoice should be received by AMC no later than the 15th day of the following month. The invoice shall include an itemized list of all costs and any receipts, if applicable. AMC shall make payment no later than 60 days after receipt of an undisputed invoice. EPFD shall submit all invoices to coupaAPinvoices@airmethods.com. Upon execution of this Agreement, EPFD shall provide AMC with a completed W-9. Any questions regarding an invoice shall be sent to APinquiries@airmethods.com.

13.0 FEES AND ADJUSTMENTS

13.1 Annual Escalation

The Parties shall adjust the applicable fees which are identified in Exhibit C on each 12-month anniversary of the Commencement Date (each an "Anniversary Date") in the manner provided below.

The basis for computing the adjustments to the fees is the Consumer Price Index for All Urban Consumers, U.S. City Average - All Items published by the United States Department of Labor, Bureau of Labor Statistics for the 12-month period prior to each Anniversary Date, not to exceed four percent (4%).

13.2 EPFD Subsidy

The Parties acknowledge and agree that: (a) El Paso is an underserved air medical community as there are currently no rotor wing air medical assets in the entire city, and (b) all previous rotor wing air medical bases in El Paso, including three previous AMC bases, were financially unviable and forced to close. For these reasons, the Parties agree that a subsidy structure is appropriate.

AMC's minimum annual revenue threshold for the Base Site in order to sustain financial viability for the first year of the Agreement is four million three hundred thousand dollars (\$4,300,000), which equates to a minimum monthly revenue threshold of three hundred fifty-eight thousand three hundred thirty-three dollars and thirty-three cents (\$358,333.33) (the "Monthly Revenue Threshold"). Every six months following the Commencement Date of the Agreement, the Parties will meet and review AMC's Base Site revenue results for the previous six months. If the average monthly revenue earned for the applicable six-month period is less than the Monthly Revenue Threshold, then the Parties will apply a monthly subsidy to the following six months equal to the shortfall of the Monthly Revenue Threshold, but not in any event to exceed twenty thousand dollars (\$20,000) per month. For ease of processing, EPFD will not need to make a separate payment to AMC in the event of a subsidy – any applicable monthly subsidy payment will be offset through a reduction to the Clinical Crew Fee set forth in Exhibit C. The Parties will repeat this exercise every six months throughout the Term. For clarity, when reviewing AMC's Base Site revenue results for the previous six months, the Parties will not include any subsidy received from EPFD in such analysis.

Notwithstanding the foregoing, the Parties further agree that EPFD should not be responsible for a subsidy to the extent any revenue shortfall is due to AMC's inability to meet its internal target in-service rate of ninety percent (90%) (the "ISR Target"). If AMC does not meet the ISR Target during any applicable six-month period analyzed by the Parties above, then EPFD will not owe AMC a subsidy for the following six-month period even if AMC fell short of the Monthly Revenue Threshold. For purposes of calculating AMC's in-service rate, AMC will only be deemed to be out of service if grounded for lack of pilot, lack of nurse or a maintenance event. All other reasons, including declines due to weather, refueling or transport in progress will not be factored into AMC's in-service rate for purposes of this Section.

The Monthly Revenue Threshold described above will be increased in year two and each subsequent year of the Term by the same annual escalation calculated in Section 13.1 above.

14.0 TRADEMARK

14.1 License Grant

During the Term, EPFD grants to AMC an irrevocable, exclusive (as to competitors of AMC) right, license, and privilege, with right to sublicense to AMC's Affiliates (defined below) to the extent reasonably necessary for operation of the Flight Program, to use the following EPFD trademark(s), tradename(s), and related designs and logos: "El Paso Fire", "El Paso Fire Shock-Trauma Air Rescue", and "El Paso Fire STAR" (collectively the "Licensed Marks"). AMC recognizes EPFD's ownership of its Licensed Marks as set forth in this Section and AMC acknowledges that all uses of the Licensed Marks and all goodwill resulting therefrom shall inure to the benefit of and be on behalf of EPFD. AMC shall use the Licensed Marks only as follows: (i) in connection with the Flight Program (including without limitation on any applicable helicopters, equipment, services, uniforms, systems, advertisements, promotional materials and products, and reasonable extensions related thereto); (ii) as specified by this Agreement; (iii) in a manner that does not disparage them; (iv) in compliance with any

use guidelines provided by EPFD; and (v) only during the Term of this Agreement. EPFD shall maintain any existing registrations for the Licensed Marks, pursue additional registrations where reasonably necessary to protect the Licensed Marks and their value to the Flight Program, and police against third party use of the Licensed Marks or confusingly similar marks where reasonably necessary to protect the Licensed Marks and their value to the Flight Program.

14.2 Representations, and Warranties

EPFD represents and warrants that: (i) EPFD owns all right, title, and interest in and to the Licensed Marks and has the right to use the Licensed Marks in connection with the Flight Program and to grant AMC the right to use the Licensed Marks as contemplated herein; (ii) the Licensed Marks and the use thereof as contemplated in this Agreement do not and will not infringe, misappropriate, or otherwise violate the intellectual property or other rights of any third party; and (iii) EPFD is not aware of any asserted, unasserted, or threatened claim by any third party with respect to the Licensed Marks..

14.3 Branding

The Parties shall brand the Primary Helicopter with the Licensed Marks and related designs as mutually agreed upon. Upon expiration or termination of this Agreement, AMC agrees to promptly cease its use of the Licensed Marks.

15.0 FAIR MARKET VALUE AND REFERRALS DISCLAIMER

The amounts to be paid hereunder represent the fair market value of the goods and services to be provided as established by arms-length negotiations by the Parties and have not been determined in any manner that takes into account the volume or value of any potential referrals between the Parties or any of their Affiliates. The Parties agree that the benefits to each Party do not require, are not payment for, and are in no way contingent upon the admission, referral, or any other arrangement for the provision of any item or service offered by either Party in any facility, controlled, managed, or operated by any Party. Each of the Parties expressly acknowledges and agrees that it has been and continues to be its intent to comply fully with all federal, state, and local laws, rules, and regulations. It is not the purpose nor is it a requirement of this Agreement to offer or receive any remuneration or benefit of any nature or to solicit, require, induce, or encourage the referral of any patient, the payment for which may be made in whole or in part by Medicare or Medicaid. No payment made or received under this Agreement is in return for the referral of patients or in return for the purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering of any goods, service, item, or product for which payment may be made in whole or in part under Medicare or Medicaid. No Party shall make or receive any payment that would be prohibited under state or federal law.

16.0 INSURANCE

16.1 AMC Aircraft Hull and Liability Insurance

During the Term, AMC shall maintain an aircraft hull and liability insurance policy with a reputable insurance company for bodily injury, personal injury and property damage covering each Helicopter with a combined single limit of not less than \$50,000,000 per occurrence. Such aircraft hull and liability policy shall include EPFD as an additional insured. AMC shall provide evidence of this insurance upon reasonable request.

16.2 EPFD General Liability Insurance

EPFD shall maintain general liability insurance, or self-insured coverage to meet this obligation, covering its obligations under this Agreement, including contractual liability set forth in this Agreement, the foregoing to have a combined single limit of not less than \$10,000,000. EPFD shall provide evidence of this insurance upon reasonable request.

16.3 Professional Medical Liability Insurance

Each Party shall maintain professional liability insurance, or self-insured coverage to meet this obligation, including coverage for medical errors and omissions and contractual liability set forth in this Agreement, the foregoing to have a combined single limit of not less than \$5,000,000 each claim, with an aggregate limit of \$8,000,000. Such professional liability policy shall include the other Party as an additional insured. Each Party shall provide evidence of this insurance upon reasonable request.

16.4 Cyber Liability

Each Party shall carry cyber liability insurance, or self-insured coverage to meet this obligation, including first and third party coverage, the foregoing to have a combined single limit of not less than \$1,000,000 each claim, with an aggregate limit of \$1,000,000.

16.5 Workers Compensation and Employers' Liability

Each Party shall carry workers compensation and employer's liability insurance, or self-insured coverage to meet this obligation, including stop gap coverage, including all endorsements as may be necessary to insure fully such Party's obligations required by law, the foregoing to have \$1,000,000 each accident, disease, and employee. Each Party shall place this insurance with a reputable insurance company. Each Party shall provide evidence of this insurance upon reasonable request.

16.6 Cancellation

Each policy carried by each Party to satisfy its contractual obligations hereunder shall provide that no cancellations or material alterations with respect to the insurance be made, unless at least 30 days' prior written notice of such cancellation is provided to the other Party, or at least 10 days' prior written notice is provided to the other Party in the event of cancellation due to non-payment.

16.7 Other Requirements

All insurance required herein shall be endorsed to waive all rights of subrogation with respect to the insured Party, its agents, and employees except to the extent the other Party caused the liability giving rise to the claim. The Parties' insurance providers shall have at least an A.M. Best A- rating and Class VII financial size.

17.0 FORCE MAJEURE

Neither AMC nor EPFD shall have any liability or responsibility for delay in performance or nonperformance of its obligations set forth in this Agreement resulting from any event beyond the Parties' reasonable control, included but not limited to the following: acts of God, of the public enemy, civil war, insurrections or riots, inclement weather, fires, floods, natural disasters, explosions, tornadoes, earthquakes or serious accidents, epidemics, pandemics, or quarantine restrictions; embargoes or legal or court orders affecting materials, fuel, oil

facilities, airports, and airways; any act of government, any act of the FAA, Department of Transportation, or any foreign counterpart thereof, or any foreign government, governmental priorities, airport or air traffic control, allocation regulations, embargoes, or orders affecting materials, fuel, oil, facilities, or any aircraft used by AMC hereunder, strikes, labor disputes causing cessation, slowdown or interruption of work or other like circumstances (each, a “Force Majeure”).

In the event of a Force Majeure, the Party affected by such Force Majeure shall provide prompt written notice of such Force Majeure to the other Party and shall use commercially reasonable efforts to resume work under this Agreement as soon as reasonably practicable. In the event of a Force Majeure, the performance period shall be extended for the period of time required to remove the event causing the delay.

Should a Party’s performance under this Agreement be suspended for more than 60 consecutive days due to a Force Majeure, then either Party shall be entitled to terminate this Agreement upon written notice to the other. Neither Party shall be liable for any damages caused by a Force Majeure.

18.0 ACCESS TO BOOKS AND RECORDS

18.1 Document Retention and Inspection

Each Party agrees to retain and make available upon the request of the other Party, the Secretary of the Department of Health and Human Services, or the Comptroller General of the United States, or any of their authorized representatives, any agreements between the Parties, and all books, documents and records necessary to verify the nature and extent of the costs and the services provided under this Agreement. The Parties agree to retain all such books, documents and records, and to hold them available for such inspection until the expiration of 4 years after the expiration or earlier termination of this Agreement.

Additionally, EPFD agrees to provide AMC any information related to EPFD or its employees providing services under this Agreement that is requested by a government agency or other payor in order to process and pay claims or enroll in Medicare and/or Medicaid.

Each Party agrees that any subcontractor to which it is, to a significant extent, associated or affiliated with, owns, or is controlled by, or has control of, will similarly be required by such Party to retain and give access to similar books, documents and records. Each Party agrees to promptly notify the other Party of any request it receives for access to its subcontractor’s records and to furnish a copy of such request. The regulations require that access be given within 20 days from the date of the request, unless written objection is made. If the other Party deems such a request to be inappropriate, then it may file an objection. Any proceeding regarding the other Party’s objections will be pursued at the other Party’s sole cost and expense; provided, however, that the Parties shall cooperate with respect to such objections.

18.2 HIPAA Business Associate Assurances

As detailed in Exhibit H, EPFD and AMC hereby represent and warrant to the other that each is a “health care provider,” as that term is defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated under such Act (as the Act and regulations are amended, restated and superseded from time to time, collectively, “HIPAA”), and that they are principally responsible for protecting the confidentiality of all patient-specific “protected health information” (as that term is defined in HIPAA) concerning patients transported by AMC in the Flight Program. EPFD and AMC will take such actions and adopt such policies, procedures and protocols concerning patients’ protected

health information as are necessary to comply with HIPAA.

As health care providers, EPFD and AMC may each provide protected health information to the other for purposes of treatment, payment or operations (as each such term is defined in the HIPAA Privacy Regulations), provided that EPFD and AMC each has a relationship with the individual who is the subject of the protected health information.

18.3 Government Requests

If access to either Party's books and records related to this Agreement is granted to the government, it will be granted to such Party's place of business, unless such Party elects, at its option and at its expense, to furnish copies to the government. Any government requested copies will be paid for by the government or such Party.

18.4 Compliance with Requests

Compliance with such requests for information under this Section 18.0 shall not provide a basis for a claim for extra compensation under this Agreement.

19.0 NOTICES

All notices and other communications hereunder shall be in writing and shall be delivered personally, utilizing a next-day service by a recognized next-day courier or by registered or certified mail, return receipt requested, postage prepaid. Notices will be deemed delivered when received or rejected as shown on the tracking report or return receipt. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the Party to receive such notice:

To AMC:

Air Methods, LLC
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attn: Senior Vice President, South Central Region

To EPFD:

City of El Paso
300 North Campbell
El Paso, Texas 79901
Attn: Fire Chief

with a copy (which will not constitute notice) to:

Air Methods, LLC
5500 South Quebec Street, Suite 300
Greenwood Village, CO 80111
Attention: Legal Department
Email: contracts@airmethods.com

20.0 WARRANTIES AND DISCLAIMERS OF AMC

20.1 Aircraft

EPFD hereby acknowledges and agrees that AMC is not the manufacturer of the Primary Helicopter or any Backup Helicopter or the manufacturer's agent with respect to any aircraft used in connection with this Agreement.

20.2 Warranties and Disclaimers

AMC MAKES NO WARRANTIES, GUARANTEES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE DESIGN, ORIGINAL CONSTRUCTION OR CONFIGURATION OR LATENT CONDITION OF ANY AIRCRAFT PROVIDED UNDER THIS AGREEMENT. AMC WARRANTS THAT IT WILL PERFORM ALL WORK, MAINTENANCE, AND OPERATIONAL SERVICES UNDER THIS AGREEMENT, AND AMC WILL SUPPLY AND INSTALL ALL PARTS, AND WILL MAKE SUCH MODIFICATIONS TO AIRCRAFT PARTS, COMPETENTLY, CORRECTLY AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL AVIATION ACT, AS AMENDED, THE FARs AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES AND REGULATIONS.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION, AMC MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER OR THE AIRCRAFT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

21.0 LIMITATION OF LIABILITY

In no event, whether as a result of contract, tort, strict liability or otherwise, shall either Party be liable to the other for any punitive, special, indirect, incidental or consequential damages, including without limitation loss of profits, loss of use or loss of contract.

22.0 NO PARTNERSHIP OR JOINT VENTURE

Neither Party intends to create a joint venture, partnership or principal and agent relationship by this Agreement. Accordingly, neither the terms contained herein nor the Parties' actions shall be construed to imply a joint venture, partnership or principal and agent relationship between EPFD and AMC, and neither Party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other.

23.0 NON-SOLICITATION

For a period of 12 months following the expiration or earlier termination of this Agreement, neither Party shall directly solicit, recruit or hire any person who on the date of the termination or expiration of this Agreement is an employee of the other Party or one of its Affiliates. The foregoing, however, shall not prohibit a general solicitation to the public of general advertising or similar methods of solicitation by search firms not specifically directed at the other Party's employees.

24.0 NON-DISPARAGEMENT

During the Term and for a period of 2 years following the expiration or earlier termination of this Agreement, neither Party will disparage, defame, or make any derogatory comments about the other Party. For purposes of this Section, "disparage" shall mean any negative statement, whether written, electronic or oral, about such Party, its Affiliates, and their respective officers, directors or employees, relating to the Party's business or services, including without limitation such Party's billing practices, which could reasonably be expected to

adversely affect the professional or personal reputation of such Party, its Affiliates, or their respective Representatives. Notwithstanding the foregoing, each Party may make truthful statements about the other Party and its officers, directors and employees, if compelled by court order, legal proceeding, or otherwise required by law. The Parties agree and acknowledge that this non-disparagement Section is a material term of this Agreement, the absence of which would result in the Parties refusing to enter into this Agreement.

25.0 CONFIDENTIALITY

25.1. Acknowledgement and Agreement

The Parties acknowledge and agree that, in connection with the performance of their obligations and exercise of their rights under this Agreement, each Party may have access to or obtain Confidential Information (defined below) of the other Party. The term “Confidential Information” shall mean the terms and conditions of this Agreement, and all business, financial, technical, and other information of a Party, including but not limited to Flight Program statistics, projections and strategies, rates, and any analyses of Flight Program performance or events prepared by either Party, that is provided to the other Party hereunder and that (i) is conspicuously marked as proprietary or confidential; or (ii) otherwise would be understood by a reasonable person to be confidential given the nature of the information and the circumstances surrounding the disclosure.

25.2 Handling of Confidential Information

Each Party shall protect the Confidential Information of the other Party using the same degree of care, but not less than a reasonable degree of care, that the receiving Party uses to protect its own confidential information of like nature, to prevent the unauthorized use, dissemination, or publication of such Confidential Information. The receiving Party shall not use or make available in any form the Confidential Information of the disclosing Party or its Affiliates to any other Party other than the receiving Party’s and its Affiliates’ and its and their Representatives whose job performance requires such access, and shall take appropriate steps to ensure that any persons permitted access to such Confidential Information are legally bound to hold such Confidential Information in trust and confidence, pursuant to the restrictions set forth herein, without further disclosure to any third party. The receiving Party will diligently enforce any and all confidentiality agreements with its Representatives to protect the Confidential Information. The receiving Party shall be responsible for any breach of this Section by its Representatives, and such responsibility shall be in addition to and not by way of limitation of any right or remedy disclosing Party might have against such Representatives with respect to any such breach. Further, all Confidential Information that falls under Section 25.1(i) above and is conspicuously marked as confidential shall only be shared with the receiving Party’s Flight Program management. The receiving Party shall only use any Confidential Information for the purposes set forth in this Agreement, and the receiving Party acknowledges and agrees that the disclosing Party and/or its Affiliates may be irreparably harmed if any of the Confidential Information were to be disclosed to third parties, and further agrees that the disclosing Party shall have the right to seek injunctive relief upon any violation of this Section, in addition to all other rights and remedies available at law or in equity. For purposes hereof, “Affiliates” means, with respect to an entity, any entity controlling, controlled by, or under common control, with such entity, existing now or in the future.

25.3 Non-confidential Information

Confidential Information shall not include any information that: (i) the receiving Party lawfully had knowledge of, or access to, prior to the time of disclosure by the disclosing Party or its Affiliates; (ii) the receiving Party developed independently without access to or use of the Confidential Information of

the disclosing Party and its Affiliates and without breach of this Agreement; (iii) has become generally known to the public other than by breach of this Agreement or wrongful act of the receiving Party or its Representatives; or (iv) the receiving Party obtained from a third party without an obligation to maintain confidentiality and not being in wrongful possession of such Confidential Information.

25.4 Disclosure of Confidential Information

Notwithstanding the provisions of Section 25.3 above, the receiving Party may disclose Confidential Information (i) for purposes of billing for services provided under this Agreement; (ii) pursuant to an order or judgment of any court or governmental body; or (iii) pursuant to any applicable law, rule or regulation, provided that for either (ii) or (iii), except where prohibited by applicable law, the receiving Party gives prompt notice to the disclosing Party in advance of such disclosure so that the disclosing Party and/or its Affiliates may have an opportunity to prevent such disclosure through appropriate legal means. If a protective order or other remedy is not obtained, or the disclosing Party waives compliance with the provisions hereof, the receiving Party shall disclose only that portion of Confidential Information which is legally required to be disclosed. The receiving Party shall also seek confidential treatment of such information from the entity to which the disclosure is made and shall cooperate with the disclosing Party and its Affiliates, at the expense of the disclosing Party, regarding the form, nature, content and purpose of such disclosure.

25.5 Right to Confidential Information

Each Party shall own and otherwise retain all right, title and interest in and to its Confidential Information. Disclosure of Confidential Information shall not confer on the receiving Party or its Representatives any rights or licenses to such Confidential Information other than those expressly set forth in this Agreement.

25.6 Destruction of Confidential Information

Upon the expiration or earlier termination of this Agreement, the receiving Party will destroy all documents, papers and other matter in the receiving Party's possession that contain such Confidential Information. Notwithstanding the foregoing: (i) the obligation to return or destroy the Confidential Information will not cover information that is maintained on routine computer system backup storage devices as long as such backed-up information is not used, disclosed, or otherwise recovered from such backup devices; and (ii) the receiving Party may retain a copy of any Confidential Information to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information, or pursuant to established document retention policies, or to the extent required to comply with requirements of applicable law.

25.7 Period of Obligation

The obligations set forth in this Section will apply throughout the Term and for a period of 1 year after expiration or termination of this Agreement.

26.0 EXCLUSION FROM MEDICARE OR MEDICAID

Neither Party has ever been suspended, excluded, or barred from the Medicare or Medicaid programs, or any other governmental program. Neither Party is under investigation or otherwise aware of circumstances which it reasonably believes would result in being excluded from the federal health care programs.

27.0 GENERAL PROVISIONS

27.1 Entire Agreement, Amendment and Waiver

This Agreement supersedes all prior agreements, oral or written, representations, statements, and/or understandings of AMC and EPFD with respect to the subject matter of this Agreement. The terms and provisions of this Agreement shall not be amended or modified without specific written provision to that effect, signed by the Parties. No oral statement of any person shall in any manner modify or otherwise affect the terms and provisions of this Agreement. The waiver of either Party of a breach of any provision of this Agreement shall not operate as or be construed as a continuing waiver or as consent to or waiver of such subsequent breach.

27.2 Assignment

This Agreement shall be binding upon the Parties and their successors and permitted assigns; provided, however, that, except as expressly set forth herein, no Party may assign, transfer, delegate or subcontract its rights or duties under this Agreement without prior written consent of the other Party. Notwithstanding the immediately preceding sentence, either Party may, without the prior consent of the other Party, assign or transfer all of its rights under this Agreement to: (i) a parent, subsidiary, or Affiliate; (ii) a purchaser of all or substantially all assets related to this Agreement; or (iii) a third party participating in a merger, acquisition, sale of assets or other corporate reorganization in which such Party is participating. Any permitted assignee shall assume all obligations of its assignor under this Agreement.

27.3 Employee Conduct

If, in the reasonable opinion of a Party, any of the other Party's personnel directly supporting the Flight Program does not demonstrate a high degree of aptitude for the type of customer service required, including a positive mental attitude and good interpersonal relations, the Party may make a written request to the other Party to review the performance of the individual. The reviewing Party will determine the appropriate disciplinary action, if any, up to and including termination of employment. All such employment actions will be handled on a case-by-case basis in accordance with all applicable state and federal laws and equal opportunity guidelines. The reviewing Party will take action on such request with the intent to resolve all such actions within 30 days of such written request.

27.4 Third Party Beneficiaries

Except as otherwise expressly set forth herein, nothing in this Agreement shall be construed as creating or granting rights or benefits hereunder to anyone other than AMC and EPFD.

27.5 Governing Law

The provisions of this Agreement and all rights and obligations of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America, without regards to conflict of laws principles thereof.

27.6 Investigations

Each Party shall promptly notify the other Party if it is sanctioned or disciplined as a result of any investigatory action related to the Flight Program by any federal, state or local agency or

affiliation/accreditation organization. Each Party shall also promptly notify the other Party if it is sued by any party if the notifying Party reasonably believes such lawsuit will adversely impact its ability to meet its obligations under this Agreement.

27.7 Remedies Cumulative

It is agreed that the rights and remedies herein provided in case of default or breach by a Party of this Agreement are cumulative and shall not affect in any manner any other remedies that a Party may have by reason of such default or breach by the defaulting Party. The exercise by the non-defaulting Party of any right or remedy provided herein shall be without prejudice to the non-defaulting Party's right to exercise any other right or remedy provided herein, at law, or in equity.

27.8 Severability

Each provision of this Agreement shall be considered separable, and if for any reason any provision of this Agreement, is determined to be invalid and/or contrary to any existing or future law, regulation, rule and/or order, such invalidity shall not impair the operations of, or affect those portions of this Agreement which are valid.

27.9 Interpretation

When a reference is made in this Agreement to a Section or Exhibit such reference shall be to a Section or Exhibit of this Agreement unless otherwise indicated. The headings contained in this Agreement or in any Exhibit are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any Exhibit but not otherwise defined therein shall have the meaning as defined in this Agreement. All Exhibits annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word "including" and words of similar import when used in this Agreement will mean "including, without limitation", unless otherwise specified.

27.10 No Presumption Against Drafting Party

Each of EPFD and AMC acknowledges that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived.

27.11 Execution


This Agreement may be executed in multiple counterparts (including by PDF, facsimile or other electronic means), each of which may be deemed an original and will constitute one and the same instrument.

[Signatures on Following Page]

CITY OF EL PASO:

Cary Westin Interim
City Manager

APPROVED AS TO FORM:



Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings
Fire Chief

(Acknowledgement)

STATE OF TEXAS)
COUNTY OF EL PASO)

This Instrument was acknowledged before me on the ____ day of _____, 20__ by Cary Westin, as Interim City Manager of the City of El Paso, a municipal corporation, on behalf of said corporation.

Notary Public, State of Texas
Notary's Name _____

My Commission Expires:

AIR METHODS, LLC

Signature:  _____

Printed Name: Jaelynn Williams _____

Title: CEO _____

Date: 4/5/24 _____

EXHIBIT A
PRIMARY HELICOPTER

Aircraft

Base Site:	El Paso
Manufacturer/Model:	Eurocopter EC130T2
Status:	Used
Certification:	Single Pilot VFR with NVG compatibility
Engines:	Single Engine
Patient Capacity:	Current configuration or as mutually agreed
Aircraft Paint Design:	Paint scheme and branding as mutually agreed

AMC may replace, with 60 days' prior notice to EPFD, any of the foregoing aircraft with the type of aircraft which AMC deems appropriate to provide the emergency air transport services contemplated by this Agreement in the most prudent, efficient and cost-effective manner possible.

AMC and EPFD shall mutually agree on and approve, in writing, the built-in medical equipment and configuration.

EXHIBIT B
BASE SITE REQUIREMENTS

- Parking for Staff
- Helipad
 - 120V power
 - Hose bib and water for aircraft washing
 - Lighting for minor maintenance
 - Storage area for mechanics equipment in close proximity to the aircraft
 - Maintenance on the helipad and related equipment
- Office Space (in close proximity to the aircraft)
 - Common Crew Area
 - Pilot Planning Area
 - Medical Crew Work Area
 - Pilot Rest Area (1 bedroom) and 2 medical crew members rest area (2 bedrooms)
 - Storage space for advanced life support equipment, medical supplies and limited storage space for light aircraft maintenance
 - Mechanic work area
- Telephone Access
 - Crew Phone
 - Pilot Phone
 - Pilot internet/WiFi access
 - Crew Fax Line
 - Mechanic phone and internet/WiFi access
- Mechanic Tool and Supply Area (close proximity to the aircraft)
- Bathroom and Shower Access
- Dirty Utility Area Access
- Computer
- Fax
- Kitchen Facilities
- Fuel Facilities

EXHIBIT C
FEES

AMC SHALL COMPENSATE EPFD:

CLINICAL CREW FEE	\$20,000.00 per month
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*The Clinical Crew Fee shall be adjusted annually on the Anniversary Date pursuant to Section 13.

** The Clinical Crew fee may be reduced in accordance with Section 6.6. EPFD's monthly invoice to AMC shall include the number of shifts in which EPFD did not provide a Paramedic in the prior month and shall reduce the Clinical Crew Fee for that month accordingly pursuant to Section 6.6.

*** The Clinical Crew Fee may also be reduced in accordance with Section 13.2 in the event a subsidy is owed.

EXHIBIT D
MEDICAL EQUIPMENT LIST

Primary Response Bag (content list provided)

Monitor

Monitoring capabilities include:

- 12 Lead ECG Monitoring
- Oxygen Saturation Monitoring
- Capnometry Monitoring
- Non-invasive Blood Pressure Monitoring
- (2) Invasive Pressure Monitoring Ports
- Vital Signs Trending

Cardiac Monitor

Monitoring capabilities include:

- External Pacer
- Defibrillator
- 12 Lead ECG Monitoring

Transport Ventilator -

At a minimum, operating modes include:

- Control
- Assist Control
- SIMV

IV Pumps

4 pumps on-board and additional available on request

Transvenous Pacemaker (if available)

Portable and On Board Suction Units

Primary and Secondary Drug Bags (content list provided)

Pediatric Bag (content list provided)

EXHIBIT E

CLINICAL CREW, PROGRAM MANAGER AND MEDICAL DIRECTOR QUALIFICATIONS

CLINICAL CREW

General

The Clinical Crew shall meet the minimum qualifications and performance standards as outlined in the AMC Medical Operational Policy and Procedure manual. EPFD shall provide access to educational opportunities for the Clinical Crew consistent with those afforded to EPFD employees in EPFD's critical care areas. EPFD will be responsible for: (i) Basic Life Support; (ii) Advanced Life Support; (iii) Pediatric Advanced Life Support; and (iv) TPATC.

AMC mandatory certifications and requirements include, but are not limited to: (i) Texas and New Mexico Licensure; (ii) Advanced Trauma Life Support; (iii) Neonatal Resuscitation Provider; and (iv) CAMTS certification recommendations.

Flight Nurses

- The flight nurse functions as a member of the critical care transport team and is responsible for the care of the critically ill and injured patients transported by the Flight Program. The flight nurse functions in the field and hospital environments after an extensive orientation. Responsibilities include patient care that incorporates advanced assessment, stabilization and intervention skills working under standards and protocols approved by the Medical Director. Use of these protocols and standards may require independent judgment if immediate contact with the Medical Director is unavailable.
- Qualifications: Registered Nurse with at least 3 years critical care experience/ED/ICU
Excellent communication skills and customer service skills
Current certifications in BLS/CPR; ACLS; PALS, TPATC (BLS, ACLS and PALS must be provided by AHA or ARC)
NRP Advanced provided by the American Academy of Pediatrics if program provides high-risk OB and/or neonatal transports
Current Texas and New Mexico nursing certification

Clinical Requirements: Must complete annual competency tests.

Paramedics

- The Critical Care Transport Paramedic functions as a member of the critical care transport team and is responsible for the care of the critically ill and injured patients transported by the Flight Program. The Critical Care Transport Paramedic functions in the field and hospital environments after an extensive orientation. Responsibilities include patient care, which incorporates advanced stabilization and intervention skills working under standards and protocols approved by the Medical Director. Use of these protocols and standards may require independent judgment if immediate contact with the Medical Director is unavailable.
- Qualifications: At least 3 years of first response ALS field experience at the paramedic level
Current certifications in BLS/CPR, and ACLS
PALS
TPATC
NRP if program provides high-risk OB and/or neonatal transports
Current Texas and New Mexico paramedic certification

Excellent communication skills and customer service skills

Clinical Requirements: Must complete annual competency tests.

PROGRAM DIRECTOR (EPFD)

- The Program Director is responsible for providing a coordinated air/land patient transport system for the Flight Program. This includes monitoring all day-to-day operations including aviation, land and communications components; general administration; and personnel management of the Flight Program. Specific responsibilities include: development of employment procedures, policies, protocols, and systems of measures for achieving the best possible system performance. The Program Director is responsible for monitoring contractual performance as it relates to the Flight Program, overall leadership of the Flight Program and ensuring that the needs of AMC are met.
- EDUCATION AND TRAINING: Bachelor's Degree
- EXPERIENCE:
 - 5 years' experience in air medical or ground medical leadership
 - Qualification as a nurse or paramedic
 - Previous flight or ground experiences (5 years minimum)
 - Excellent communication skills
 - Excellent customer service skills
- LICENSE AND CERTIFICATION: ACLS, PALS, ATLS
 - Pre-hospital certification (EMT-P)

MEDICAL DIRECTOR

Basic Functions & Responsibilities:

AMC is responsible for ensuring there is a Medical Director for this Flight Program. The Medical Director is responsible for the clinical quality of the patient transportation system including, without limitation, maintaining standards of patient care during transport by providing supervision, education and coordination for Clinical Crew members; reviewing, revising, and approving all medical protocols to direct patient care as defined by the Medical Standards manual; working collaboratively with the Program Director to insure quality patient care through the performance improvement program and by developing and implementation systems to monitor clinical care delivery; and working collaboratively with EPFD and AMC to insure professional working relationships are successfully established. The Medical Director will identify relevant issues and enhance the quality of care delivery.

Education & Experience:

- Board Certification in Emergency Medicine
- Transport experience including rotor and fixed wing
- 10 years of clinical experience
- 5 years of experience with air medical transport experience
- Excellent communication skills
- Participation in local, state and national committees related to air medical transport.

Licenses & Certifications:

- Licensed to practice medicine in Texas
- Certifications in ATLS and ACLS or equivalent education
- Current membership in the Air Medical Physicians Association

- Certifications in pediatric and neonatal training programs (or equivalent education or specialty physician consultant available)

Competencies:

Maintains competencies in advanced skills defined in the AMC Helicopter Policy & Procedure Manual to be able to instruct and test medical personnel on an annual and as-needed basis. Knowledgeable in flight physiology concepts, and incorporates same into protocols. Annual EMTALA training required.

Skills:

Maintains skills necessary to practice medicine within scope of practice, and maintains skills required of medical personnel to be able to instruct and test on an annual and as-needed basis. This maintenance of skills may be accomplished in the physician's own clinical practice as well as during patient contact as may be required by applicable state law or local regulations governing the Flight Program.

Characteristics Duties:

- Supervises quality of patient care provided by the Clinical Crew.
- Provides “off-line” medical direction and control for the Clinical Crew, as well as “on-line” medical direction during regular duty time. When he/she is not available, an alternate physician will be appointed to provide medical direction.
- Serves as a full member of the Quality Management team and acts as a liaison with health care providers from referring and receiving hospitals and health care facilities to assure continuity of care.
- Monitors and evaluates daily aviation operations through:
 - Availability to consult individually with team members on new or evolving clinical or operational issues.
 - Regular review of transport records and critiques (such oversight to include issues of team utilization, transport and response times, aviation and medical safety concerns and comments from referring and receiving facilities.)
- Participates in the interview process for hiring new medical employees.
- Participates in and supervises the training of medical personnel, including physicians, when appropriate. Approves orientation program for Clinical Crew members.
- Approves and monitors medical control plan that will include the following:
 - treatment protocols
 - triage protocols
 - communications protocols
 - transfer protocols
 - standing orders
 - continuing education plans

- Will maintain, or cause to have maintained, records of training and continuing education on each member of the Clinical Crew, and such information will be available at all times.
- As clinical consultant to the Clinical Crew, will determine criteria for patients eligible for transport and provide medical approval as to appropriateness for transport on an as-needed basis.
- Will maintain competency in patient care capabilities and limitations, infection control, stress recognition and management, altitude physiology/stressors of flight, and hazardous materials recognition and response.
- Will provide education annually on advanced trauma pathophysiology to include a skills lab for advanced procedures; including cricothyrotomy, pericardiocentesis, needle thoracostomy, intraosseous insertion, advanced airway management, and any other procedure approved by state regulatory agencies.
- This education may be accomplished during a non-patient encounter (i.e. skills lab on manikin, cadaver or animal) and/or during an actual patient encounter via direct supervision of Clinical Crew performance of skills with or without hands-on assistance by the Medical Director.
- Will maintain working knowledge of EMS and trauma regulations appropriate to the service area of the Flight Program.
- Will maintain currency in trends and developments that impact standard of care in the transport environment, and will keep the Program Director informed of these developments so that medical protocols can be revised accordingly.
- Will work collaboratively with the Program Director to enhance business relationships within the medical community.
- Other duties as assigned.

EXHIBIT F
STANDARDS OF CONDUCT

The Standards of Conduct are fundamental and are based on the expectation that all associated with AMC and EPFD shall exceed these requirements. AMC and EPFD are committed to the highest standards of business ethics and integrity. As a minimum standard, everyone associated with AMC and EPFD will conduct their activities in compliance with applicable laws. Everyone associated with AMC and EPFD has a duty to act in a manner consistent with their core values and the following standards derived from them. The Parties agree to abide by the following Standards of Conduct in every regard with respect to its conduct at the facility or with respect to business or activities:

- Exercise good faith and honesty in all dealings and transactions.
- Create a workplace that fosters community, respects the inherent dignity of every person, promotes employee participation and ensures safety and well-being.
- Maintain a high level of knowledge and skill among all who serve in order to provide a high quality of care.
- Provide accurate and truthful information in all transactions.
- Maintain and protect the confidentiality of patient, employee and organizational information.
- Exercise responsible stewardship of both human and financial resources.
- Avoid conflicts of interest and/or the appearance of conflicts.

EXHIBIT G
JOINT BUSINESS DEVELOPMENT AND OUTREACH PROGRAM

The Parties' marketing activities for each Base Site shall be conducted as follows:

1. EPFD shall collaborate with AMC to oversee and direct the business development and outreach activities for each Base Site. EPFD shall provide market information and direction, as appropriate.
2. The EPFD Program Director shall coordinate public relations outreach activity as determined by the Joint Business Development and Outreach Program, as determined by the EPFD and AMC designee.
3. AMC will provide reasonable flight services to designated sites for business development and outreach, as reasonably agreed upon between the Parties. As a general guidance, AMC will provide twelve (12) hours per Base Site per year of actual flight time at its sole expense to support the Joint Business Development and Outreach Program. AMC and EPFD will work together to schedule and implement any public relations flight requests that are made. All such requests and Base Site tours will be documented in accordance with the AMC public relations request form. AMC will keep on file a copy of all public relations requests, as required to maintain accreditation standards.
4. Unless otherwise agreed to by the Parties, the Base Site will remain in-service during any outreach event and available to respond to any flight requests received during such time period.
5. EPFD shall provide appropriate EPFD personnel as reasonably necessary in connection with business development and outreach activities mutually agreed upon hereunder.

EXHIBIT H
HIPAA BUSINESS ASSOCIATE AGREEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO) **HIPAA BUSINESS ASSOCIATE AGREEMENT**

THIS AGREEMENT is entered into on the last date of signature below (“Effective Date”) by and between the CITY OF EL PASO, TEXAS (“CITY”), and AIR METHODS, LLC ("AIR METHODS") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information (“PHI”) and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as “HIPAA”). CITY and AIR METHODS may be referred to herein individually as a “Party” or collectively as the “Parties”.

Each Party is a health care provider as defined under HIPAA and so each is primarily a Covered Entity for purposes of HIPAA. To the extent that either Party is occasionally serving in the capacity of a “business associate” (as defined by 45 C.F.R. 160.103) during the course of the services provided under the Agreement, the Parties shall comply with the following requirements set forth below.

RECITALS

WHEREAS, CITY has entered into a contract with AIR METHODS to perform services or provide goods, or both;

WHEREAS, each Party is a health care provider providing clinical services under the contract and possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, in certain limited circumstances each Party may serve in the capacity of a BUSINESS ASSOCIATE and may receive such information from the COVERED ENTITY, or create and receive such information on behalf of the COVERED ENTITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, each Party wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and AIR METHODS agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.

- a. **Agreement** shall refer to this document.
 - b. **Business Associate** means whichever Party is serving in the capacity of a Business Associate, as defined by HIPAA, in a given scenario.
 - c. **Covered Entity** means whichever Party is serving in the capacity of a Covered Entity, as defined by HIPAA, in a given scenario.
 - d. **HHS Privacy Regulations** shall mean the Code of Federal Regulations (“C.F.R.”) at Title 45, Sections 160 and 164, in effect, or as amended.
 - e. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term “individual” is defined in 45 C.F.R. 164.501.
 - f. **Information** shall mean any “health information” provided and/or made available by the COVERED ENTITY to the BUSINESS ASSOCIATE, and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.
 - f. **Parties** shall mean the CITY and AIR METHODS.
 - g. **Secretary** shall mean the Secretary of the Department of Health and Human Services (“HHS”) and any other officer or employee of HHS to whom the authority involved has been delegated.
 - h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.
2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the COVERED ENTITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)
 3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from the COVERED ENTITY for the following stated purposes:
To provide public health, research, and related support services (service) to the community for the mutual benefit and general welfare of the Parties (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).
5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from the COVERED ENTITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - a. The disclosure is required by law; or
 - b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).
6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of the COVERED ENTITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).
7. **BUSINESS ASSOCIATE OBLIGATIONS:**
 - a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the COVERED ENTITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
 - b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
 - c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to the COVERED ENTITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).

- d. Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).
- (i) **45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2).** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.
- e. Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).
- f. Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the COVERED ENTITY, amend or correct protected health information (PHI) in its possession or under its control.
- g. Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).
- h. Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).
- i. Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the COVERED ENTITY, available to the Secretary

or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).

- j. **Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
 - k. **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
 - l. **Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
 - m. **Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of the COVERED ENTITY's obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to the COVERED ENTITY in the performance of such obligation(s).
 - n. **Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
 - o. **Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
 - p. **State Law on Medical Records Privacy.** The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.
8. **Property Rights.** The Information shall be and remain the property of the COVERED ENTITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
9. **Modifications.** The Parties agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth

in Title 45, Parts 160 and 164, (Subparts A and E the “Privacy Rule” and Subparts A and C the “Security Rule”) of the Code of Federal Regulations.

10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

1. **Term.** The Term of this Agreement shall be effective as of May 1, 2024 and shall terminate on April 30, 2029 or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
2. **Termination for Cause.** Upon the COVERED ENTITY’s knowledge of a material breach by BUSINESS ASSOCIATE, the COVERED ENTITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the COVERED ENTITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.
3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from COVERED ENTITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, shall:
 - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
 - b. Return to the COVERED ENTITY, or, if agreed to by the COVERED ENTITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the COVERED ENTITY that the Information has been destroyed;
 - c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in

this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;

- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to the COVERED ENTITY or, if agreed to by COVERED ENTITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. Remedies. If the COVERED ENTITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, COVERED ENTITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;
- 2. Take any other reasonable steps that COVERED ENTITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. Injunction. COVERED ENTITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to COVERED ENTITY. Accordingly, in addition to any other remedies available to COVERED ENTITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, COVERED ENTITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.

D. Miscellaneous

- 1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.

2. **Amendment.** CITY and AIR METHODS agree that amendment of this Agreement may be required to ensure that the Parties comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. Either Party may terminate this Agreement upon 60 days written notice in the event that the other Party does not promptly enter into an amendment that the terminating Party, in its sole discretion, deems sufficient to ensure that it will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
200 N. Campbell
El Paso, TX 79901
ATTN: Fire Chief

AIR METHODS: AIR METHODS, LLC
ATTN: Legal Department
5500 South Quebec Street, Suite 300
Greenwood Village, Colorado 80111

5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws, with venue in El Paso County, Texas.
8. **Compliance with Laws.** Each Party agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, each Party reserves the right to notify the other Party in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and AIR METHODS, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
11. **Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and AIR METHODS regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures begin on Following Page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

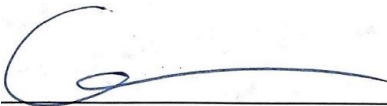
HIPAA BUSINESS ASSOCIATE AGREEMENT

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day of _____, 2020.

CITY OF EL PASO:


Cary Westin
City Manager

APPROVED AS TO FORM:



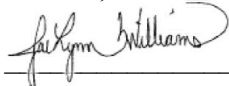
Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:



Jonathan Killings
Fire Chief

AIR METHODS, LLC.

Signature:  _____
Printed Name: JaeLynn Williams
Title: CEO
Date: 4/5/24

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

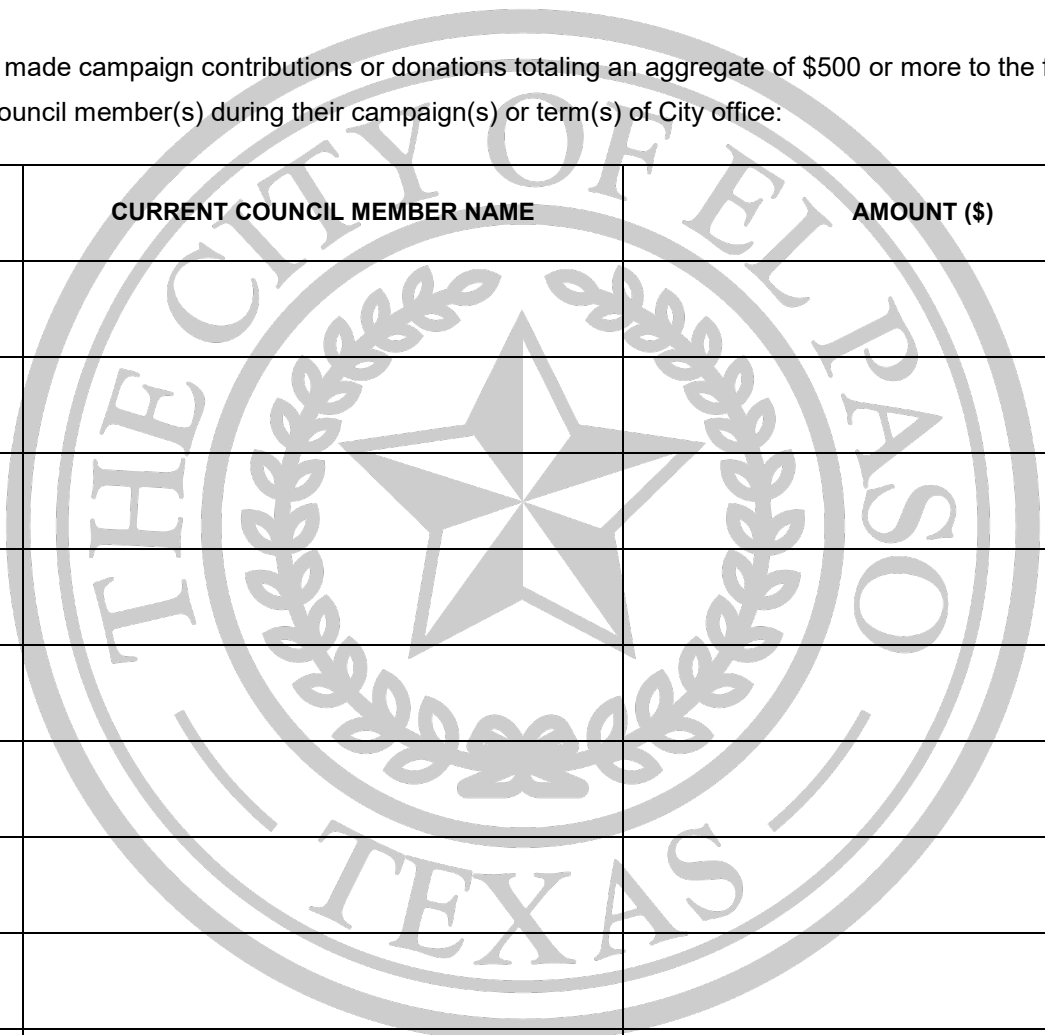
Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:



OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: _____ Date: _____



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-533, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Districts 2, 3, 4, 6, 7

Environmental Services Department, Nicholas Ybarra, (915) 212-6000

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

That the Solid Waste liens on the attachment posted on this agenda be approved (See Attachment A).

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Nicholas Ybarra, (915) 212-6000

DISTRICT(S) AFFECTED: 2, 3, 4, 6, 7

STRATEGIC GOAL: Goal 3 – Promote the Visual Image of El Paso

SUBGOAL:

SUBJECT:

That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Environmental Services Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client
department should sign also)

ATTACHMENT A
SOLID WASTE LIENS

April 23, 2024

Address	Owner of Record	Amount	District
3830 POLK AVE	TRR 4133 INC	\$382.50	2
3309 NATIONS AVE	SAENZ, EMANUEL B	\$323.00	2
4105 SUNRISE AVE	ROBINSON, ALBERT S	\$599.50	2
7223 SAFFORD CT	ALANIZ NORMA R C/O RODRIGUEZ NAOMI	\$343.50	3
3468 EDGEROCK DR	PEREZ, RODOLFO S & AURORA	\$315.00	3
10360 PRESTON DR	SHELDON, RICHARD L	\$2,020.00	4
10056 OAKWOOD DR	GONZALEZ MARIAN	\$454.00	4
6716 HEARTSTONE CT	PRESLEY B J L	\$303.50	4
1795 VICTOR LOPEZ DR	HERNANDEZ, VICTORIA R	\$317.50	6
11624 CEDAR CREST DR	UGARTE, HECTOR P	\$428.50	7

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, TRR 4133 INC, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

3830 Polk Ave, more particularly described as Lot (17 3600 SQ FT),
Block 59, MORNINGSIDE HEIGHTS Subdivision, City of El
Paso, El Paso County, Texas, PID #M794-999-0590-4900

to be \$382.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 6TH day of December, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED EIGHTY TWO AND 50/100 DOLLARS (\$382.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Leslie B. Jean-Pierre
Leslie B. Jean-Pierre
Assistant City Attorney

Nicholas H. Ybarra
Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, SAENZ, EMANUEL B, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

3309 Nations Ave, more particularly described as Lot 11 & W 9 FT
OF 10 & E 8 FT OF 12(5040 SQ FT), Block 34, GRANDVIEW
Subdivision, City of El Paso, El Paso County, Texas, PID #G686-
999-0340-3100

to be \$323.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 18TH day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED TWENTY THREE AND 00/100 DOLLARS (\$323.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:


Oscar Leeser
Mayor

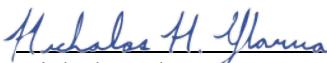
ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


Leslie B. Jean-Pierre
Assistant City Attorney


Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, ROBINSON, ALBERT S, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

4105 Sunrise Ave, more particularly described as Lot 7(6000 SQ FT), Block 5, DESERT HILLS Subdivision, City of El Paso, El Paso County, Texas, PID #D444-999-0050-3100

to be \$599.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 23RD day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FIVE HUNDRED NINETY NINE AND 50/100 DOLLARS (\$599.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Leslie B. Jean-Pierre
Leslie B. Jean-Pierre
Assistant City Attorney

Nicholas H. Ybarra
Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, ALANIZ NORMA R C/O RODRIGUEZ NAOMI, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

7223 Safford Ct, more particularly described as Lot 2, Block 53,
RANCHLAND HILLS #5 Subdivision, City of El Paso, El Paso
County, Texas, PID #R221-999-0530-0800

to be \$343.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 21ST day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED FORTY THREE AND 50/100 DOLLARS (\$343.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:


Oscar Leeser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Leslie B. Jean-Pierre
Assistant City Attorney



Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leaser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, PEREZ, RODOLFO S & AURORA, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

3468 Edgerock Dr, more particularly described as Lot 1(7700 SQ FT), Block 16, Pebble Hills #2 Subdivision, City of El Paso, El Paso County, Texas, PID #P654-999-0160-0100

to be \$315.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 30th day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED FIFTEEN AND 00/100 DOLLARS (\$315.00) to be a lien on the above described property, said amount being due and payable within ten (10)

days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

Nicholas H. Ybarra
Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, SHELDON, RICHARD L, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

10360 Preston Dr, more particularly described as Lot 24, Block 10,
SUN VALLEY #2 Subdivision, City of El Paso, El Paso County,
Texas, PID #S816-999-0100-4700

to be \$2,020.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 5TH day of December, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount TWO THOUSAND TWENTY AND 00/100 DOLLARS (\$2,020.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

Nicholas H. Ybarra
Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, GONZALEZ MARIAN, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

10056 Oakwood Dr, more particularly described as Lot 11(6428 SQ FT), Block 6, TERRACE HILLS Subdivision, City of El Paso, El Paso County, Texas, PID #T172-999-0060-4100

to be \$454.00, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 18TH day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED FIFTY FOUR AND 00/100 DOLLARS (\$454.00) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:


Oscar Leeser
Mayor

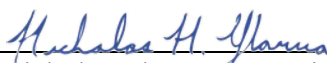
ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:


Leslie B. Jean-Pierre
Assistant City Attorney


Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, PRESLEY B J L, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

6716 Heartstone Ct, more particularly described as Lot 46(6272 SQ FT), Block 14, SHEARMAN #4 Subdivision, City of El Paso, El Paso County, Texas, PID #S363-999-0140-6800

to be \$303.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 18TH day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED THREE AND 50/100 DOLLARS (\$303.50) to be a lien on the above described property, said amount being due and payable within ten (10)

days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.


CITY OF EL PASO:

Oscar Leeser
Mayor


ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:


Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:


Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leaser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, HERNANDEZ, VICTORIA R, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

1795 Victor Lopez Dr, more particularly described as Lot 8, Block
386, VISTA DEL SOL #65 Subdivision, City of El Paso, El Paso
County, Texas, PID #V893-999-3860-0800

to be \$317.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 2ND day of December, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount THREE HUNDRED SEVENTEEN AND 50/100 DOLLARS (\$317.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Leslie B. Jean-Pierre
Leslie B. Jean-Pierre
Assistant City Attorney

Nicholas H. Ybarra
Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2024,
by Oscar Leaser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, UGARTE, HECTOR P, referred to as owner, regardless of number, of the hereinafter described property, was given notice that said property constituted a public nuisance due to the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of Chapter 9.04 of the El Paso City Code; and the owner failed to comply with due notices. In accordance with El Paso City Code Chapter 9.04, the Environmental Services Department proceeded to clean and dispose of the trash, vegetation, weeds or other rubbish; and

WHEREAS, the Director of the Environmental Services Department has reported the cost of doing such work in the amount hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. The City Council determines its reasonable expenses including administrative costs and the cost of removing the accumulated trash, vegetation and weeds or other rubbish located on the property known as:

11624 Cedar Crest Dr, more particularly described as Lot 7(7350 SQ FT), Block 279, VISTA DEL SOL #57 Subdivision, City of El Paso, El Paso County, Texas, PID #V893-999-2790-1300

to be \$428.50, in accordance with the El Paso City Code Section 9.04.880 and the Texas Health & Safety Code Section 342.007. The City Council finds that the work was completed on the 29TH day of November, 2022, and approves the costs described herein.

2. The City Council, in accordance with Chapter 9.04 of the El Paso City Code, declares the above total amount FOUR HUNDRED TWENTY EIGHT AND 50/100 DOLLARS (\$428.50) to be a lien on the above described property, said amount being due and payable within

ten (10) days from the date of City Council approval, and thereafter bearing ten percent (10%) interest per annum.

3. The City Clerk is directed to give notice of the lien by filing a copy of this Resolution for record with the County Clerk.

4. All records of the City Clerk's office relating to the proceeding against the above described property are made a part of this Resolution by reference.

PASSED AND APPROVED this _____ day of _____, 2024.

CITY OF EL PASO:


Oscar Leeser
Mayor

ATTEST:

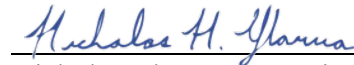
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Leslie B. Jean-Pierre
Assistant City Attorney



Nicholas Ybarra, P.E., Director
Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2024,
by Oscar Leeser, as Mayor, of the City of El Paso.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

PREPARED IN THE OFFICE OF:

Office of the City Attorney
P.O Box 1890
El Paso, Texas 79950-1890

FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department
7968 San Paulo
El Paso, Texas 79907
(915) 212-6000

ATTACHMENT A
SOLID WASTE LIENS

April 23, 2024

Address	Owner of Record	Amount	District
3830 POLK AVE	TRR 4133 INC	\$382.50	2
3309 NATIONS AVE	SAENZ, EMANUEL B	\$323.00	2
4105 SUNRISE AVE	ROBINSON, ALBERT S	\$599.50	2
7223 SAFFORD CT	ALANIZ NORMA R C/O RODRIGUEZ NAOMI	\$343.50	3
3468 EDGEROCK DR	PEREZ, RODOLFO S & AURORA	\$315.00	3
10360 PRESTON DR	SHELDON, RICHARD L	\$2,020.00	4
10056 OAKWOOD DR	GONZALEZ MARIAN	\$454.00	4
6716 HEARTSTONE CT	PRESLEY B J L	\$303.50	4
1795 VICTOR LOPEZ DR	HERNANDEZ, VICTORIA R	\$317.50	6
11624 CEDAR CREST DR	UGARTE, HECTOR P	\$428.50	7



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-530, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Clerk's Office, Laura D. Prine, (915) 212-0049

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Approve a Resolution that in conformity with Section 3.5 of the City Charter, the Work Session and Regular City Council meetings scheduled for June 17, 2024, and June 18, 2024, are hereby rescheduled for Monday, June 10, 2024, and Tuesday, June 11, 2024.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Clerk

AGENDA DATE: April 23, 2024

N/ACONTACT PERSON NAME AND PHONE NUMBER: Laura D. Prine / (915) 212-0049

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 6: Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: 6.8 Support transparent and inclusive government

SUBJECT:

Approve a Resolution that in conformity with Section 3.5 of the City Charter, the Work Session and Regular City Council meetings scheduled for June 17, 2024, and June 18, 2024, are hereby rescheduled for Monday, June 10, 2024, and Tuesday, June 11, 2024.

BACKGROUND / DISCUSSION:

The meetings for the week of June 17, 2024 need to be rescheduled to avoid a quorum issue due to some Council members who are scheduled to be out of the office during that time. In conformity with Section 3.5 of the City Charter Regular meetings of the City Council shall be held in Council Chambers no less than once every other week at such times as may be prescribed by resolution, except that Council may reschedule meetings by resolution to allow for City holidays, but must have no less than two regular meetings per month. June meetings will be held on June 4, 2024 and June 11, 2024 in compliance with the two meeting per month requirement.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

On October 24, 2023 Council approved a Resolution rescheduling the regular city Council of December 19, 2023 to December 12, 2023.

AMOUNT AND SOURCE OF FUNDING:

No budgetary impact

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: *Laura D. Prine* 4/11/2024

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

WHEREAS, pursuant to the City's 2024 calendar year City Council regular meeting schedule, City Council is scheduled to meet on Monday, June 17, 2024 and Tuesday, June 18, 2024; and

WHEREAS, the City Council desires to reschedule the Monday, June 17, 2024 and Tuesday, June 18, 2024 meetings to Monday, June 10, 2024 and Tuesday, June 11, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That in conformity with Section 3.5A of the City Charter, the Work Session and Regular City Council meetings scheduled for June 17, 2024, and June 18, 2024, are hereby rescheduled for Monday, June 10, 2024, and Tuesday, June 11, 2024.

All City Council Rules and Procedures not expressly modified herein remain in full force and effect.

APPROVED this _____ day of _____ 2024.

THE CITY OF EL PASO

Oscar Leaser, Mayor

ATTEST:

Laura D. Prine
City Clerk

Russel T. Abeln

Russell Abeln
Senior City Attorney



Legislation Text

File #: 24-536, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Districts 3, 7

Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Resolution to authorize the City Manager, or designee, to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the design and construction of the Congestion Mitigation Air Quality Program grant improvements generally described as Bicycle and Pedestrian Improvements along Playa Drain, from Yarbrough Drive to Midway Drive, for a total estimated project cost of \$5,893,398.00 of which the estimated local government participation amount is estimated at \$458,049.58 plus any cost overruns. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A
CONTACT PERSON(S) NAME AND PHONE NUMBER: Joaquin Rodriguez, (915) 212- 0065
DISTRICT(S) AFFECTED: 3, 7
STRATEGIC GOAL: No.7: Enhance and Sustain El Paso's Infrastructure Network
SUBGOAL: N/A

SUBJECT:

A resolution to authorize the City Manager, or designee, to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the design and construction of the Congestion Mitigation Air Quality Program grant improvements generally described as Bicycle and Pedestrian Improvements along Playa Drain, from Yarbrough Drive to Midway Drive, for a total estimated project cost of \$5,893,398.00 of which the estimated local government participation amount is estimated at \$458,049.58 plus any cost overruns. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement.

BACKGROUND / DISCUSSION:

The scope of work for the Project consists of the design and construction of Bicycle and Pedestrian Improvement along the Playa Drain path, from Yarbrough Drive to Midway Drive.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Federal/State- \$5,435,348.42

MPO Match - \$458,049.58

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? __ YES ___ NO

PRIMARY DEPARTMENT: Capital Improvement Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the City Manager, or designee, be authorized to sign an Advance Funding Agreement by and between the City of El Paso and the State of Texas, acting by and through the Texas Department of Transportation, for the design and construction of the Congestion Mitigation Air Quality Program grant improvements generally described as Bicycle and Pedestrian Improvements along Playa Drain, from Yarbrough Drive to Midway Drive, for a total estimated project cost of \$5,893,398.00 of which the estimated local government participation amount is estimated at \$458,049.58 plus any cost overruns. Further, that the City Manager, or designee, is authorized to sign all documents, agreement amendments, and perform all actions required to carry out the obligations of the City under this agreement.

APPROVED this _____ day of _____ 2024.


THE CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

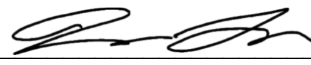
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Joaquín Rodríguez, AICP
Capital Improvement Department

TxDOT:				Federal Highway Administration:	
CCSJ #	0924-06-728	AFA ID	Z00009024	CFDA No.	20.205
AFA CSJs	0924-06-728			CFDA Title	Highway Planning and Construction
District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT
For
Congestion Mitigation Air Quality (CMAQ)
Off-System

THIS AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and the **City of El Paso**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **116522** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Bicycle and Pedestrian Improvements along Playa Drain**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated **{Enter Date of Resolution}**, which is attached to and made a part of this Agreement as Attachment C, Resolution, Ordinance, or Commissioners Court Order (Attachment C). A map showing the Project location appears in Attachment A, Location Map Showing Project (Attachment A), which is attached to and made a part of this Agreement.

TxDOT:				Federal Highway Administration:	
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District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			<i>AFA Not Used For Research & Development</i>	

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	Local Government	Utilities	Article 8
2.	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	Local Government	Construction Responsibilities	Article 12
5.	Local Government	Right of Way and Real Property	Article 14

2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of the design and construction of Bicycle and Pedestrian Improvement along the Playa Drain path, from Yarbrough Drive to Midway Drive.

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment B, Project Budget (Attachment B) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

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- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment B. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment B shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government.
- F. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment B. At a minimum, this amount shall equal the Local Government's funding share for the

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- estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
 - K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
 - L. The State will not pay interest on any funds provided by the Local Government.
 - M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
 - N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
 - O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
 - P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
 - Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
 - R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

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5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

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9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the

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State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

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The Local Government shall be responsible for the following:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property.
- B. If the Local Government is the owner of any part of the Project site under this Agreement, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. All parties to this Agreement will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- D. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- E. In the event real property is donated to the Local Government after the date of the State's authorization, the Local Government will provide all documentation to the State regarding fair market value of the acquired property. The State will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. The State will not reimburse the Local Government for any real property acquired before execution of this Agreement and the obligation of federal spending authority.
- F. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- G. The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be

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shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and may base its reimbursement for parcel acquisitions on these values.

- H. Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined value of each parcel, or the net cost of the parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers, expenses incurred in order to assure good title, and costs associated with the relocation of displaced persons and personal property as well as incidental expenses.
- I. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this Agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed agreement shall be provided to the State.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

TxDOT:				Federal Highway Administration:	
CCSJ #	0924-06-728	AFA ID	Z00009024	CFDA No.	20.205
AFA CSJs	0924-06-728			CFDA Title	Highway Planning and Construction
District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarborough to Midway)			<i>AFA Not Used For Research & Development</i>	

Local Government:	State:
City of El Paso ATTN: CID Director of Grant Funded Programs PO Box 1890 El Paso, Texas 79950-1890	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government.

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

TxDOT:				Federal Highway Administration:	
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District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			<i>AFA Not Used For Research & Development</i>	

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's

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District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			<i>AFA Not Used For Research & Development</i>	

obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).

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- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State’s federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State’s DBE guidelines and in consideration of the local market, project size, and nature of the goods or

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District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			AFA Not Used For Research & Development	

services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.

- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under

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Project Name	Playa Drain Path (Yarbrough to Midway)			<i>AFA Not Used For Research & Development</i>	

this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award

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provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is:

<https://www.sam.gov/portal/public/SAM/>

2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

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District #	24	Code Chart 64#	13400		
Project Name	Playa Drain Path (Yarbrough to Midway)			<i>AFA Not Used For Research & Development</i>	

Each party is signing this Agreement on the date stated under that party's signature.

THE STATE OF TEXAS

Signature

Typed or Printed Name

Typed or Printed Title

Date

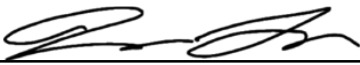
THE LOCAL GOVERNMENT

THE CITY OF EL PASO

By: _____
Samuel Rodriguez for Interim City Manager, Col. Cary Westin

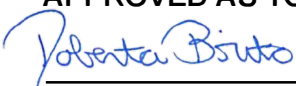
Date

APPROVED AS TO CONTENT:



Joaquin Rodriguez, AICP
CID Grant Funded Program Director

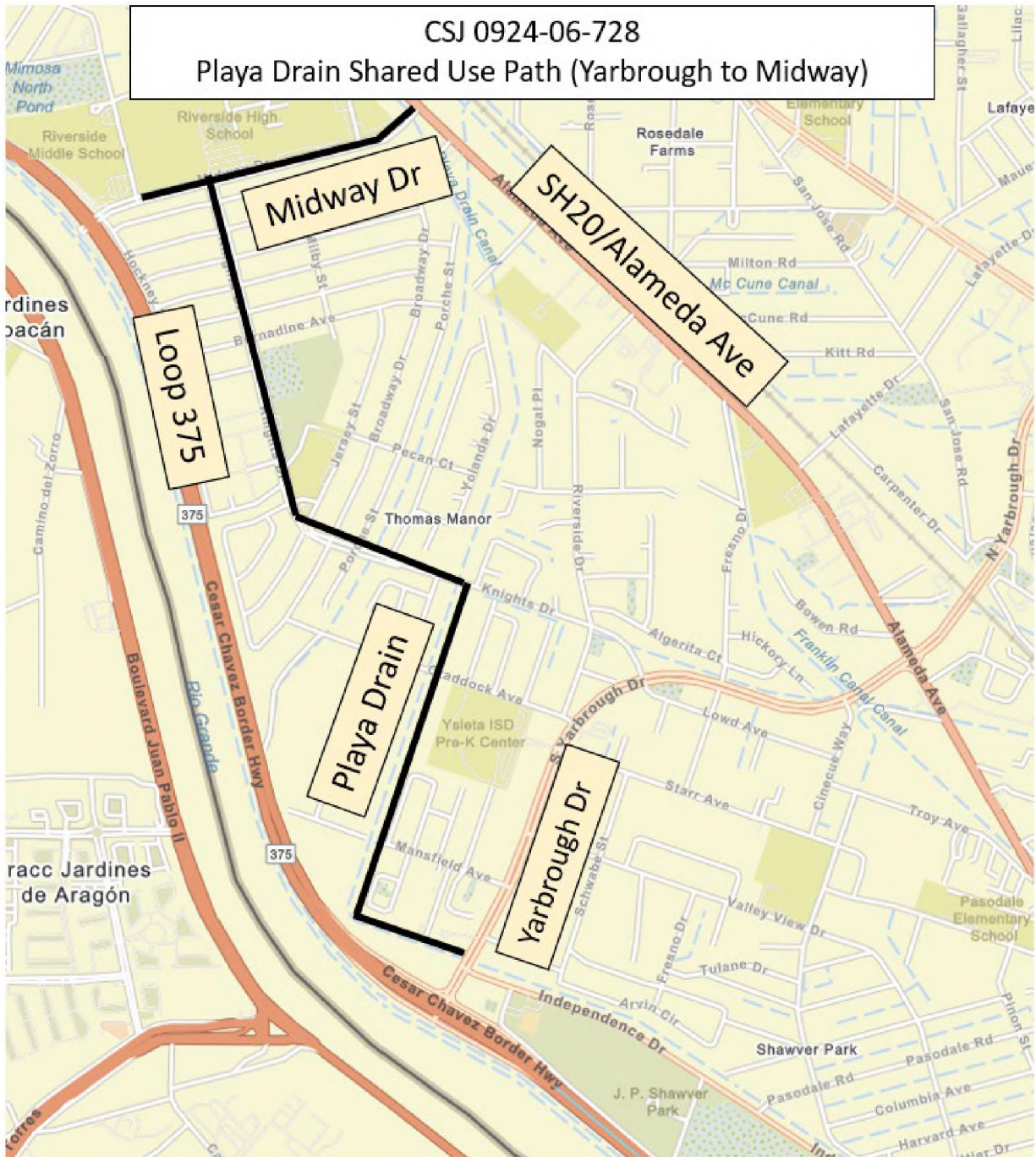
APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

TxDOT:				Federal Highway Administration:	
CCSJ #	0924-06-728	AFA ID	Z00009024	CFDA No.	20.205
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ATTACHMENT A
LOCATION MAP SHOWING PROJECT



TxDOT:				Federal Highway Administration:	
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ATTACHMENT B PROJECT BUDGET

Cost will be allocated based on will be allocated based on 80% Federal funding , 12% State funding, and 8% Local Government funding until the federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the costs.

Description	Total Estimated Cost	Federal Participation		State Participation			Local Participation		
		%	Cost	% Before EDC Adj.	% After EDC Adj.	Cost After EDC Adj.	% Before EDC Adj.	% After EDC Adj.	Cost After EDC Adj.
Engineering (by Local Government)	\$1,512,204.00	80%	\$1,209,763.20	0%	12%	\$181,464.48	20%	8%	\$120,976.32
Environmental (by Local Government)	\$85,000.00	80%	\$68,000.00	0%	12%	\$10,200.00	20%	8%	\$6,800.00
Construction (by Local Government)	\$4,107,096.00	80%	\$3,285,676.80	0%	12%	\$492,851.52	20%	8%	\$328,567.68
Subtotal	\$5,704,300.00		\$4,563,440.00			\$684,516.00			\$456,344.00
Environmental Direct State Costs	\$3,707.80	80%	\$2,966.24	0%	12%	\$444.94	20%	8%	\$296.62
Right of Way Direct State Costs	\$926.95	80%	\$741.56	0%	0%	\$0	20%	0%	\$185.39
Engineering Direct State Costs	\$4,634.75	80%	\$3,707.80	0%	12%	\$556.17	20%	8%	\$370.78
Utility Direct State Costs	\$926.95	80%	\$741.56	0%	0%	\$0	20%	0%	\$185.39
Construction Direct State Costs	\$8,342.55	80%	\$6,674.04	0%	12%	\$1,001.11	20%	8%	\$667.40
Indirect State Costs (4.60%)	\$170,559.00	0%	\$0	100%	0%	\$170,559.00	0%	0%	\$0
TOTAL	\$5,893,398.00		4,578,271.20			\$857,077.22	0%		\$458,049.58

Initial payment by the Local Government to the State: \$1,038.18
Payment by the Local Government to the State before construction: \$667.40
Total payment by the Local Government to the State: \$1,705.58
The final amount of Local Government participation will be based on actual costs.



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-599, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Members of the City Council, Mayor Oscar Leaser, (915) 212-2001

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Elizabeth Thurmond-Bengtson to the Zoning Board of Adjustment as a Regular Member by Mayor Oscar Leaser.



Board Appointment Form

City Clerk's Office

RECEIVED

By City Clerk's Office at 10:35 am, Apr 16, 2024

Appointing Office	Mayor Oscar Leeser
Agenda Placement	Consent
Date of Council Meeting	04/23/24
Name of Board	Zoning Board of Adjustment
Agenda Posting Language	
Appointment of Elizabeth Thurmond-Bengtson to the Zoning Board of Adjustment as a Regular Member by Mayor Oscar Leeser.	
Appointment Type	Regular
Member Qualifications	
See attached resume.	
Nominee Name	Elizabeth Thurmond-Bengtson
Nominee Email Address	elizabeth.thurmond@gmail.com
Nominee Residential Address	██
Nominee Primary Phone Number	+1 (████) █████-████
Residing District	District 1
City Employed Relatives	N/A
Board Membership	
N/A	
Real estate owned in El Paso County	
400 Pocano Lane El Paso, TX 79912	
Previous Appointee	Ray Adauto
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	10/01/23
Term Expires On	09/30/25
Term	First Term

ELIZABETH THURMOND-BENGTSON

PROFESSIONAL SUMMARY

Organized and dependable candidate successful at managing multiple priorities with a positive attitude. Willingness to take on added responsibilities to meet team goals.

SKILLS

- Project Management
- Creativity and Adaptability
- Workflow Management

WORK HISTORY

07/1998 to 01/2022 **University Events and Planning and Construction**

The University Of Texas At El Paso – El Paso, TX

- Researched assigned events and event concepts.
- Organized brainstorming sessions between cross-functional teams to develop strategy and creative ideas for future events.
- Developed creative themes for events and created related activities to engage attendees.
- Oversaw event registration process by collecting and tracking attendee information.
- Managed administrative logistics of events planning, event booking, and event promotions.
- Trained and supervised event staff to complete tasks on time.
- Utilized Design Elements to push building project and spaces
- Implemented color strategies for building uniqueness
- Selected finishes and furnishings
- Oversaw selection of public art for installation within spaces both public and private
-

09/1995 to 07/1998 **Visual Art Teacher**

El Paso Independent School System – El Paso, TX

- Created engaging lesson plans, fostered culture of discovery and provided well-organized classroom structure to help students succeed in program.
- Researched best practices for arts integration and visual arts trends and applied new techniques to lesson plan material.
- Instructed students on visual arts techniques and assigned related art projects for students in the 4th and 5th grade level.
- Worked with struggling students to offer additional help with classroom and hands-on learning.

02/1995 to 06/1995 **Visual Art Teacher**

Ysleta Independent School District – El Paso, TX

- Created engaging lesson plans, fostered culture of discovery and provided well-organized classroom structure to help students succeed in program.
- Researched best practices for arts integration and visual arts trends and applied new techniques to lesson plan material.
- Instructed students on visual arts techniques and assigned related art projects for students in 6th, 7th and 8th grade levels.
- Worked with struggling students to offer additional help with classroom and hands-on learning.

EDUCATION

12/1994

Bachelor of Arts: Visual Art, Arts Education

The University of Texas At El Paso - El Paso, TX



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-607, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Members of the City Council, Representative Josh Acevedo, (915) 212-0002

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Alfredo Borrego to the City Plan Commission by Representative Josh Acevedo, District 2.



Board Appointment Form

City Clerk's Office

Appointing Office	Representative Josh Acevedo, District 2
Agenda Placement	Consent
Date of Council Meeting	04/23/24
Name of Board	City Plan Commission
Agenda Posting Language	
Re-appointment of Alfredo Borrego to the City Plan Commission by City Representative Josh Acevedo, District 2.	
Appointment Type	Regular
Member Qualifications	
See resume.	
Nominee Name	Alfredo Borrego
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	District 2
City Employed Relatives	N/A
Board Membership	
Public Utility Regulation Board 2008-2011 Community Development Steering Committee 2022-2024 City Plan Commission - Current	
Real estate owned in El Paso County	
Previous Appointee	Alfredo Borrego
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	05/02/24
Term Expires On	05/01/26
Term	First Term

Alfredo Borrego

Boards & Commissions

Help my community by serving on a city board or commission

Experience

2001 - Current

President – Alco Machine Tool & Steel Inc

Serve the El Paso, Juarez and Southern New Mexico industrial region with all types of precision CNC, Manual Machining and Welding

1990 - 2000

President – Ajax Metal Cut Inc

Serve the El Paso, Juarez and Southern New Mexico industrial region with all types of precision CNC, Manual Machining and Welding

Education

1976 - 1979

High School & Vocational

Burges High & El Paso Technical

Skills

- Leadership
- Design
- Safety
- Problem Solving

Contact

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-590, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Members of the City Council, Mayor Oscar Leeser, (915) 212-2001

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees by Mayor Oscar Leeser.



Board Appointment Form

City Clerk's Office

REVISED

8:31 am, Apr 15, 2024

Appointing Office	Mayor Oscar Leeser
Agenda Placement	Consent
Date of Council Meeting	04/23/24
Name of Board	City of El Paso Employees Retirement Trust Board of Trustees
Agenda Posting Language	
Reappointment of Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees	
Appointment Type	Regular
Member Qualifications	
See attached resume.	
Nominee Name	Deborah G. Hamlyn
Nominee Email Address	[REDACTED]@[REDACTED].[REDACTED]
Nominee Residential Address	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Nominee Primary Phone Number	+1 ([REDACTED] [REDACTED] - [REDACTED])
Residing District	District 8
City Employed Relatives	N/A
Board Membership	
AD Hoc Charter Advisory Committee 2018	
Real estate owned in El Paso County	
[REDACTED]	
Previous Appointee	Deborah G. Hamlyn
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	05/01/24
Term Expires On	04/30/26
Term	Second Term

DEBORAH G. HAMLYN

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]@ [REDACTED]

SUMMARY

Retired native El Pasoan and locally recognized leader with close to 40 years of proven public service experience with the City of El Paso in a variety of progressively responsible positions of senior management and executive levels. Held several city planning, grant and senior leadership positions; was the first female Department Head of a large umbrella department; served as an Assistant Chief Administrative Officer and Deputy City Manager. Specific areas of expertise included: capital project implementation, monitoring/compliance and technical assistance; strategic and collaborative planning; development of policies and procedures; executive coaching, recruiting and hiring; grantsmanship; problem-solving and consensus-building; research; community capacity building; creative affordable housing, neighborhood and community development projects; and strong relationships and knowledge of El Paso arts and culture community.

Primary Characteristics include:

- Proven leader, honest, trustworthy
- Strong organization and process skills
- Self-motivated, 'people person'
- Consensus-builder, good communicator
- Positive attitude, great energy
- Know and embrace the community
- Conversant in Spanish, but not fully bilingual.

Consultant – 2012-Present

Successful Executive Recruiting; Administrative Management & Oversight; Community Consensus Building; Planning & Development; Grant Writing and Implementation; Human Resource Assessment and Solutions; Procurement and Project Management; Art, Music & Cultural Strategic Planning and Implementation.

Highlights include:

---**Downtown Management District –(DMD)-** served as the Interim DMD Director for approximately 8 months and led the recruitment for the new DMD Director from Omaha, Nebraska. Joe Gudenrath was retained and continues to successfully hold that position.

---**Center Against Sexual and Family Violence – (CASFV) –** had a long term seat on the Board of Directors (including Chairman) and assisted the Director in conducting a Capital Campaign to raise \$7.4 million dollars to construct a new State of the Art Shelter.

---**Temple Mount Sinai - (TMS)** – as a member of the Board of Trustees for TMS, I co-chaired the

recruitment of a new Rabbi. Conducted a year long search with a dedicated Committee to successfully retain Rabbi Ben Zeidman who came from Temple Emanu-El, the first Reform Jewish congregation in New York City.

City of El Paso, Texas

Deputy City Manager – Quality of Life/ Community Services 2005 to 2012

Hired as Deputy City Manager (DCM) in 2005 by Joyce Wilson, first City Manager, immediately following a community vote on a charter amendment to create a Council/Manager form of government. DCM responsibilities included oversight of the operation of a large Portfolio of highly diversified City Departments with a myriad of different and sometimes competing issues---Community and Human Development; Economic Development/Planning; Parks and Recreation; Health and Animal Services; Library; Museums and Cultural Affairs; Convention and Visitors Bureau; and Zoo. Tasks included but were not limited to daily problem solving between Departments and elected officials; highly responsible and complex administrative management; oversight of internal operations service delivery; and assuring high productivity and efficiency while delivering great customer service.

Significant achievements accomplished immediately preceding retirement:

- 2012 Quality of Life Bond Issue – Team leader for development & implementation of successful \$474 solicited proposals & consolidated program for City Council approval to send to the voters for November, 2012 Election . Positive outcome- large turnout.
- Collaborated with an internal consultant to conduct an extensive assessment of the Planning, Building Permitting and Inspection functions to determine how to better serve the public in a more direct and expeditious manner. Result--- creation of a new and successful One Stop Business Center which accelerated the permitting process for residential construction and short term projects.

Assistant Chief Administrative Officer Quality of Life Portfolio 2003 to 2005

Appointed by Mayor Wardy to this position as the City transitioned to the Council/Manager form of government. Duties included assisting in the consolidation of approximately 30 City Departments into 4 separate large portfolios with similar missions, goals and objectives. Duties included oversight of the Quality of Life Departments – conducted individual detailed SWAT Analysis and identified gaps in resources going forward. Created strong networking capabilities between departments and provided leadership and guidance to assure continuity and strong team effort.

Director - Community and Human Development Department 1987-2002

Appointed first woman Department Head in the City of El Paso. Task- to lead a large federally funded grant department. Facilitated over \$280 million in public work projects, affordable housing, emergency shelter and social services to create more viable neighborhoods for low and moderate income families.

Significant achievements included:

- Created a multi-million dollar program to renovate the Old San Francisco Historic District. Received Best Proactive Showcase Award for innovative reuse of National Historic District.
- Team leader in crafting the successful application of El Paso Empowerment Zone Designation. Tremendous bottoms up process involving hundreds of residents.
- Created an Innovative Collaborative Planning Process of distribution of social service funding. Received Best Practice Award and subsequently duplicated nationally.

1974 to 1987 -held various progressively successful Planning and Grant positions within the City of El Paso Municipal government.

EDUCATION AND TRAINING

1971-B.A. – Sociology – University of Texas-Austin

1974-M.A. – Urban Studies – Loyola University of Chicago

PROFESSIONAL AFFILIATIONS/AWARDS

El Paso Inc. Woman of Impact

Spirit of Amigo Award

El Paso Inc. Featured Precognición

Conquistador Award

Leadership Texas

YWCA 2007 REACH Award

Leadership El Paso

Woman of the Year in City Government

Who's who in the Southwest

CURRENT PROFESSIONAL AFFILIATIONS:

Temple Mt. Sinai – Board of Trustees – First Vice President

El Paso Holocaust Museum & Study Center – Board Member

Woman's Executive Forum – member & Past President

Dedon Verde Garden Club

PREVIOUS PROFESSIONAL AFFILIATIONS:

Hospitals of Providence – East Campus Governing Board Chairman

Center against Family & Sexual Violence – Board Member & Capital Campaign Committee

El Paso Humane Society

El Paso Jewish Federation

Rotary Club of El Paso

El Paso Empowerment Zone Corporation

El Paso Center for Non Profit Management

Greater El Paso Housing Development Corporation

El Paso Service Education Labor Corporation

American Planning Association

El Paso Pro Musica

El Paso Opera Company

El Paso Symphony Orchestra
United Way of El Paso
Kern Place Association



El Paso, TX

300 N. Campbell
El Paso, TX

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**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

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Members of the City Council, Representative Joe Molinar, (915) 212-0004

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Michael Bray to the Regional Renewable Energy Advisory Council by Representative Joe Molinar, District 4.



Board Appointment Form

City Clerk's Office

Appointing Office	Representative Joe Molinar, District 4
Agenda Placement	Consent
Date of Council Meeting	04/23/24
Name of Board	Regional Renewable Energy Advisory Council
Agenda Posting Language	
Re-Appointment of Michael Bray to the Regional Renewable Energy Advisory Council by Representative Joe Molinar, District 4.	
Appointment Type	Regular
Member Qualifications	
See resume.	
Nominee Name	Michael Bray
Nominee Email Address	████████@████████.████████
Nominee Residential Address	██
Nominee Primary Phone Number	+1 (████████) ██████████-████████
Residing District	District 8
City Employed Relatives	N/A
Board Membership	
El Paso Housing Finance Corporation - April 2022	
Real estate owned in El Paso County	
██	
Previous Appointee	Michael Bray
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	03/04/24
Term Expires On	03/03/26
Term	First Term

Michael Bray Bio

Experience

Michael Bray, Agent for RC Properties in El Paso, is a respected and knowledgeable real estate professional who works in both commercial and residential properties. Bray has remained an active leader in the REALTOR® organization at the national, state, and local levels since obtaining his license more than 35 years ago.

Bray has been involved with the Greater El Paso Association of REALTORS® since 1988, including service on the Multiple Listing Service Advisory Board and the Budget & Finance and Grievance Committees. Bray also served as Association President in 2001, Vice President in 2000, and Secretary/Treasurer in 1999. In 1996, he was honored with the Greater El Paso Salesman of the Year award.

Bray was a 2010-2013 Director for the National Association of REALTORS®.

Bray was a 2009 Regional Vice President for the Texas Association of REALTORS®, the largest trade association in the state. To be effective and relevant to its members, the Texas Association of REALTORS® believes that a true dialogue must exist between itself and the members it serves. As a 2009 Regional Vice President, Bray relayed important information from the state association to members in the El Paso area and communicated the needs and concerns of REALTOR® members back to the Texas Association of REALTORS®.

As a Regional Vice President, Bray held a seat on the association's Executive Board. He has served on numerous committees within the state association, including the Professional Standards, Political Affairs, and Nominating Committees and the Technology Task Force. In 2006, Bray served as director of the Housing Opportunity Fund and in 2005 chaired the Housing Initiatives Committee.

Aside from his notable leadership positions, Bray holds many professional designations, including a Texas Affordable Housing Specialist certification. In 2010 Bray was named the Texas REALTOR® Hero for his statewide work on affordable housing issues. This was only the second time the award had been given.

Bray served on the Broker/Lawyer Committee at the Texas Real Estate Commission and was named the El Paso Bar Association's Non-Attorney Mediator of the Year in 1999 and 2000. He is also an instructor at the Academy of Real Estate and a certified mediator at the Rio Grande Council of Governments Alternative Dispute Resolution Center.

While serving in these roles, Bray remains actively involved in the community. He was Gov. Rick Perry's appointee as the Presiding Officer of the Texas Department of Housing & Community Affairs Manufactured Housing Board. Bray was also the President of the El Paso Property Finance Authority, the Vice President of the El Paso Housing Finance Corporation, and the Chairman of the Building and Standards Commission for the City of El Paso and also served as a Member of the Zoning Board of Adjustments. In addition, he has served as Vice President of Habitat for Humanity in El Paso and been a part of the mayor's task force for the Community Development Block Grant. Bray is a strong leader and valued member of the REALTOR® organization.

About me

State Bar of Texas, Grievance Committee, November 2021 – present
Chair – City of El Paso Building and Standards Commission
El Paso Health Facilities Development Corporation, October 2010 - 2016
Texas Real Estate Commission, Broker/Lawyer Committee (2003-2009)
Presiding Officer, Texas Department of Housing & Community Affairs, MH Board
Director, National Association of REALTORS®
President, El Paso Property Finance Authority (2004-2006)
Vice-President, El Paso Housing Finance Corporation
Member, City of El Paso Zoning Board of Adjustment
Non-Attorney Mediator of the Year, El Paso Bar Association
Faculty Instructor, Texas REALTORS® University
Instructor, Real Estate Academy of El Paso

Contact

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El Paso, TX

300 N. Campbell
El Paso, TX

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CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

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Members of the City Council, Representative Chris Canales, (915) 212-0008

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Silvia Torezani to the Fair Housing Task Force by Representative Chris Canales, District 8.



Board Appointment Form

City Clerk's Office

REVISED

9:27 am, Apr 15, 2024

Appointing Office	Representative Chris Canales, District 8
Agenda Placement	Consent
Date of Council Meeting	04/23/24
Name of Board	Fair Housing Task Force
Agenda Posting Language	
Reappointment of Silvia Torezani to the Fair Housing Task Force by Representative Chris Canales, District 8.	
Appointment Type	Alternate
Member Qualifications	
Silvia Torezani holds a Doctor of Philosophy in Anthropology with a subfield in Migration/Ethnic Studies from the University of Western Australia. With over a decade of experience in academic positions, including as an Assistant Professor at the University of Texas at El Paso, Dr. Torezani has a deep understanding of border and community-related research. Her work showcases her dedication to addressing housing disparities and ensuring fair housing practices.	
Nominee Name	Silvia Torezani
Nominee Email Address	██████████@██████████.██████████
Nominee Residential Address	██████████ ███████████ ███████████ ███████████ ███████████ ███████████ ███████████
Nominee Primary Phone Number	+1 (██████████) ███████████-██████████
Residing District	District 1
City Employed Relatives	N/A
Board Membership	
Yes, currently a member of the Fair Housing Task Force as an alternate appointee.	
Real estate owned in El Paso County	
██████████ ███████████ ███████████ ███████████ ███████████ ███████████ ███████████	
Previous Appointee	Silvia Torezani
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	05/01/24
Term Expires On	04/30/27
Term	First Term

Silvia A. Torezani

PROFESSIONAL POSITIONS

- 08/2019 – Present Assistant Professor of Instruction, Department of Sociology and Anthropology / Center for Inter-American and Border Studies, University of Texas at El Paso, Texas
- 08/2014 – 08/2019 Visiting Assistant Professor, Department of Sociology and Anthropology / Center for Inter-American and Border Studies, University of Texas at El Paso, Texas
- 01/2014 – 05/2014 [Lecturer, Center for Inter-American and Border Studies \(CIBS\), University of Texas at El Paso, Texas](#)
- 01/2013 – 06/2013 College Assistant Professor, Anthropology, New Mexico State University, New Mexico.
- 01/2012 – 05/2014 [Lecturer, Sociology & Anthropology, University of Texas at El Paso, Texas](#)
- 07/2009 – 12/2011 Research Training Coordinator, Graduate Research School, Edith Cowan University, Western Australia, Australia.

EDUCATION

- 2011 Doctor of Philosophy (Anthropology – subfield of Migration/Ethnic Studies), School of Social and Cultural Studies, University of Western Australia.
- 2000 *Licenciatura* (Anthropology), equivalent to Australian BA Honor's Degree, Faculty of Humanities and Social Sciences, School of Anthropology, National University of Salta, Salta, Argentina.

AWARDS & RESEARCH FUNDING

- 06-07/2021 COURI funding for converting LABS 3301 into a research course. Covered part of summer salary for T.A. and myself, course book for students enrolled in Fall 2022, and 10 voice recorders for interviews.
- 09/2014 – 01/2016 A sociocultural epidemiological profile of the Mexican migrant elderly in Jalisco and Texas, PIMSA Funded Studied. Collaboration with The University of Guadalajara. S. Torezani (UTEP), P.I.; J. Heyman, Co-P.I (UTEP); Co-P.I. J.L. Lopez Lopez (UG). (US\$40,000, US\$22,000 for U.S. and US\$18,000 for Mexico) ORSP ID #: 20140202
- 2010 Vice-Chancellor's Excellency Award for the Improvement of Student Services (Edith Cowan University, Western Australia). AU\$5,000 at the time of award.
- 2002 – 2005 Australian Postgraduate Award (APA) (Commonwealth Government of Australia award for Ph.D. program at the University of Western Australia). Covered graduate studies expenses and a tax-free stipend.
- 2003 Dean's Postgraduate Award for Excellency in Research, Faculty of Arts

	Humanities and Social Sciences (University of Western Australia). Covered part of fieldwork costs and international conference travel.
2002	University of Western Australia International Travel Award.
2001	Joyce Riley Bursary for research (Australian Federation of University Women of Western Australia - AFUW WA). Covered part of research costs and interstate conference travel.

TEACHING

Undergraduate Courses Designed/Overhauled* and Taught (or coming up)

In Spanish, Transborder (Fall 2023)

*LABS 3301/ SPAN 3390 La Frontera/Special Topics in Spanish. Mode of Instruction: Collaborative Online International Learning (COIL)

In English, CEL or Service Learning and Research

*LABS 3301 The Border, CEL and Research since Fall 2021-present, except in summer. Mode of Instruction: In Person.

*SOCI/ANTH 4346 Global Health. Mode of Instruction: Online 8 weeks, CEL since Fall 2021-present). Part of regular UTEP Connect course offerings.

*LABS 4301 Border Healthcare Access, CEL in Fall 2021, and Service Learning in Fall 2019. Mode of Instruction: In Person.

*LABS 3301 The Americas, Service Learning (in collaboration with CCE). Spring 2020. Mode of Instruction: In Person.

*LABS 4301/
RS 3355/SOCI
3341/ANTH 4370 Border Religions, Community Service. Spring 2019. Mode of Instruction: In Person.

In English, Other Courses

SOCI/ANTH 4308 U.S.-Mexico Border Society and Culture. Mode of Instruction: Online 7 weeks

LABS 4308 Independent Study. Spring 2023

ANTH 3379 Independent Study. Spring 2019

ANTH 1302 Intro-Cultural Anthropology. Mode of Instruction: Online 16 weeks. Spring 2015.

HON 5395 Honors Senior Thesis. Spring 2015.

RSRC 4033 Undergraduate Research.

Graduate Courses Designed/Overhauled* and Taught (or coming up)

In English, Service Learning

*LABS 5302	Contemporary Latin America. Service Learning (in collaboration with CCE) Mode of Instruction: In Person. Spring 2023.
*LABS 5301/ MAIS 5350	Issues in Border Studies/The History of an Idea. Service Learning. Mode of Instruction: In Person. Fall 2016.

In English, Other Courses

LABS 5398	Thesis 1. Fall 2023.
LABS 5308	Independent Study. Summer 2021.
SOCI 5390	Individual Studies. Spring 2017.
*LABS 5390	Research in LA/Border Studies. Mode of Instruction: In Person. Fall 2015.

STUDENT MENTORING

Graduate Mentoring

Fall 2023	Thesis Advisor / Committee Chair for LABS Master's student, Daniel Avitia Pacheco
Fall 2019-present	Study skills support for students with conditional admission into the Master in Latin American and Border Studies Program
Fall 2022-present	Assist new MA LABS students with their Individual Development Plans.
Summer 2021	LABS 5308 (Independent Study in LABS – co-authored book review publication: http://dx.doi.org/10.4067/s0718-23762022000100339)
Spring 2017	SOCI 5390 (Individual Studies – Financial Wellbeing Among the Mexican Migrant Elderly)
2015	Committee Member for Vanessa Johnson's LABS MA Thesis, "Memory, State Violence and Revolution: Mexico's Dirty War in Juarez" (December 2015)

Recent Hoodings of LABS MA Graduates

- De Anda, Victoria. December 7th, Fall 2022
- Etheridge, Bo. December 8th, Fall 2021
- Morales, Sandra. December 12th, Fall 2020 (via Zoom)
- Hearn, Brittany. May 16th, Spring 2019

Undergraduate Mentoring Research Projects

In progress (3 papers on homeownership and belonging in the Border)

Tentative Paper Titles:

“Homeownership and Border Crossings: The journey of two immigrant families,”
with Lizbeth Gallegos-Balderas

“Trans/fronterizes and Homeownership: Navigating borders and building community,” with Carmelo Bralich

“A Pilgrim’s Certainty: Exploring the role of faith in the process of homeownership among Mexicans in the El Paso-Ciudad Juarez border region” with Daniela Ramos

Student Mentoring Outputs

COURI Symposium Poster Presentation - Victoria Meyers. Title: “Alma’s Home: A Story of Immigrants’ Drive” (Comic format). Summer 2022.

COURI Symposium Poster Presentation - Alan Lizarraga Lujan (BA in Studies and Biology and Chicano Studies, current MA in Sociology student at UTEP). Title: “Bars of Hope and Separation: Security and Legacy in Borderland Homeownership.” Spring 2022.

COURI Symposium Poster Presentation - Paola Marquez. Title: “Building the Future: Immigrant Strategies to Homeownership.” Spring 2022

Poster Presentation - Daniel Avitia (current MA in LABS student). Title: “On the Phenomenology of Fear: A Case of Five Mexican Migrant Elderly in El Paso, Texas,” at the Moral and Political Philosophy at the Border Conference, Spring 2019 (University of Texas at El Paso). This project began to take shape as part of a RSRC 4033 course in the Fall of 2018, and concluded in an Independent Study course - ANTH 4479 with the poster presentation in April 2019.

3 Community Information Sessions - Frank Samuel Mata (graduate from the Master in Interdisciplinary Studies, UTEP). Topic: “Developing Financial Wellbeing Information Sessions for low-income Spanish-speaking Senior Mexican Migrants residing in a Housing Authority of El Paso (HACEP) community”. This was the result of the work for an Individual Studies course (SOCI 5390 in Spring 2016). (The sessions run on June 29 and July 5, for a total of 3 hours)

Paper - Journal Article - Zachary Lattimore (Bachelor in Multidisciplinary Studies, UTEP). Three Moments of Hip Hop: A critical examination on the limits of ideology. (University of Texas at El Paso) May 2016-February 2017. The paper was submitted to the Journal of Hip Hop Studies and accepted with revisions. The student had graduated, moved away, and decided not to work on the revisions without notifying me two years after. [The paper began as part of the LABS 3300 course, continued as an Independent Study (ANTH 3379, Spring 2016), and work continued until the paper’s submission in February 2017.

COURI Symposium Poster Presentation and Research Report - Sarah Hernandez (BA in Anthropology, UTEP). Sarah was a recipient of funding for full-time research on a selection of data from my project about the Mexican Migrant seniors in El Paso and Guadalajara. The

title of the project with Sarah was “Living Strategies among Mexican Migrant Elderly in El Paso, Texas.” Summer 2015.

In Australia

My position as a Graduate Research Coordinator involved mentoring and supporting Graduate students across various disciplines in honing their research skills. This involved group as well as one-on-one training sessions on topics such as writing a literature review, preparing a research proposal, methodologies, and conducting qualitative data analysis. Qualitative sessions were mostly run by me. But part of my role was also to outsource training, especially in quantitative methods or specialized skills, such as arts-based research. I was a 2010 recipient of the Vice-Chancellor’s Excellency Award for the Improvement of Student Services. (See also under Awards/ Research Funding).

PUBLICATIONS

Peer-Reviewed

Guest Editor, Focus Issue on “Learning Communities across Cultures” for the journal *Intercultural Education*. This focused issue section consists of a brief introduction, three research papers, and one practice paper. I authored the introduction and one research paper. More specifically, my paper deals with the experiences of HDR international students and cross-cultural communication strategies.

Torezani, S. (2012). Learning communities across cultures. *Intercultural Education*, 23(1), 39-40.

Jones, N., Torezani, S., & Luca, J (2012). A Peer-to-Peer Support Model for Developing Graduate Students. *Intercultural Education*, 23(1), 12.

Fozdar, F., & Torezani, S. (2008). Discrimination and Well-Being: Perceptions of refugees in Western Australia. *International Migration Review*, 42(1), 30-63.

Torezani, S., Fozdar, F., & Colic-Peisker, V. (2008). Looking for a 'missing link': Formal employment services and social networks in refugees' job search. *Journal of Intercultural Studies*, 29(2), 135-152.

Torezani, S. (2005). The "Latin" among Chileans. Naming and embodiments of culture among Chileans in Perth, Western Australia. *JILAS -Journal of Iberian and Latin American Studies*, 11(1), 95-101.

Torezani, S. (2003). *Diablada* and the *Nortino* migrants in Perth. *Australian Folklore*, 18, 139-145.

Community Publication

López López, J. L., Torres López, T. M., Mercado Ramírez, M. A., Tapia Curiel, A., Sarabia Avalos, M. A., & Torezani, S. A. (2017). Soy migrante / I am a migrant. In *Heriberto Daniel Camacho Fernández*. Heriberto Daniel Camacho Fernández.
<https://www.amazon.es/Soy-migrante-Jos%C3%A9-Luis-L%C3%B3pez/dp/8417075208>

Book review

Etheridge, H. B. B., & Torezani, S. (2022). Another Aesthetics is Possible: Arts of Rebellion in the Fourth World War. *Universum (Talca)*, 37(1),339-344. <https://dx.doi.org/10.4067/s0718-23762022000100339>

Peer-Reviewed Conference Proceedings

Torezani, S., Tilbury, F., & Colic-Peisker, V. (2006, December 4 - 7). *Seeking Jobs, Finding Networks: Refugees' perceptions of employment services*. Paper presented at the Sociology for a Mobile World, Perth, Western Australia.

Torezani, S. (2005, November 2002). *Nortinos' National Narratives among Chileans in Perth, Western Australia*. Paper presented at The Many Threads of Latin America: Diversity and Change, Los Angeles, California, USA.

Torezani, S. (1997, December 1997). *La Institución de la Pobreza y los Tiempos del Colera*. Paper presented at the Poverty and the Poor in Argentinean Society, Buenos Aires, Argentina.

Conferences, Seminars, Workshops & Lectures

Conference Sessions

Torezani, S. (2014). "Uncertain Destinations: Experiencing Diagnosis of Chronic and Autoimmune Diseases." Session sponsored by SMA. *Destinations*. Albuquerque, March 18-22: 74th Annual Meeting of the Society for Applied Anthropology. Organizer and Chair: Silvia Torezani; Discussant: Anne Miles, Western Michigan University, Kalamazoo.

Torezani, S. and Scott, M. (2013). Anthropologies and Health Projections: Towards a Biopolitics of the Future. *Future Publics, Current Engagements*. Chicago, November 20-24: 112th Annual Meeting of the American Anthropological Association. Roles: panel organizer and presenter.

Torezani, S. and Scott, M. (2013). Developing Resources for Student Success Into and Through College. *Natural Resource Distribution and Development in the 21st Century*. Denver, March 19-23: 73rd Annual Meeting of the Society for Applied Anthropology Annual Meeting. Roles: panel organizer and presenter.

Torezani, S. (July 2011). 'Ethnography Across the Disciplines and Markets.' Panel accepted for 'Knowledge and Value in a Globalising World: Disentangling Dichotomies, Querying Unities.' Conference organized by the International Union of Anthropological and Ethnological Sciences (IUAES), the Australian Anthropological Society (AAS), and the Association of Social Anthropologists of Aotearoa / New Zealand (ASAANZ), Perth, Western Australia. Roles: Panel organizer and discussant.

Conference Papers / Research Reports

Torezani, S. (2021). "Managing Hope, Aging and Spiritual Care: A Perspective from the Border." *Disruption to Transformation: Aging in the "New Normal."* Online, November 10-13. The Gerontological Society of America Annual Scientific Meeting. Session: "The Diverse Spirit:

Spiritual Care Perspectives and the Implications for Older Adults in Various Settings,” organized by the Religion, Spirituality, and Aging interest group. [Due to COVID, the conference was moved online, and late abstracts were accepted, but they could not be published in the *Innovations in Aging Journal*, as is the usual case. I joined the panel on this late call].

- Torezani, S. (2018). “Human-Animal Interactions among Low-Income Elderly Mexican Migrants.” *The Purposes of Longer Lives*. Boston, November 14-18. The Gerontological Society of America Annual Meeting. Session: “Human-Animal Interaction: Impacts and Issues of Pet Ownership for Community Dwelling Adults,” organized by the Human-Animal Interaction interest group. Abstract published in *Innovation in Aging*, Volume 2, Issue Suppl_1, November 11, 2018, pp. 380-381. <https://doi.org/10.1093/geroni/igy023.1415>
- Torezani, S. (2016). “A Sociocultural Epistemological Profile of the Mexican Migrant Elderly in Jalisco and Texas.” Research Final Report 2014-2015. Josiah Heyman (U.S. Co-P.I.) and José Luis López López (Mexico Co-P.I.). Berkeley, California, June 14-17.
- Torezani, S. (2015). “Suspended Happiness: Elderly Women in the Wake of Border Violence.” *The Naked Truth: Weaving the Stories of Women’s Lives*. El Paso, April 1-2: 5th Annual Women’s History Conference. The University of Texas at El Paso. Session 102 A, “Violence and Women With(in) Borders: Juarez and El Paso.
- Torezani, S. (2014). “Contesting Expertise through Experiential Diagnosis: Lupus, Family Knowledge, and Biomedical Uncertainties.” *Destinations*. Albuquerque, March 18-22. Society for Applied Anthropology Meeting. Session sponsored by SMA: “Uncertain Destinations: Experiencing Diagnosis of Chronic and Autoimmune Diseases.” Organizer and Chair: Silvia Torezani; Discussant: Anne Miles.
- Ortega, N. and S. Torezani. (2014). “Lupus Diagnosis Limbo: A Cross-Cultural Look at the Experiences of Women with an Auto-Immune Disease.” *Destinations*. Albuquerque, March 18-22. Society for Applied Anthropology Meeting. Session sponsored by SMA: “Uncertain Destinations: Experiencing Diagnosis of Chronic and Autoimmune Diseases.” Organizer and Chair: Silvia Torezani; Discussant: Anne Miles.
- Torezani, S. (2013). “Cholera and the Future Tense: Projecting Death, Enduring Life.” *Future Publics, Current Engagements*. Chicago, November 20-24: The 112th AAA Annual Meeting. Session: “Anthropologies and Health Projections: Towards a Biopolitics of the Future...” Organizer and Co-Chairs
- Torezani, S. (2013). Hosting without housing: Intercultural communication and international students in Western Australia. *Natural Resource Distribution and Development in the 21st Century*. Denver, March 19-23: Society for Applied Anthropology.
- Torezani, S. (2010) ‘*Ethnography across disciplinary borders: An exploration into new relationships between technique, resources, emotions and the production of knowledge*’. Paper presented at the Conference of Ethnography Across the Disciplines, Hamilton, New Zealand.
- Torezani, S. (2010) ‘*Research as cultural practice among international students in Perth*’. Paper presented at the Quality for Postgraduate Research Conference, Adelaide, South Australia.

- Jones, N., S. Torezani, M. Hawkins, K. Tan, and H. Williams. (2010) '*SOAR-ing through candidature – a peer-to-peer support service*'. Paper presented at the Quality for Postgraduate Research Conference, Adelaide, South Australia.
- H. Williams, K. Tan, M. Hawkins, S. Torezani, N. Jones, E. Chessel-Keevers, and Luca, J. (2010) '*Creating and inclusive research culture on campus.*' Poster presented at the Quality for Postgraduate Research Conference, Adelaide, South Australia.
- Torezani, S. (2004). '*Comunidad*' and '*Diablada*': *Reconsidering the dilemmas of community formation among Chileans in the Perth multicultural context.* Paper presented at the TRACS Postgraduate Day (under the mentorship of Michael Herzfeld, Harvard University)
- Torezani, S. (2003). *Latin Americans in Perth: A journey from 'migrant' to 'ethnic'*. Paper presented at the Hawaii International Conference on Social Sciences.
- Torezani, S. (2003). *Being Chilean Long-Distance.* Paper presented at the Hawaii International Conference on Social Sciences.
- Torezani, S. (2003). *Distance and National Ties among the Nortinos in Perth.* Paper presented at the Postgraduate Seminar Day, The Europeans Symposia.

Other Professional Service & Contributions

UTEP/Scholarly

- Spring 2023, Judge for COURI Symposium, El Paso Natural Gas Conference Center, UTEP. April 22nd, 9 am – 12 pm.
- Fall 2021 Facilitator, writing sessions for/with LABS MA students between considering or working on a thesis. Friday, August 6th and 20th, and September 3rd, 2021. Seminar Room, Center for Inter-American and Border Studies, UTEP. Former Student Daniel Miranda presented a draft of his thesis Introduction. Total number of attendees for all three sessions: 15.

Reviewer for Scholarly Journals

- 2022 Journal of Intercultural Studies (Australia). Manuscript number: CJIS-2022-0073. Title: "Social Inclusion and Wellbeing across the Pacific Divide: Latin American Experiences of Integration and Interculturalism in Canada and Australia." Recommendation: Accept subject to minor changes.
- 2019 Journal of International Migration and Integration. Manuscript number: JIMI-D-19-00174. Title: "How Humanitarian Migrants Experience the Australian Workplace: A comparative mixed methods study." Recommendation: Accept subject to minor changes.

Other Scholarly

- Attended Faculty Senate Meeting on behalf of Dr Heyman. November 12, 2019, Blumberg Auditorium, 3 pm
- Torezani, S. (2011), Examiners' Reports Review for Doctor of Philosophy Thesis Dissertation title: "*Silence, voice and getting at the heart of what matters most: An Ethnographic*

Account of Nursing Academia". Consultancy services for the Faculty of Computing, Health and Sciences, Edith Cowan University to mediate between disparate examiners' reports.

Torezani, S. (2010). Ethnography across disciplinary borders. A strategic response to increasing demand and decreasing resources. *Anthropology News*, 51(6), 5-8. doi: 10.1111/j.1556-3502.2010.51605.

Community Engaged and Leadership (CEL) Course Outputs

- Spring 2023 LABS 3301, "Border Danger: Our counter-story." Digital story map:
<https://storymaps.arcgis.com/stories/7a1d5bc7d7ec41c28e1e67ef335b3074>
- Fall 2022 LABS 3301, "Homeownership Times: A border perspective" (Issue 3). Newsletter:
<https://www.utep.edu/liberalarts/cibs/Files/docs/docs-for-community/Homeownership-Times-NEWSLETTER---November-2022--Issue-3.pdf>
- Spring 2022 LABS 3301, "Homeownership Times: A border perspective" (Issue 2). Newsletter:
<https://www.utep.edu/liberalarts/cibs/Files/docs/docs-for-community/Homeownership-Times-NEWSLETTER---May-2022--Issue-2.pdf>
- Fall 2021 LABS 3301, "Homeownership Times: A border perspective" (Issue 1). Newsletter:
<https://www.utep.edu/liberalarts/cibs/Files/docs/docs-for-community/Homeownership-Times-NEWSLETTER---Feb-2022--Issue-1.pdf>

Community Information Sessions

- 06-07/2017 3 Financial Well-being information sessions for low-income Mexican migrant elders. (See above section, "Past Mentoring Research Outputs") (This is the result of work completed as an Individual Studies (SOC 5390). Senior Living Communities, HACEP (now HOME). (June 29, July 5 and 12, 2017) (4.5 hours total).

I am in the process of being approved as an alternate for the District 8 Fair Housing Task Force.

PROFESSIONAL SKILLS & DEVELOPMENT

Languages

Spanish (native); English (proficient); Portuguese (intermediate); German (intermediate)

Software

- MAXQDA (qualitative research analysis software- organizing and coding qualitative data, running queries and visualization)
- NVIVO 12 (qualitative research analysis software – organizing and coding data, running queries)
- Photoshop (creating and editing graphics)

Professional Development

- 07/2023 Pople, L., Gurung, R., Scott, I. K., Vespia, K., & Yokom, A. (2023). Pushing the Boundaries of Critical Thinking: What's next in the era of Generative AI. In *Webinar (10 am - 1:15 pm)*. APA Publishing, Learning Design.
- 07-11/2023 Community Engaged Scholarship Friday Write-In Sessions (monthly sessions, 9 am – 12 pm)
- 04/21/2023 Disseminating and Publishing Community-Engaged Scholarship (9 am – 12 pm). Center for Community Engagement, UTEP. Undergraduate Learning Center Room 346.
- 03/2023 14-Day Writing Challenge (Completed, March 2023). Event run by The National Center for Faculty Development and Diversity (NCFDD). Online.
- 04/21-23/2021 Sol Conference. Humanizing Online Education: During COVID-19 and Beyond. Center for Faculty Leadership and Development, UTEP. Online.
- 05/2020 Transforming Teaching and Learning with Blackboard Learn Institute. Center for Faculty Leadership and Development, UTEP. Online. (30 hours).
- 2015 Certificate in Animals and Human Health (CE), Graduate School of Social Work, University of Denver, Colorado.

PROFESSIONAL MEMBERSHIPS

The American Anthropological Association (member since 2010)

The Royal Anthropology Institute (fellow since 2011)

The Gerontological Society of America (member since 2018)



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-597, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Members of the City Council, Representative Brian Kennedy, (915) 212-0001

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Maria Zampini to the Museums and Cultural Affairs Advisory Board by Representative Brian Kennedy, District 1.



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-595, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

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Members of the City Council, Representative Isabel Salcido, (915) 212-0005

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Gilberto Lopez to the City Accessibility Advisory Committee by Representative Isabel Salcido, District 5.



Board Appointment Form

City Clerk's Office

REVISED*2:12 pm, Apr 15, 2024*

Appointing Office	Representative Isabel Salcido, District 5
Agenda Placement	Regular
Date of Council Meeting	04/23/24
Name of Board	City Accessibility Advisory Committee
Agenda Posting Language	
Appointment of Gilberto Lopez to the City Accessibility Advisory Committee by Representative Isabel Salcido, District 5.	
Appointment Type	Regular
Member Qualifications	
Please see attached resume	
Nominee Name	Gilberto Lopez
Nominee Email Address	██████████@██████████.██████████
Nominee Residential Address	██████████ ███████████ ███████████ ███████████ ███████████ ███████████
Nominee Primary Phone Number	+1 (██████████) ███████████-██████████
Residing District	District 2
City Employed Relatives	██████████
Board Membership	
N/A	
Real estate owned in El Paso County	
██████████ ███████████ ███████████ ███████████ ███████████ ███████████	
Previous Appointee	Beatriz Castorena-Mata
Reason for Vacancy	Term Expired
Date of Appointment	04/23/24
Term Begins On	03/17/24
Term Expires On	03/16/26
Term	First Term

Contact

www.linkedin.com/in/gilberto-lópez-13a2292a (LinkedIn)

Top Skills

Design Research
Creative Direction
Project Management

Languages

Spanish (Native or Bilingual)

Publications

The Eight Most Beautiful Churches in Houston
Arquitecto Latino / Iglesia Ortodoxa Griega

Gilberto López

Principal Consultant at G.López / Liturgical & Ecclesiastical Design Consulting
El Paso, Texas, United States

Summary

A Design and Project Management Professional, who meets challenges head-on and creates positive change. A creative and detail oriented design professional with a record of success in project management / construction management; on-time and on-budget project delivery; and a proven ability to foster strong positive client relations.

Experience

G.López / Liturgical Design Consulting
Principal Consultant
November 2019 - Present (4 years 6 months)
El Paso, Texas

Design consulting to architectural firms throughout the U.S. Services include design support in classical Byzantine architecture, liturgical protocols, iconography planning and selection, review and testing of design and trouble shooting structural and HVAC implications.

> Currently (5/2020 - 3/2021 ongoing), consulting on the design development for Holy Apostles Church, Dulles, The classic byzantine style church is projected to provide capacity for 300 occupants.
VA.

City of Houston
Senior Project Manager
October 2013 - November 2019 (6 years 2 months)
Houston, Texas

Senior Project Manager in the Major Project Group of Design & Construction. Tasked with serving City of Houston Departments such as; HPD, HPL, HHD, GSD with new and major renovation of projects such as library's, police and fire stations, health facilities, and general government facilities. In charge of procurement processes of architects and contractors, oversee the management of the complete design and construction process.

Gilberto Lopez Consulting

Principal

May 2004 - September 2013 (9 years 5 months)

Houston, Texas and Southampton, NY

Commissioned to conceptualize and design Orthodox Christian Churches in the classic Byzantine tradition. The works included client needs assessment, schematic and design development, review and coordination of the entire A/E consulting package, construction management, and iconographic art theme coordination for projects;

- Kimisis Tis Theotokou, Southampton NY
- St. George, Ocean NJ
- St. Basil the Great, Houston TX (+ construction management)
- Transfiguration, Austin TX (+ construction management)
- Holy Archangels Greek Orthodox Monastery, Kendalia TX (+ construction management)
- Consulting in AZ, CA, and FI

Provided Architectural Specification Writer services for an elementary/ middle/ high school development in Easthampton, NY which included; coordination with project consultants.

Provided Owner Representative for a world class Gold Listed resort - condominium development Las Ventanas al Paraiso, Baja California, Mexico which included; liaison for Owner - Architect - Operator - Clients - and Contractors, review and sign off of pay requisitions, on-site quality control.

Provided Owner Representative services for various US corporations' industrial development in Mexico which included; plans & specifications review, on-site quality control oversight, cost control and change order assessment.

Plaza Construction

Project Manager

December 1999 - October 2003 (3 years 11 months)

New York City, NY

Employed as Project Manager which included; schedule development CPM, subcontract compliance, quality control, schedule and direct project meetings, project cost control and requisition review, change order management, and close out.

- Wasserstein Perella Interiors, New York NY

- 48 Wall Street Landmarks Bank of NY Core & Shell Retrofit, New York NY
- Alliance Capital Interiors, New York, NY

Other Noteworthy Projects

Project Manager

January 1998 - November 1999 (1 year 11 months)

New York City, NY

Starrett-Lehigh Landmarks Building Core and Shell Retrofit. Project Manager for landmarks building located in the West Chelsea area of NYC which included; re-construction of passenger and large truck elevators, lobby restoration, floor preparation for tenant development.

Lalique Flag Ship store located on 5th Avenue NYC. Project manager for the new store included; scheduling, sub contract compliance, project cost control and close out.

SkyMarkets Food Court Development. Project manager on the development of World Trade Center Towers I and II restaurant and court development located at mid-height of towers. Provide pre-construction development controls; budget development, consultant coordination, facility development.

Education

Texas A&M University

Bachelor of Environmental Design, School of Architecture · (1975 - 1978)



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File #: 24-543, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Tax Office, Maria O. Pasillas, (915) 212-1737

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A refund to Tax Star Escrow, in the amount of \$3,919.93 for an overpayment made on January 24, 2024 of 2023 taxes, Geo. # H413-999-0040-1900. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Maria O. Pasillas, (915) 212-1737

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 6 – Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: 6.11 Provide efficient and effective services to taxpayers

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what?
Be descriptive of what we want Council to approve. Include \$ amount if applicable.

A refund to Tax Star Escrow, in the amount of \$3,919.93 for an overpayment made on January 24, 2024 of 2023 taxes, Geo. # H413-999-0040-1900. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments greater than \$2,500.00.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Approve property tax overpayment refunds greater than \$2,500.00, per the Texas Property Tax Code, Sec. 31.11 – Refunds of Overpayments or Erroneous Payments.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Council has considered this previously on a routine basis.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Tax Office

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

 for Maria O. Pasillas

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

OP
+2500

THE CITY OF EL PASO CONSOLIDATED TAX OFFICE

221 N. Kansas, Suite 300

El Paso, Texas 79901

Phone (915) 212-0106, Fax (915) 212-0108, Email: taxforms@elpasotexas.gov

TAX OFFICE
RECEIVED

APR 02 2024

APPLICATION FOR TAX REFUND

The Consolidated Tax Office collects property taxes for all eligible property taxing entities within El Paso County.

APPLICANT MUST PROVIDE THE FOLLOWING INFORMATION:

Refund To: <u>Tax Stand</u> <u>Escrow</u> ✓		Phone: <u>(915) 212-4337</u>		Property ID# (One application per account) <u>H413-999-0040-1900</u> <u>113672</u>	
Address (mail refund to:) <u>5809 Acacia Circle</u> <u>El Paso TX 79912</u> ✓		Property Address: <u>7120 Pear Tree Lane</u> And/or Legal Description:			
Tax year requested:	Date payment made:	Check No. & Date, if known:		Amount of taxes paid:	Amount of refund requested: ✓
1. <u>2023</u>	<u>1/24/2024</u>	<u>8268 1-24-24</u>		<u>\$4,193.35</u>	<u>\$3,919.93</u>
2.					
3.					
TOTAL AMOUNT (sum of the above amounts)					

(City Council approval required if over \$2,500)

REQUIRED: Copy of original receipt, front & back of negotiated check, OR
bank statement showing item cleared (both the bank & taxpayer name must appear)

REASON FOR OVERPAYMENT:

Over paid by accident

"I certify that information given to obtain this refund is true and correct."

Requestor signature:

Date:

4-2-2024

Printed name:

Title:

Manager

Any person knowingly submitting false entries is subject to: (1) Imprisonment of 2 to 10 years, or \$5,000 fine, or both.
(2) Imprisonment up to one year, or fine not over \$2,000, or both. (Sec 37.10 Penal Code) An application for a refund must be made within 3 years after
the date of the payment or the taxpayer waives the right to the refund (Sec 31.11 (c)).

TAX OFFICE Entry:

(☒) REFUND APPROVED

Tax Office Approval:

Date:

4-5-24

(Placed on City Council Agenda over \$2,500)

- () DISAPPROVED () Returned to sender () See below/attached
() Required documentation (Tax receipt, Canceled Check, Bank Statement, or Other) not submitted.
() Record of overpayment not found on this property.
() Other: _____

APR 05 2024



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-551, Version: 2

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

For notation only, the P-Card Transactions for the period of February 21, 2024 - March 20, 2024 for Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER:

K. Nicole Cote, Managing Director, City Manager's Office (915) 212-1092

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: 6. Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: N/A

SUBJECT: For notation only, the P-Card Transactions for the period of February 21, 2024 - March 20, 2024 for Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff.

BACKGROUND / DISCUSSION:

Per FY 2024 Budget Resolution All PCard transactions will be posted monthly to the City Council Agenda for notation and to the City's website to include the Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff expenditures under this section shall adhere with all relevant city and state laws and policies.

PRIOR COUNCIL ACTION: N/A

AMOUNT AND SOURCE OF FUNDING: N/A

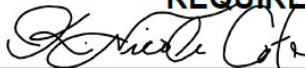
HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: City Manager's Office - Office of Management and Budget

SECONDARY DEPARTMENT: All City

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client
department should sign also)



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-523, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Members of the City Council, Representative Joe Molinar, (915) 212-0004

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

For notation pursuant to Section 2.92.080 of the City Code, receipt of campaign contributions by Representative Joe Molinar in the amount of \$2,500.00 from the El Paso Fire Fighters Association, Local 51.



Legislation Text

File #: 24-553, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

District 4

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092
Capital Improvement Department, Yvette Hernandez, (915) 212-1860

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

The linkage to the Strategic Plan is subsection: 2.3 Increase public safety operational efficiency.

Award Summary:

That the City Manager is authorized to execute the Design-Build documents considered to be the agreement ("Contract") between the City of El Paso and Jordan Foster Construction, LLC ("Design-Builder"), for the project known as the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R in an initial amount of two hundred seventy six thousand five hundred seventy four and 73/100 dollars (\$276,574.73) for work prior to the execution of the Design-Build Amendment; and that the City Engineer is authorized to approve additional preconstruction services in the amount of \$50,000.00 if the services are necessary for the proper execution of the project.

Department:	Capital Improvement
Award to:	Jordan Foster Construction, LLC
City & State:	El Paso, TX
Item(s):	Pre-Construction Services
Total Estimated Award:	\$276,574.73
Account(s):	190-4820-29090-580270 PCP20PDTRAINING/PCP20FDTRAINING
Funding Source(s):	2019 Safety Bond
District(s):	4

This was a Design-Build Procurement - Service Contract

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to Jordan Foster Construction, LLC. The Design-build team offering the best value on the basis of the published selection criteria and on its ranking evaluations.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary

budget transfers and execute any and all documents necessary for execution of this award.

Additionally, it is requested that the City Attorney's Office review and that the City Manager or designee be authorized to execute any related contract documents and agreements necessary to effectuate this award.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: _____ Date: _____

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: Not Applicable

CONTACT PERSON(S) NAME AND PHONE NUMBER:
Yvette Hernandez, City Engineer, (915) 212-1860
K. Nicole Cote, Managing Director (915) 212-1092

DISTRICT(S) AFFECTED: 4

STRATEGIC GOAL: No. 2 – Set the Standard for a Safe and Secure City

SUBGOAL: 2.3 Increase public safety operational efficiency

SUBJECT:

The request that City Manager is authorized to execute the Design-Build documents considered to be the agreement ("Contract") between the City of El Paso and Jordan Foster Construction, LLC ("Design-Builder"), for the project known as the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R in an initial amount of two hundred seventy six thousand five hundred seventy four and 73/100 dollars (\$276,574.73) for work prior to the execution of the Design-Build Amendment; and that the City Engineer is authorized to approve additional preconstruction services in the amount of \$50,000.00 if the services are necessary for the proper execution of the project.

BACKGROUND / DISCUSSION:

The voters of the City of El Paso approved a Public Safety Bond measure in November 2019. Key elements of the bond program are new and/or renovated public safety facilities.

SELECTION SUMMARY:

Solicitation was advertised on June 7, 2022 and June 14, 2022. The solicitation was posted on City website on June 7, 2022. There were a total of ninety seven (97) viewers online; seven (7) proposals were received; five (5) from local suppliers.

CONTRACT VARIANCE:

Not Applicable

PROTEST

No protest received for this requirement.

PRIOR COUNCIL ACTION:

On June 22, 2021 the City of El Paso approved solicitation 2020-646R – Architect and Engineering Services – Public Safety Training Academy and El Paso Fire Department Headquarters to Dekker Perich Sabatini, LLC the amount of \$1,779,750.00 to develop the program for the Public Safety Complex.

AMOUNT AND SOURCE OF FUNDING:

Amount: \$276,574.73

Funding Source: 2019 Safety Bond

Account: 190 – 4820 – 29090 – 580270 – PCP20PDTRAINING/PCP20FDTRAINING

2022-0759R Design-Build Services for El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center

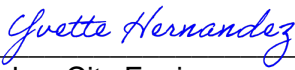
Revised 1/23/2023-V3 – Previous Versions Obsolete

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Capital Improvement
SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Yvette Hernandez, City Engineer

Project Form
Design-Build

*****Posting Language Below *****

Please place the following item on the Consent Agenda for the City Council Meeting of April 23, 2024.

Strategic Goal 2 - Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection: 2.3 Increase public safety operational efficiency

Award Summary:

The request that City Manager is authorized to execute the Design-Build documents considered to be the agreement ("Contract") between the City of El Paso and Jordan Foster Construction, LLC ("Design-Builder"), for the project known as the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R in an initial amount of two hundred seventy six thousand five hundred seventy four and 73/100 dollars (\$276,574.73) for work prior to the execution of the Design-Build Amendment; and that the City Engineer is authorized to approve additional preconstruction services in the amount of \$50,000.00 if the services are necessary for the proper execution of the project.

Department:	Capital Improvement
Award to:	Jordan Foster Construction, LLC
City & State:	El Paso, TX
Item(s):	Pre-Construction Services
Total Estimated Award:	\$276,574.73
Account(s):	190-4820-29090-580270 PCP20PDTRAINING/PCP20FDTRAINING
Funding Source(s):	2019 Safety Bond
District(s):	4

This was a Design-Build Procurement – Service Contract

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to Jordan Foster Construction, LLC. The Design-build team offering the best value on the basis of the published selection criteria and on its ranking evaluations.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

Additionally, it is requested that the City Attorney's Office review and that the City Manager or designee be authorized to execute any related contract documents and agreements necessary to effectuate this award.



**CITY OF EL PASO
REQUEST FOR QUALIFICATIONS TABULATION FORM**



Bid Opening Date: July 27, 2022

Solicitation #: 2022-0759R

**Project Name: Design-Build Services for El Paso Public Safety Training Academy and
Fire Department Headquarters**

Department: Capital Improvement

BIDDER'S NAME:	LOCATION:	AMENDMENT(S) ACKNOWLEDGED:
Banes General Contractors, Inc.	El Paso, TX	Yes
CORE Construction Services of Texas, Inc.	Frisco, TX	Yes
Dantex General Contractors	El Paso, TX	No
EMJ Construction, LLC	Irving, TX	Yes
HENSEL PHELPS CONSTRUCTION CO.	El Paso, TX	Yes
Jordan Foster Construction, LLC	El Paso, TX	Yes
Sundt Construction, Inc.	El Paso, TX	Yes

NOTE: The information contained in this RFQ tabulation is for information only and does not constitute actual award/execution of contract.

Approved: _____/s/

Date: 8/4/2022

2022-0759R Design-Build Services for El Paso Public Safety Training Academy and Fire Department Headquarters

Desing-Build Request for Qualifications - Scoresheet

PROJECT: 2022-0759R Design-Build Services for El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center

		HENSEL PHELPS CONSTRUCTION CO.	Jordan Foster Construction, LLC	CORE Construction Services of Texas, Inc.	Sundt Construction, Inc.	Banes General Contractors, Inc.	EMJ Construction, LLC	Dantex General Contractors
MAX POINTS								
Factor A - Project Team								
Scores	20	18.50	17.63	19.00	19.13	17.58	17.19	17.06
Factor B - Comparable Design Experience								
Scores	30	24.09	25.99	24.75	24.01	23.97	22.43	22.06
Factor C - Comparable Construction Experience								
Scores	40	35.00	33.19	33.45	29.73	31.45	29.38	27.95
Factor D - Project Delivery Approach								
Scores	10	10.00	10.00	9.00	9.75	9.25	8.75	9.25
TOTAL SCORE	100	87.59	86.80	86.20	82.61	82.24	77.74	76.33
Rank		1	2	3	4	5	6	7

Design-Build - Additional Information Request Scoresheet						
PROJECT:	2022-0759R Design-Build Services for El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistic Center					
MAX POINTS		HENSEL PHELPS CONSTRUCTION CO.	CORE Construction Services of Texas, Inc.	Sundt Construction, Inc.	Jordan Foster Construction, LLC	Banes General Contractors, Inc.
Factor 1 - Presentation						
Scores	10	7.47	8.27	8.09	7.30	7.37
Factor 2 - Schedule						
Scores	15	11.15	9.65	10.90	10.45	9.70
Factor 3 - Cost Methodology						
Scores	30	21.90	21.15	20.61	21.45	20.55
Factor 4. Quality Control/Quality Assurance						
Scores	15	12.00	11.48	11.03	11.63	10.65
Factor 5. Potential Project Betterments						
Scores	30	22.80	21.94	21.60	21.09	21.09
Total Score	100	75.32	72.48	72.22	71.91	69.35
Ranking		1	2	3	4	5

View List

	NAME	COMPANY
1	Garcia, Alfonso	1988
2	Dittmar, Mark	Access Communication
3	Flemming, Jeffrey	ADM Group
4	David, McGlohon	Arrow Building Corp.
5	Bids, GovEd	B And H Foto And Ele
6	Panahi, John	Banes General Contra
7	Trejo, Allyson	Bath Group; Inc.
8	Reyes, Arturo	Blueline Constructio
9	Acosta, David	Border Demolition An
10	Altmire, Kim	Bridgers and Paxton
11	Jorge, Loya	Broaddus And Associa
12	Bustillos, Roman	Brock And Bustillos
13	Casebere, Cindy	Caddell Construction
14	Arguijo, Carlos	CARDINA
15	Wright, Brian	Carey's Small Arms R
16	Daniel, Carl	Carl Daniel Architec
17	Concha, David	CEA Group
18	STINSON, MORGAN	ConstructConnect
19	Wood, Jane	Construction Reporte
20	Kotsur, Nichole	CORE Construction
21	Blair, Kadee	CORE Construction
22	Crumpler, Suzie	Dannenbaum Engineeri
23	Wilts, Thomas	Dantex Construction
24	Hoover, Kim	DataCom Design Group
25	Passailaigue, Erika	Datum Engineers
26	Lujan, Walter	Dawco Home Builders
27	Hendrickson, Brittany	DBR
28	McDuffie, Mike	Dekker/Perich/Sabati
29	Management, Source	Deltek
30	Latimer, Claudia	Dewberry Architects
31	Peggy, Koehn	Dodge Data
32	Loganathan, Jayalakshmi	Dodge Data And Analy
33	Soto, Daniel	DRS Rock Materials;
34	Zubiate, Berta	Efficio Construction
35	Blackwell, Corbin	EMJ Construction
36	ESPARZA, TERESA	EP TECHWORKS
37	Tinoco, Fernando	EPHCC
38	Lamoreaux, Mary	eRepublic; Inc.
39	Gonzalez, Joe	Fireblast Global

View List

	NAME	COMPANY
40	Sandra, Garcia	Gateway General Cont
41	Butterworth, Grace	GCC Sun City Materia
42	Castillo, Marcos	Globe Builders
43	Support, Sales	Haivision MCS
44	Mulligan, Matthew	HB Construction
45	Morkovsky, Jeremy	Hensel Phelps
46	Maldonado, Mariana	Horizone Constructio
47	Vasquez, Isabel	Huitt-Zollars; Inc.
48	Balai, Rakesh	i- Sourcing Technolo
49	Gaynor, Shabron	IMS
50	Ramina, Deroee	In*Situ Architecture
51	Paredes, Raul	Jobe Materials
52	Allen, Shawn	Johnson Controls
53	Kim, Candee	Jordan Foster Constr
54	Campos, Jesus	Keystone Contractors
55	Warner, Alicia	Komatsu Architecture
56	Henry, C	LeMay Erickson Willc
57	Hamilton, Lloyd	LHC
58	Gonzalez, Ruben	Lomeli and sons Land
59	Myers, Justin	Martinez Architects
60	mota, pablo	Martinez Brothers Co
61	Mercer, Garrett	MERCER TECHNOLOGIES
62	Mijares, Christian	Mijares-Mora
63	Scranton, Beatrice	Mirador Enterprises
64	Countrymen, Jennifer	MNK Architects
65	Quintanilla, Veronica	Moreno Cardenas Inc.
66	holguin, miriam	MTZ Precision Contra
67	Coronado, Joaquin	New Republic
68	Ramos, Angel	New Republic Archite
69	Doe, John	Pacific Inc
70	Alissa, Holloway	Parkhill
71	Ramirez, Mike	Parkhill; Smith And
72	Silva, Luis	Perikin Enterprises
73	Jones, Kim	Prime Vendor Inc.
74	Miller, Mary	PWXPress
75	Fraga, Miguel	Quantum Engineering
76	Scott, Preston	Randall Scott Archit
77	dsf, sdfa	sdaf
78	Torres, Elizabeth	SigmCon

View List

	NAME	COMPANY
79	Bjornsson, Ron	Smartprocure
80	Rosales, Angelica	Sundt Construction
81	Hernandez, Cecilia	The PlanIt Room
82	ruiz jr, abraham g	tierra firme const i
83	Hayes, Melissa	Troy Acoustics Corpo
84	Maynez, Alejandra	VEMAC
85	Ruiz, Erika	Vertex Contractors;
86	Olguin, Jeannette	Vitual Builders Exch
87	Austin, Fork	Wayne Enterprises
88	Valdez, Angel	West Texas General C
89	Banks, Archie	Zayza Irrigation and
90	Construction, Ztex	Ztex Construction
91	Bid Docs, SW	
92	Watson, Frank	
93	Maldonado, Mariana	
94	Sierra, Idaly	
95	Casagrande, Tony	
96	Abbud, Omar	
97	James, Hardison	

RESOLUTION

WHEREAS, on July 20, 2004, the City Council adopted a resolution approving the use of design-build as an alternative procurement method for construction projects, as permitted by Section 271.113 of the Texas Local Government Code (now Section 2269 of the Texas Government Code); and

WHEREAS, on April 17, 2018 the City Council approved a resolution amending the delegation of authority from the City Engineer to the Director of Purchasing & Strategic Sourcing (“Director”) to determine which alternative construction project delivery method provides the best value for the City before advertising; and

WHEREAS, the Director considered the following criteria as a minimum basis for determining the circumstances under which the Design-build method for facilities is appropriate for the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center project:

- (1) the extent to which the City can adequately define the project requirements;
- (2) the time constraints for the delivery of the project;
- (3) the ability to ensure that a competitive procurement can be held; and
- (4) the capability of the City to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

WHEREAS, the Director determined that the design-build method for facilities project for the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center project is appropriate and provides the best value to the City; and

WHEREAS, the City of El Paso (“City”) issued a Request for Qualifications as part of the design-build project delivery method for facilities projects through solicitation El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R (“Project”); and

WHEREAS, the City desires to select, Jordan Foster Construction, LLC a Texas Limited Liability Corporation (“Design-Builder”), as the Design-build firm for the Project after the evaluation of proposal submitted by Design-Builder, on the basis of the published selection criteria and additional information request on the ranking evaluations; and

WHEREAS, the City negotiated a contract with Design-Builder and desires to enter into a contract for preconstruction services associated with the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R with Design-Builder; and

WHEREAS, the initial contract award will commence the work prior to the execution of the design-build amendment and the parties understand that an amendment to establish the Guaranteed Maximum Price for the project will be subject to City Council approval.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager is authorized to execute the Design-Build documents considered to be the agreement ("Contract") between the City of El Paso and Design-Builder, for the project known as the El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center 2022-0759R in an initial amount of \$276,574.73 for preconstruction services prior to the execution of the Design-Build Amendment which will include the Guaranteed Maximum Price; and that the City Engineer is authorized to approve additional preconstruction services in the amount of \$50,000 if the services are necessary for the proper execution of the project.

APPROVED this ____ day of _____, 2024.

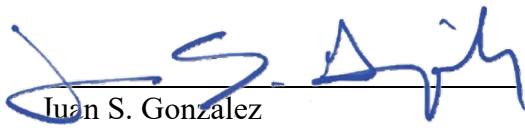
CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

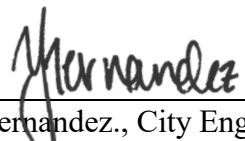
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Yvette Hernandez., City Engineer
Capital Improvement Department

APPROVED AS TO CONTENT:



Nicole Cote, Managing Director
Purchasing & Strategic Sourcing Dept.

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND DESIGN-BUILDER**

This Agreement is made and entered into as of the ____ day of _____, 2024 by and between the:

“Owner”

The City of El Paso
300 N. Campbell
El Paso, Texas 79901
915.212.0000 t

and

“Design-Builder”

Jordan Foster Construction, LLC

for the following Project:

2022-0759R El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center

ARTICLE 1 - GENERAL PROVISIONS

1.01 *Owner's Criteria:*

- A. This Agreement is based on the Owner's Criteria set forth in this Section 1.01 and Exhibit 1-A.
- B. *The Owner's program for the Project:*
- Bridging Document and Additional Information Document.
- C. *The Owner's design requirements for the Project and related documentation:*
The scope of services and work will include the planning, development, design, engineering, and construction of the site work, facilities, parking, roadways, and related improvements for the Project, including but not limited to all architect, engineering, construction, and other services necessary for the successful development, execution and completion of the Project. The Design Build Team shall perform all services and work necessary to complete and deliver the Turn-Key Project in accordance with the terms of the Design Criteria Package.
- D. *The Project's physical characteristics*
To the extent available, the Owner has provided Design-Builder all geotechnical and other survey data in its possession. If no geotechnical data is available and provide to the Design-Builder, Design-Builder shall be required to retain a geotechnical engineer to perform geotechnical analysis. If geotechnical data is available and provided to the Design-Builder by Owner, the Design-Builder may, at its election, retain its own geotechnical firm and a registered professional land surveyor to generate any data that Design-Builder will require for the performance of its work. Costs for such consultants may be included in the Cost of the Work as described herein.
- E. Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:
- F. The Owner's budget for the Work to be provided by the Design-Builder is \$78,000,000.00.
- G. The Owner's design and construction milestone dates:
- Design phase milestone dates:
 - A. Evaluation of Owner's Criteria 10 calendar days
 - B. Preliminary Design 90 calendar days at which time a final GMP will be negotiated between the Design-Build Team and the City.

- | | |
|--|-----------------|
| C. Submission of Design-Builder Proposal and GMP | August 15, 2024 |
| D. Design-Build Amendment | TBD |
| E. Construction Phase NTP | TBD |
| F. Substantial Completion date | TBD |
| G. Final Completion | TBD |
- H.** The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
1. Architect: Landscape Architect, Architect
 2. Consultants: Civil Engineer, Electrical Engineer, Mechanical/Plumbing Engineer, Registered Engineer, and Surveyor, UXO (Unexploded Explosive Ordinance) escort (if needed), structural Engineer, Educational and Physical props Expert consultant, LEED Consultant, Licensed Irrigator and all necessary consultants to fulfill the SOW of the project
 3. Contractors: Site work, electrical, mechanical/plumbing, structural, Special systems, specialties, concrete, masonry, wood, thermal and moisture protection, openings, equipment, FFE, Fire suppression, utilities, landscaping, and all necessary contractors to comply with SOW
- I.** Additional Owner's Criteria upon which the Agreement is based:
Design/Build additional information and bridging documents
- J.** The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.
- K.** If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.
- L.** If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.
- M.** If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

1.02 ***Project Team***

- A.** The Owner identifies the following representative in accordance with this agreement:

City Engineer or Designee

- B.** The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:

City Engineer or Designee

- C.** The Owner will retain the following consultants and separate contractors:
1. Consultant
 2. Contractor
- D.** The Design-Builder identifies the following representative in accordance with this agreement:
1. TBD
- E.** Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party. The Design-Builder's representative may be replaced only with Owner's approval, but such approval shall not be unreasonably withheld, delayed or conditioned.

1.03 *Binding Dispute Resolution*

Disputes will be resolved in accordance with the General Conditions.

1.04 *Prevailing Wage Rates*

Design-Builder and any subcontractor shall pay not less than the general prevailing wage rates contained herein in Exhibit 4, to all laborers, workmen and mechanics employed by them in the execution of this contract in accordance with Section 7.02 of the General Conditions.

1.05 *Apprenticeship Program*

Construction Manager and any subcontractor shall also comply with the Owner's Apprenticeship Program attached and incorporated to this Agreement herein in Exhibit 5.

1.06 *Definitions*

Unless otherwise stated in this Section, the Terms used in this Agreement will have the meanings indicated in the General Conditions.

A. *Design-Build Documents*

The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); the General Conditions; other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

B. *The Contract*

The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed

to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

C. *The Work*

The term “Work” means the design, construction and related services required to fulfill the Design-Builder’s obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

D. *The Project*

The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

E. *Instruments of Service*

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials. \

F. *Submittals*

A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

G. *Cost Effective Schedule*

A construction schedule developed by the prime contractor which takes into account coordination with suppliers/vendors and subcontractors. The cost-effective schedule will serve as a tool to identify issues with delivery dates, availability of special equipment, materials, and manpower in order to mitigate cost and time growth.

H. *Owner*

The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Owner” means the Owner or the Owner’s authorized representative.

I. *Design-Builder*

The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Design-Builder” means the Design-Builder or the Design-Builder’s authorized representative.

J. *Consultant*

A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

K. *Architect*

The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

L. *Contractor*

A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

M. *Engineer*

The Engineer is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice engineering in the applicable jurisdiction. The Engineer is referred to throughout the Design-Build Documents as if singular in number.

N. *Schematic Design Documents (30% SDs)*

Documents developed during the first phase of design and submitted to Owner for review and approval prior to proceeding with the work for the Design Development Documents.

O. *Design Development Documents (60% DDs)*

Drawings and Specifications that include developing structural, layout, grading, utilities, mechanical, and electrical drawings and specifying materials and the probable cost of construction.

P. *Pre-Construction Services*

Including but not limited to;

- a. Update Spatial Needs Assessment
- b. Site Analysis
- c. Geotechnical Engineering
- d. Master Planning
- e. Conceptual Building Design
- f. Preliminary Technology Review
- g. Cost Estimates / Development of GMP
- h. Final Report + Briefing / Presentation
- i. Project Reimbursable Expense Allowance
- j. Conceptual building and site plans
- k. Conceptual project sketches, drawings and renderings
- l. Base schedules

- m. Project budgets
- n. Value engineering when applicable

Q. *Building Information Modeling (BIM)*

A digital representation of physical and functional characteristics of a facility. A BIM is a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle; defined as existing from earliest conception to demolition.

R. *Design-Build Amendment*

The Design-Build Amendment is executed after the Design-Builder completes the design phase of services and provides the Owner with a Design-Build Proposal. Upon agreement to a proposal, the Owner and Design-Builder are required to execute the Design-Build Amendment, which becomes a part of the Agreement. The Design-Build Amendment establishes the Contract Sum and Contract Time and sets forth the agreed upon design documents and other information upon which the Contract Sum and Contract Time are based. In establishing the Contract Sum, the parties can choose a Stipulated Sum or Cost of the Work (with or without a GMP). If the parties choose Cost of the Work, the Amendment establishes the items included within the Cost of the Work.

S. *Design Builder Contingency*

Design build contractor, can utilize Design build contingency, for both design and construction contingency. Contingency can be utilized during design to assure that the design addresses full scope at project completion. During Construction, contingency can be utilized to clarify design as necessary to provide a fully functioning facility that meets all scope requirements, changes in market conditions, and issues that occur through no fault of the contractor, including supplementing subcontractors and suppliers to assure an on-time completion of the design and full scope. Contingencies shall not be used to correct construction deficiencies, rework, quality control issues or warranty, for internal staffing necessary for contractor-controlled delays and shall not be utilized to cover costs of liquidated damages.

T. *Owner's contingency*

Owner's contingency shall be utilized solely at the Owners discretion to address and authorize additional scopes of work not included in the original requirements. Owner's contingency can be utilized to address any differing site conditions identified during construction.

U. *Allowances*

Allowance shall be included and identified in the GMP per the direction of the City, for the sole purpose to address design and construction activities where scope is not clear and quantifiable at the time of development of the GMP proposal. Allowance shall specify the general scope for that allowance and may be subject to approval by the City. Funds remaining in an allowance upon completion of the specific SOW will transfer to Owner's contingency

V. *Buyout savings*

The difference between the cost for portions of work budgeted on the GMP including construction Manager's Fee and the actual cost of work received by Design Builder

during bidding when the cost for the portion of work is less than the amount budgeted in the GMP proposal approved by the owner.

ARTICLE 2 -THE WORK OF THIS CONTRACT

- 2.01 Design-Builder shall perform all design, engineering, procurement, construction, start-up and performance testing services, and provide all material, equipment, tools and labor, necessary to complete the Project, including all the work described in and reasonably inferable from the Contract Documents. All performance items described herein shall be referred to as the “Work”.

The Contract Documents for this Project include this Standard Form of Agreement and the following documents, if applicable:

Addenda issued by Design-Builder
General Conditions
Performance and Payment Bonds
Insurance Rider
Request for Qualifications (RFQ) 2022-0759R and Statement of Qualifications
Additional Information Request and Proposal
Technical Specifications
Drawings
Bridging Documents
Design-Build Additional information document

ARTICLE 3 - GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

3.01 *General*

- A.** The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.
- B.** The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder’s behalf with respect to the Project.
- C.** The Design-Builder shall perform the Work in strict accordance with the Design-Build Documents. This obligation shall be absolute. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.
1. The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.
2. Neither the Design-Builder nor any Contractor, Consultant, Engineer or Architect shall be obligated to perform any act which they believe will violate any

applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

- D.** The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Engineer, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work. In addition, the Design-Builder represents that all subcontractors performing services under this agreement have all applicable licenses by the State to perform such services.
- E.** ***General Consultation***
The Design-Builder shall schedule and conduct progress meetings with the Owner, on a weekly basis, to review matters such as procedures, progress in design and/or construction, coordination (Design-Builder shall be responsible for all utilities cost and coordination), and scheduling of the Work.
- F.** When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals in accordance with the Texas Occupations Code and all applicable legal standards of care applicable to design professionals.
- G.** The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.
- H.** ***Progress Reports***
- 1.** The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:
 - a.** Work completed for the period;
 - b.** Project schedule status;
 - c.** Submittal schedule and status report, including a summary of outstanding Submittals;
 - d.** Responses to requests for information to be provided by the Owner;
 - e.** Approved Change Orders and Change Directives;
 - f.** Pending Change Order and Change Directive status reports;
 - g.** Tests and inspection reports;
 - h.** Status report of Work rejected by the Owner;
 - i.** Status of Claims previously submitted in accordance with Article 14;
 - j.** Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;

- k. Current Project cash-flow and forecast reports; and
 - l. Additional information as agreed to by the Owner and Design-Builder.
- 2. In addition, where the Contract Price is the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:
 - a. Design-Builder's work force report;
 - b. Equipment utilization report;
 - c. Cost summary, comparing actual costs to updated cost estimates.
 - d. Constructability report, and
 - e. Value Engineering

I. *Design-Builder's Schedules*

The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information and approval a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. In no circumstance shall the preparation and presentation of a schedule extending the completion beyond the time limits contained in the Design-Build Documents entitle the Design-Builder to an extension of time absent a fully executed change order extending such contract time.

The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner. The schedule shall be updated regularly and in advance of periodic Project meetings with the Owner and Owner's Engineer. Such schedules shall be posted at the Project meetings in a convenient location for review and approval by the Owner.

J. *Certifications*

Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Engineer, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Engineer, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications.

K. *Design-Builder's Submittals*

- 1. Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in

this Section, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Price or extension of Contract Time based on the time required for review of Submittals.

2. By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.
3. The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.
4. The Work shall be in accordance with approved Submittals. Work done in compliance of an approved Submittal does not relieve the Design-Builder of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents and the design intent if the Work subject to an approved Submittal fails or is deemed defective by the Owner. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals or by the Owner's approval of the Submittals.
5. All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

L. *Warranty*

The Design-Builder's warranty obligations shall be governed in accordance with Paragraph 7.17 of the General Conditions.

M. *Royalties, Patents and Copyrights*

The Design-Builder's royalty, patent, and copyright obligations shall be governed in accordance with Paragraph 7.07 of the General Conditions.

N. *Indemnification*

The Design-Builder's indemnify obligations shall be governed in accordance with the General Conditions.

ARTICLE 4 - WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

4.01 *General*

- A.** Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.
- B.** The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; conceptual schedules and budgets, evaluation of design professionals, risk identification and mitigation, constructability assessments, project phasing assessments, reviews of drawings and specifications, monitoring of the design process, develop a Guaranteed Maximum Price that meets budget restraints and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

4.02 *Evaluation of the Owner's Criteria*

- A.** The Design-Builder shall schedule and conduct meetings with the Owner, Owner's Program Manager and any other necessary individuals or entities to discuss and review the Owner's Criteria. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues. Consideration of fast-track and phased construction shall be addressed by Design-Builder due to Owner's specific concerns relating to Project delivery and schedule constraints for the end-users of the Project.
- B.** After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include:
 - 1. allocations of program functions, detailing each function and their square foot areas;
 - 2. a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
 - 3. a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner.
 - 4. recommended testing and surveys that should be conducted prior to the development of the plans and specifications
 - 5. Quality control programs that ensure the design meets the Owner's requirements and applicable codes, standards, etc. The Design- Builder shall submit for Owner review the following items:
 - Project reporting procedures

- Quality Control and Testing program; and safety program

- C. The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Design Development Documents. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

4.03 Schematic Design Documents (30% SDs) and *Design Development Documents (60% DDs)*

- A. Upon the Owner's issuance of a written consent to proceed, the Design-Builder shall prepare and submit Design Development Documents to the Owner. The Design Development Documents shall include a report identifying any deviations from the Owner's Criteria, the design development shall meet the requirements stipulated in Exhibit 1-A: Design/Construction Service Package, the design development include but not limited to the following:
1. Confirmation of the allocations of program functions;
 2. Site plan, including preliminary grading, utility infrastructure, storm water management, all proposed structures, parking and circulation.
 3. Building plans, sections and elevations;
 4. Structural system;
 5. Selections of major building systems, including but not limited to mechanical, electrical, special systems, landscaping, and plumbing systems, and
 6. Outline specifications or sufficient drawing notes describing construction materials.

The Design Development Documents should include some combination of physical study models, perspective sketches, 3-dimensional renderings or digital modeling, energy conservation approach and building systems parameters

- B. The Owner shall review the Design Development Documents and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Design Development Documents shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

4.04 *Pre-Construction Services.*

- A. The Design-Builder shall execute Pre-Construction Services, as defined in this agreement throughout work prior to execution of the Design-Build Amendment and prior to construction commencing.
- B. A fully integrated Building Information Modeling ("BIM"), shall be used by Design-Builder throughout the entirety of the design and construction of the project. The parties to this agreement will use and rely the Models developed and transmitted by Design-Builder. The extent of the use of BIM in the Project shall be at the Owner's discretion.

4.05 *Design-Builder's Proposal*

- A. Upon the Owner's issuance of a written consent to proceed, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

1. A list of the Design Development Documents (60%) and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
 2. The proposed Guaranteed Maximum Price (GMP), including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Price;
 3. The proposed date the Design-Builder shall achieve Substantial Completion;
 4. An enumeration of any qualifications and exclusions, if applicable;
 5. A list of the Design-Builder's key personnel, Contractors and suppliers; and
 6. The date on which the Design-Builder's Proposal expires.
- B.** Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site, evaluated the conditions and features of the site, made determinations relevant to design and construction relating to such evaluations, and become familiar with local conditions under which the Work is to be completed.
- C.** If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 - WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

5.01 *General*

Unless otherwise specified herein, all work performed pursuant to this Article shall be governed in accordance with the General Conditions.

5.02 *Construction Documents*

- A.** Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents through 100% design and permitting. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.
- B.** The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information and approval. If the Design-Builder has included any deviations between the Construction Documents and the Design-Build Documents, the Design-Builder shall notify the Owner of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure to notify the Owner of any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

5.03 *Construction*

- A. Commencement.** Except as otherwise permitted in this Section, construction shall not commence prior to execution of the Design-Build Amendment.

B. General Intent.

The Design-Builder shall perform all Work and construction administration services necessary to construct the Project in accordance with the Contract for Design/Build Construction and to render the Project and all of its components operational and functionally and legally usable.

C. Order of Precedence.

In accordance with the approved/acceptance design and meeting all elements of the Owner's requirements.

- Any betterments accepted on the proposal
- Any requirements of the identified owner requirements
- Any requirements of the Owner accepted design documents

D. Construction Supervision.

Commencing with the award of the agreement and terminating on the date of Final Completion, the Design/Builder shall provide the services described herein.

1. The Design/Builder shall provide/ generate redlines during construction, and provide administration of the Construction Documents.
2. The Design/Builder shall supervise and direct the Work at the Site. The Design/Builder shall, at a minimum, staff the Project Site with personnel who shall:

- supervise and coordinate the Design/Builder's personnel and act as its primary liaison with the Owner;
- coordinate trade contractors and suppliers, and supervise Site construction management services;
- be familiar with all trade divisions and trade contractors' scopes of Work, all applicable building codes and standards, and the Contract for Design/Build Construction;
- check, review, coordinate and distribute shop drawings and check and review materials delivered to the Site, regularly review the Work to determine its compliance with the Construction Documents and this Agreement, confer with the appropriate Owner's consultant(s) as necessary to assure acceptable levels of quality;
- prepare and maintain Project records and process documents;
- schedule and conduct weekly progress meetings with subcontractors to review such matters as jobsite safety, job procedures, construction progress, schedule, shop drawing status, submittal log, RFI logs, and other information as necessary and provide notification of, and minutes from, such meetings to Owner; schedule and conduct weekly progress meetings with the Owner to review such matters as construction progress, schedule, shop drawing status, and other information as necessary; and
- make provision for Project security to protect the Project site and materials stored off-site against theft, vandalism, fire and accidents as required by the Design/Build General Terms and Conditions.

ARTICLE 6 - CHANGES IN THE WORK

6.01 *General*

A Change Order or Change Directive may accomplish a change or Modification in the Work after execution of the Contract, and without invalidating the Contract, subject to the limitations stated in the General Conditions.

ARTICLE 7 - OWNER'S RESPONSIBILITIES

7.01 *General*

The Owner's responsibilities shall be governed in accordance with the General Conditions.

ARTICLE 8 - CONTRACT TIME AND COMPLETION

8.01 *General*

The Design-Builder's obligations with respect to the Contract Time shall be governed in accordance with the General Conditions, unless otherwise stated in this Article.

- A. Time limits stated in the Design-Build Documents are of the essence of the Contract. In all aspects of the Work, time is of the essence of the Contract. Additionally, time limits stated in the Design-Build Documents are of the essence. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.
- B. The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.
- C. The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.
- D. The date of commencement of the Work shall be stated in a Notice to Proceed issued by the Owner.
- E. The Contract Time shall be measured from the date of commencement.
- F. ***Substantial Completion.*** The Design-Builder shall achieve Substantial Completion of the entire Work not later than **TBD** calendar days from the date of commencement subject to and adjustments of this Contract Time as provided in the Contract Documents and Changer Orders modifying and extending this Agreement. It is specifically understood and agreed to by and between Owner and Design-Builder that time is of the essence in the substantial completion of the Work, and that failure to substantially complete the Work within the designated period, or as it may be extended, shall be construed as a breach of this Agreement.
- G. ***Final Completion.*** The Design-Builder shall achieve Final Completion of the entire Work not later than **TBD** calendar days from the date of commencement subject to and adjustments of this Contract Time as provided in the Contract Documents and Changer

Orders modifying and extending this Agreement. It is specifically understood and agreed to by and between Owner and Design-Builder that time is of the essence in the substantial completion of the Work, and that failure to substantially complete the Work within the designated period, or as it may be extended, shall be construed as a breach of this Agreement.

H. Utility transfer to the City of El Paso shall not take place until ***Final Completion***.

8.02 *Delays and Extensions of Time:* Unless otherwise set forth in this Section, Project delays shall be governed in accordance with the General Conditions.

- A.** Claims relating to time shall be made in accordance with applicable provisions of Article 12 of the General Conditions.
- B.** This Section 8.02 does not preclude recovery of damages for delay by Owner under other provisions of the Design-Build Documents.
- C.** Should the Design-Builder default on its obligations to make progress and complete the Work on time, as allowed in the Contract Documents, the Owner may withhold or deduct all costs and damages for compensable delay caused by the Design-Builder from the Contract Price. Such costs shall include any attorney's fees, and all other costs, expenses, and damages actually incurred by the Owner as a result of such delay. Owner's delay damages, may be incidental to and not directly associated with the Project.
- D.** The Design-Builder shall receive no financial compensation for delay or hindrance of the Work. In no event shall the Owner be liable to the Design-Builder for any damages arising out of or associated with any delay or hindrance to the Work, regardless of the source of the delay or hindrance. The Design-Builder's sole remedy for delay or hindrance shall be an extension of time, provided the delay must be beyond the control and without the fault of negligence of the Design-Builder.
- E.** The procedure for the determination of time extensions for unusually severe weather. In order for the Owner to award a time extension under this clause, the following conditions must be satisfied.
 - 1. The weather experienced at the Project site during the Contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the Project location during any given month.
 - 2. The unusually severe weather must actually cause a delay to the completion of the Project.
- F.** The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the Project location and will constitute the base line for monthly weather time evaluations. The Design-Builder's activity durations provided in the progress schedule must reflect these anticipated adverse weather delays in all-weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
(1)	(3)	(0)	(1)	(1)	(2)	(0)	(8)	(5)	(1)	(1)	(2)

G. For the duration of the Contract, the Design-Builder shall maintain in its daily reports an accurate and contemporaneous record of the occurrence of adverse weather and resultant impact to normally scheduled Work. Delay from adverse weather unless Work on the overall Project's critical activities is prevented for 50 percent or more of the Design-Builder's scheduled work day. The number of actual adverse weather days shall be calculated monthly. If the number of actual adverse weather delay days in a month exceed the number of days for that month as referenced above, the Owner upon notification by the Design-Builder, will convert any qualifying delays to calendar days, giving full consideration for equivalent fair-weather work days, and a modification shall be issued in accordance with the Contract.

H. *Liquidated Damages (TBD)*

The Design-Builder acknowledges and recognizes that the Owner is entitled to full and beneficial occupancy and use of the completed work following expiration of the Contract Time. The Design-Builder further acknowledges and agrees that, if the Design-Builder fails to meet the Substantial Completion or Final Completion dates for the completion of any portion of the Work within the Contract time, the Owner will sustain actual damages as a result of such failure. The exact amount of such damages will be difficult to ascertain. Therefore, the Owner and Design Builder agree that, if the Design-Builder shall neglect, fail, or refuse to achieve substantial completion of the Work by the Substantial Completion or Final Completion date, subject to proper extension granted by the Owner, then the Design-Builder agrees to pay the Owner the sum stipulated herein for each day in which such Work is not completed, not as penalty, but as liquidated damages, for the damages ("Liquidated Damages") that would be suffered by Owner as a result of delay for each and every calendar day that the Design-Builder shall have failed to have completed the Work as required herein. The Liquidated Damages shall be in lieu of any and all other damages which may be incurred by Owner as a result of the failure of Design-Builder to complete within the Contract Time.

1. Design-Builder agrees to pay, as liquidated damages, the sum of TBD for each consecutive calendar day after the date of Substantial Completion.
2. Design Builder agrees to pay, as liquidated damages, the sum of TBD for each consecutive calendar day after the date of Final completion.

I. *Mutual Waiver of Consequential Damages*

Excluding losses covered by insurance required by the Contract Documents, the Owner and Design-Builder agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement except for those specific items

of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. The Owner agrees to waive damages including but not limited to the Owner's loss of use of the Project, loss of reputation, or insolvency. The Design-Builder agrees to waive damages including but not limited to loss of business, loss of financing, principal office overhead and expenses, losses of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. To extent there is a conflict between the terms of this provision and the terms of the General Conditions, this provision shall prevail. The Owner's reasonable rental expenses incurred are excluded from this mutual waiver.

ARTICLE 9 – CONTRACT PRICE

9.01 *General*

Owner shall pay Design-Builder in accordance with the General Conditions a Contract Price equal to Design-Builder's Fee (as defined in this Article) plus the Cost of the Work (as defined in this Article), subject to the GMP established in Section 9.05 hereof and any adjustments made in accordance with the General Conditions.

9.02 *Design-Builder's Fee*

A. Design-Builder's Fee shall be **TBD** percent (TBD%) of the Cost of the Work, as adjusted in accordance with Section 9.02.B below. Such Fee shall not be earned with respect to Design-Builder's in-house personnel Soft Costs and travelling and lodging expenses and bonding and insurance cost as set forth in the Proposal of Design-Builder attached hereto. Such Soft Costs include (i) lead engineer, (ii) applications engineer, (iii) project manager, (iv) process engineer, (v) accounting personnel and services, (vi) electrical engineers, (vii) construction supervisor, (viii) travel and out-of-office living expenses, including airfare, lodging, food, ground transportation, (ix) administrative or overhead costs and expenses related to insurance and bonding not specifically required by the Contract Documents.

B. Design-Builder's Fee will be adjusted as follows for any Change Orders approved by Owner:

1. For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design Builder shall receive a Fee of **TBD** percent (TBD%) of the additional Costs of the Work incurred for that Change Order, exclusive of Design-Builder's Soft Costs as defined in Section 9.02.A.
3. For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, Design Builder shall receive no fee on that portion of the Cost of Work that is eliminated by any deductive Change Order.

9.03 *Cost of the Work*

The term Cost of the Work shall mean costs reasonably incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

A. Fees for direct employees of Design-Builder performing the Work at the Site or,

with Owner's agreement, at locations off the Site, calculated on the basis of those rates set forth on Exhibit 1 to this Agreement, or, if no such rate is set forth on Exhibit 4, at prevailing rates for such personnel.

- B.** Fees for Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work at the rates set forth on Exhibit 1 to this Agreement, or, if no such rate is set forth on Exhibit 4, at prevailing rates for such personnel.
- C.** Fees for Design-Builder's personnel stationed at Design-Builder's principal offices, but only to the extent said personnel are identified in Exhibit 1 and performing the function set forth in said Exhibit and compensated in accordance with the rates set forth on Exhibit 4, or if no such rate is set forth on Exhibit 1, at prevailing rates for such personnel.
- D.** The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.
- E.** Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.
- F.** Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.
- G.** Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.
- H.** Costs of removal of debris and waste from the Site.
- I.** The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.
- J.** Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.
- K.** Premiums for insurance and bonds purchased specifically for this Project as required by this Agreement or the performance of the Work.

- L.** All fuel and utility costs incurred in the performance of the Work.
- M.** Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work. Provided that if the Owner is exempt from such taxes and provides a tax exemption certificate or certificates to Design-Builder that effect, no such taxes shall apply.
- N.** Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.
- O.** Deposits which are lost, except to the extent caused by Design-Builder's negligence or default under this Agreement.
- P.** Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property, except to the extent caused by Design-Builder or anyone performing Work on its behalf.
- Q.** Accounting and data processing costs related to the Work.
- R.** Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.
- S.** Costs incurred by Design-Builder to provide the payment and performance bonds, warranties and guarantees with respect to the Work as provided herein.

9.04 *Non-Reimbursable Costs* The following shall be excluded from the Cost of the Work:

- A.** Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 9.03.A, 9.03.B and 9.03.C.
- B.** Overhead and general expenses, except as provided for in Section 9.03 hereof, or which may be recoverable for changes to the Work.
- C.** The cost of Design-Builder's capital used in the performance of the Work.
- D.** If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.
- E.** Any and all costs incurred by Design Builder, including but not limited to costs for project management and costs to comply with the General Conditions, to the extent that such costs would cause the GMP to be exceeded.

9.05 *The Guaranteed Maximum Price ("GMP")*

- A.** *GMP Established Upon Execution of this Agreement*
Design-Builder guarantees that the total charge to Owner for completion of all Work shall not exceed the GMP of **TBD Dollars (\$TBD)**. Additional detail regarding the GMP is included in Exhibit 1 ("GMP Exhibit"). **Design-Builder agrees that it will**

be responsible for paying or absorbing all costs of completing the Work which exceed the GMP, as said GMP may be adjusted in accordance with the Contract Documents, including but not limited to the markups for Change Orders set forth herein. Design-Builder's contingency, Owner's contingency and allowances

- B.** It is the intent of the parties that the GMP will be increased or decreased by any additive or deductive Change Orders that change the scope of the Work with commensurate changes to the Design Fee and Cost of Work in accordance with Article 6.

ARTICLE 10 - COMPENSATION AND PROGRESS PAYMENTS

10.01 General

Payments to Design-Builder are governed in accordance with this Article and the General Conditions.

- A.** Design-Builder shall submit to Owner on the twenty-fifth (25th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with the General Conditions.
- B.** Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with the General Conditions, but in each case less the total of payments previously made, and less amounts properly withheld under the General Conditions.
- C.** If Design-Builder's Fee under Section 6.02.A hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.
- D.** All payments to Design-Builder exclusive of those made directly by Owner to any vendor to Design Builder will be made by electronic transfer to Design Builder's bank account. Design- Builder shall promptly provide Owner with wire transfer instructions for the making of such wire transfers to Design-Builder's bank account.
- E.** Design builder construction contingency established and approved on the GMP may be utilized by the Design Builder to cover changes arising under the following reasons:
- Errors and omissions in the Design-Builder's design, and scoping processes provided the additional work adds previously excluded value to the Project (but expressly excluding any other costs related to the substitution of such work for previously installed work, associated design fees, mistakes of subcontractors or material suppliers, warranty work)
 - reasonable schedule recovery
 - means, methods, and materials reasonably inferred from the Construction Documents
 - work not included in the Construction Documents which is necessary to cause the Project to conform to applicable building codes but was not identified as missing during the review of Construction Documents (through no fault of the Design/Builder), but expressly excluding any legal costs and expenses, including attorney's fees and costs associated with the Project
 - The design builder may use the Design Builder contingency without the Owner's approval

so long as the contingency amount does not cause the GMP to exceed. However, the Design Builder shall report to the Owner the status of the Design Builder Contingency with each application for payment. The owner will not increase the Design Builder's fee for any funds expended from Design Builder Construction contingency. If upon completion of 100% of work, the remaining amount of Design-Builder contingency shall be split up 70-30 with Owner via change order.

F. Owner's contingency shall be utilized solely at the Owner's discretion to address and authorize additional scope of work not included in the original requirements as well as to address any differing site conditions identified during construction. The Design-Builder shall not use Owner's contingency until authorized in writing is issue by the Owner.

If upon completion of 100% of the work, the remaining amount of Owner's contingency shall be transferred to the owner on its entirely and credited from the GMP.

G. Allowances identified on the GMP as listed and quantified assumptions shall be use by Design Builder when information is acquired to reconcile these items. Allowances shall be used with Owner's authorization. Any savings from the allocated allowances shall return to the Owner's contingency in accordance with the buyout process.

10.02 *Retainage on Progress Payments*

Owner will retain five percent (5%) of each Application for Payment. Upon Substantial Completion of the Work, the retainage shall be reduced in accordance with the Design-Build Amendment.

10.03 *Interest*

Timeliness and interest due or payments to the Design-Builder are subject to and controlled by Chapter 2251 of the Texas Government Code.

10.04 *Buyout Savings*

If Design/Builder receives bids for portions of the Work which are less than the amounts budgeted in the GMP proposal approved by Owner for such portions of the Work, such buyout savings shall first be utilized to offset shortfalls on other bid packages. If, after offsetting any shortfalls, buyout savings remain, at the time of the award of subcontractors, all buyout savings shall be returned to the Owner via "no cost" change order.

10.05 *Compensation for Work Performed Prior To Execution of Design-Build Amendment*

A. Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

B. The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth in Exhibit 1.

C. The compensation for Reimbursable Expenses incurred by additional services when requested by the owner shall submitted for review and acceptance in accordance with the executed Design-Build Agreement.

1. Reimbursable Expenses include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- a. Transportation and authorized out-of-town travel and subsistence;
- b. Fees paid for securing approval of authorities having jurisdiction over the Project;
- c. Printing, reproductions, plots, standard form documents;
- d. Postage, handling and delivery;
- e. Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; and
- f. Other Project-related expenditures, if authorized in advance by the Owner.

D. Payments to the Design-Builder Prior To Execution of Design-Build Amendment

1. Monthly progress payments are due and payable thirty-days following submission, review and approval of the Design- Builder's invoice to Engineer and Owner.

2. Design-Builder shall maintain, at its office, a complete record of all costs and accounting data generated for services performed for a period of five following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first. Upon request of Owner, and within a reasonable time following such request, Design-Builder will make available for inspection and duplication all records required to be maintained by this section or elsewhere in the Design-Build Documents.

10.06 Contract Price and Payment for Work Performed After Execution of Design-Build Amendment

- A.** For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Price in current funds as agreed in the Design-Build Amendment. Notwithstanding any terms to the contrary, the provisions of this Article and the General Conditions shall control the obligations of the Parties with respect to payments made pursuant to the Design-Build Documents.

10.07 Construction Trust Funds

- A.** Contractor shall comply with the provisions of the Texas Trust Fund Act, Chapter 162 of the Texas Property Code. With respect to payments made by the Owner, such funds are considered Trust Funds and shall be safeguarded and used as represented by Design-Builder to pay any consultants and subcontractors that may be due payment pursuant to the schedule of values.

ARTICLE 11 - PAYMENT APPLICATIONS

11.01 After execution of the Design-Build Amendment this Article shall be governed by the General Conditions unless specified otherwise herein. To the extent there is a conflict between the terms of this Agreement and the terms of the General Conditions, this Agreement shall prevail.

11.02 *Contract Price*

The Contract Price is stated in the Design-Build Amendment.

11.03 *Applications for Payment*

Applications for Payment shall be governed in accordance with the General Conditions.

11.04 *Progress Payments*

Progress Payments shall be governed in accordance with the General Conditions.

A. After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time limits required by the General Conditions.

B. The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by the General Conditions.

11.05 *Failure of Payment*

Failure of payment by Owner within the time limits required by the General Conditions shall entitle the Contractor to the remedies contained in Article 16 of the General Conditions.

ARTICLE 12 - FINAL COMPLETION

12.01 Final completion shall be governed in accordance with the General Conditions, except as otherwise set forth in this Article.

A. Timely final completion is an essential condition of this contract. Design-Builder agrees to achieve final completion of the Work within 30 days of the designated or extended substantial completion date. The date of Substantial Completion shall be fixed by this Agreement, unless modified by Change Order, and memorialized by a Certificate of Substantial Completion as provided in the General Conditions.

ARTICLE 13 - OWNERSHIP OF WORK PRODUCT, COPYRIGHTS AND LICENSES

13.01 General Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. As part of the total compensation which Owner has agreed to pay Design-Builder for the professional services to be rendered under this Contract, Design-Builder agrees that all finished and unfinished “Instruments of Service” including but not limited to documents, data, studies, surveys, drawings, specifications, field notes, maps, models, photographs, preliminary reports, reports, bid packet/construction contract documents/advertisement for bids incorporating any Owner standard provisions provided by Design-Builder, all of which are produced by Design-Builder and paid for by Owner are, and will remain, the property of the Owner. Architect will furnish Owner with electronic copies in .PDF format, to the extent they are available, of all of the foregoing to facilitate coordination; however, ownership of the underlying work product shall remain the intellectual property of the Design-Builder. Design-Builder shall have the right to use such work products for Design-Builder’s purposes on this Project. However, such documents are not intended to be suitable for reuse by Owner or others. The above notwithstanding, Design-Builder shall retain

all rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary and intellectual property information provided pursuant to this Contract.

13.02 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

A. The Design-Builder shall obtain non-exclusive licenses from the Architect, Engineer, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 13.

B. In the event the Owner alters the Instruments of Service without the author's written authorization, the Owner releases the Design-Builder, Architect, Engineer, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from to such alteration. The terms of this Section shall not apply if the Owner rightfully terminates this Agreement for cause

ARTICLE 14- CLAIMS AND DISPUTE RESOLUTION

14.01 General Claims and dispute resolution will be governed in accordance with the General Conditions.

ARTICLE 15 - BONDS AND INSURANCE

15.01 Insurance

Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Rider **Exhibit 3** attached hereto and in accordance with Article 6 of the General Conditions.

15.02 Bonds and Other Performance Security

A. In accordance with Article 6 of the General Conditions and Texas Government Code chapter 2253, Design-Builder shall provide performance bond and labor and material payment bonds.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

16.01 Governing Law

The Contract shall be governed by the law of the state of Texas.

16.02 Venue

This Agreement is entered into and performed in El Paso County, Texas, and the Design-Builder and the Owner agree that mandatory venue for any legal action related to this contract shall be in the District Courts of El Paso County, Texas.

16.03 Successors and Assigns

The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Neither party to the Contract shall assign the Contract in whole or in part

without the express written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract and the attempted assignment shall be of no legal force or effect as to the other party.

16.04 *Written Notice*

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. Written notice sent or transmitted by electronic mail or facsimile must be actually received to be considered delivered and to comply with notice requirements herein. Transmission alone by electronic mail or facsimile does not constitute delivery.

16.05 *Rights and Remedies*

A. Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

B. No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

16.06 *Interpretation*

Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

(Signatures Begin on the Following Page)

This Agreement is entered into as of the day and year written above (“The Date of Execution”):

OWNER

By: Cary Westin
Title: Interim City Manager

DESIGN-BUILDER

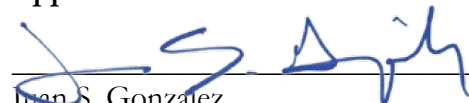
Jordan Foster Construction, LLC

By: _____
Title: _____

Approved as to Content:

Yvette Hernandez, City Engineer
Capital Improvement Department

Approved as to Form:



Juan S. Gonzalez
Senior Assistant City Attorney

Exhibit 1-A – DESIGN/CONSTRUCTION SERVICE PACKAGE

A. DESIGN REQUIREMENTS

El Paso Public Safety Training Academy and Fire Department Headquarters site is located on Martin Luther King Jr Boulevard between Loma Clara St and the Roundhouse Trailhead, within the corporate limits of the City of El Paso, El Paso County, Texas. The City of El Paso assigned and authorized the Capital Improvement Department (CID) to manage the successful development, implementation, and completion of the Project. The characteristics of this project will require a high degree of cooperation and coordination between the City of El Paso Capital Improvement Department, the owners' representatives and the Design-Build Team.

The Design-Build Team shall perform all services and work necessary to complete and deliver the Turn-Key Project in accordance with the terms of the Design/Construction service Package, bridging documents and Design-Build Agreement, and shall complete the design services to include deliverables of construction documents and specifications as well as Construction Administration services by the Design-Build Team's Design Professional of Record.

Generally, the Design-Build Team's scope of services and work will include an in-depth site assessment of the proposed location, planning, development, design- including sustainable and contextual design strategies, engineering, and construction of the site work, facilities, parking, roadways, and related improvements for the Project, including but not limited to all architecture, engineering, construction, and other services necessary for the successful development, execution, and completion of the Project.

The Design Builder proposal shall includes the following items:

- Cost of the Work including Special systems, IT, FFE .
- Cost of all new utilities infrastructures and services including coordination with utility companies
- Traffic Control
- Topographic surveys needed to complete the Work
- Geotechnical studies needed to complete the Work
- Any exploratory work necessary
- A/E Design Fees
- Any expediting fees, over time or additional resources required to meet the committed project schedule
- Design-Build Team overhead/profit and general conditions
- Environmental surveys
- Possible modifications to MLK Jr based on coordination with TXDOT
- Community outreach
- ROW-Easements & Agreements
- Repository management software
- Any allowances and contingencies
- Zoning and plotting of the property

Approved design and construction budget **DOES NOT INCLUDE THE FOLLOWING:**

- CID management costs and Commissioning
- Third-Party construction management fees

- Construction quality control costs (material testing lab during construction)
- CISCO network provided by CoEP

The Design-Build Team shall submit the following document packages:

1. Schematic Design (30% Complete):

Referring to the Owner's criteria, the Design-Build Team shall prepare and submit the schematic design package to include but not limited to the following:

- Agreements with applicable entities including but not limited to ROW as needed
- Coversheet (80% complete)
- Civil Engineering plans, grading and profiles (30% complete)
- Utility plans and profiles (30% complete)
- Lighting Plan (30% complete)
- Traffic Signal, Signage and Striping plans, if applicable (30% complete)
- Construction notes (30% complete)
- Storm water pollution prevention plan (50% complete)
- Construction details (30% complete)
- Landscape plans (30% complete)
- Landscape details (35% complete)
- Irrigation plan (30% complete)
- Irrigation details (30% complete)
- Construction Phasing Plans including structural, architectural, MEP, Special Systems, (30% complete)
- Traffic Control Plan (30% complete)
- Outline of specifications - table of contents (80% complete)
- Geotechnical and environmental Study/surveys and Recommendations (100% complete)

The Design-Build Team shall submit electronic copies of the schematic design documents for review and comments and upload pdf of submittals into web-based software.

Design-Build Team shall meet with CID and PM to review the constructability program to identify and document project cost and savings opportunities.

2. Design Development (60% Complete):

After City staff's approval of 30% schematic design package, the Design-Build Team shall prepare and submit the design development package to include but not limited to the following:

- Agreements with applicable entities including but not limited to ROW as needed
- Coversheet (85% complete)
- Civil Engineering plans and profiles (60% complete)
- Utility plans and profiles (60% complete)
- Lighting Plan (60% complete)
- Traffic Signal, Signage and Striping plans, if applicable (60% complete)
- Construction notes (60% complete)
- Storm water pollution prevention plan (80% complete)
- Typical construction details (60% complete)
- Special construction details (60% complete)

- Landscape plans (60% complete)
- Landscape details (60% complete)
- Irrigation plans (60% complete)
- Irrigation details (60% complete)
- Construction Phasing Plans including structural, architectural, MEP, Special Systems, FFE (60% complete)
- Traffic Control Plan (60% complete)
- Technical specifications table of contents (85% complete)
- Technical specifications (60% complete)
- Subsurface Utility Engineering quality level of all known utilities (60% complete)

The Design-Build Team shall submit an electronic copy of the Design Development documents for review and comments and upload pdf of submittals into web-based software. If the CID considers the submittal as not compliant to the above required completion percentages, the Design-Build Team must resubmit as per the above-mentioned requirements.

Design-Build Team shall meet with CID and PM to review the constructability program to identify and document project cost and savings opportunities.

Upon CID and review and comment process, the Design-Build Team shall respond to the comments within 10-business days.

3. Pre-Final Construction Documents (90% Complete):

After the City staff's approval of design development package, the Design-Build Team shall prepare and submit the pre-final construction documents to include but not limited to the following:

- Agreements with applicable entities including but not limited to ROW as needed
- Coversheet (95% complete)
- Civil Engineering plans and profiles (90% complete)
- Utility plans and profiles (90% complete)
- Lighting Plan (90% complete)
- Traffic Signal, Signage and Striping plans, if applicable (90% complete)
- Construction notes (90% complete)
- Storm water pollution prevention plan (90% complete)
- Typical construction details (90% complete)
- Special construction details (90% complete)
- Landscape plans (90% complete)
- Landscape details (90% complete)
- Irrigation plans (90% complete)
- Irrigation details (90% complete)
- Construction Phasing Plans including structural, architectural, MEP, Special Systems(90% complete)
- Traffic Control Plan (90% complete)
- Technical specifications table of contents (90% complete)
- Technical specifications (90% complete)
- Subsurface Utility Engineering quality level of all known utilities (100% complete)

- Upon the completion of the pre-final construction document phase, the Design-Build Team shall submit an electronic copy of the pre-final construction documents for review and comments and upload pdf of submittals into web-based software. If the CID considers the submittal as not compliant to the above required completion percentages, the Design-Build Team must resubmit as per the above-mentioned requirements.

Design-Build Team shall meet with CID and PM to review the constructability program to identify and document project cost and savings opportunities.

Upon completion of the CID review and comment process, the Design-Build Team shall respond to the comments within 10-business days.

4. Final Construction Documents (100% Complete):

After the City staff approval of the pre-final construction documents, the Design-Build Team shall prepare and submit the final Construction Documents to include but not limited to the following:

- Coversheet (100% complete)
- Civil Engineering plans and profiles (100% complete)
- Utility plans and profiles (100% complete)
- Lighting Plan (100% complete)
- Traffic Signal, Signage and Striping plans (100% complete)
- Construction notes (100% complete)
- Storm water pollution prevention plan (100% complete)
- Utility Relocations (100% complete)
- Typical construction details (100% complete)
- Special construction details (100% complete)
- Landscape plans (100% complete)
- Landscape details (100% complete)
- Irrigation plans (100% complete)
- Irrigation details (100% complete)
- Construction Phasing Plans including structural, architectural, MEP, Special Systems (100% complete)
- Traffic Control Plan (100% complete)
- Technical specifications table of contents (100% complete)
- Technical specifications (100% complete)

Upon the completion of the final construction document package, the Design-Build Team shall submit electronic copy of the final construction documents and upload pdf of submittals into web- based software.

B. CONSTRUCTION SERVICES

The Design-Build Team shall, in accordance with the Design/Construction service Package, create the Construction Documents, in accordance with all applicable laws and regulations; CA services during construction, supervise, direct, perform all work using the Design-Build Team's best skill and attention;

in accordance with the DB Agreement, bridging documents and the applicable Standards, to manage, complete and deliver the Project within the Project Cost Limitation and within the Project Schedule.

12-month construction warranty, with an onsite review with the contractor at 11-months.

C. PROJECT BUDGET

1. This Project is not exempt from obtaining City of El Paso Permits, however the City permit fees will be waived. BP&I review fees including expedite review by planning are not waived.
2. This Project is an all-inclusive, Turn-Key project.
3. Design fee shall be limited to 8% of construction cost
4. Mobilization fee shall be limited to 5% of construction cost
5. The Project is estimated to cost be \$78,000,000. The DB Team shall negotiate and submit a Gross Maximum Price (GMP) of the project as described in the DB Agreement.
Design-Build team is responsible for visiting the site to get familiarized with the existing conditions of the area where the project will be constructed. As information becomes available on the site.

D. SOFTWARE

1. Project Management Software

The Design/Build Team shall minimize the use of large amounts of paper. The D/B Team shall promote a “Green Approach” on document management. Therefore, the consultant shall include and implement a web-based software to store, manage, view, review, and comment on electronic documents. The following are some of but not limited to documents that will be placed on the web-based construction management software:

- Investigation documents
- Design concept documents
- Construction budget documents
- Construction Documents/Specifications
- Meeting agendas and meeting minutes
- Project schedules
- Submittals
- RFIs
- Field Directives
- Pay Applications
- Daily Reports
- Photographs
- Transfer of all document in a format acceptable to the City

E. PROVISIONS FOR UTILITIES

1. Based on the design, the Design-Build Team shall coordinate with all utilities that will provide service to and will be affected by the improvements. The Design-Build Team shall submit all applications to the utilities on behalf of the City and shall be responsible to coordinate design efforts with all affected utility companies. The purpose is to minimize utility relocation without compromising design standards. The Design-Build Team shall be responsible to verify all available horizontal and vertical information on utility lines, valves, covers, manholes, etc. from

- the different utility companies during the schematic design
2. The existing utility structures shall be shown on the schematic design plan submittal. The Design-Build Team shall meet with all affected utility companies to discuss proposed design. Based on these coordination meetings and correspondence that is sent between both the Design-Build Team and utility companies the need and extent of relocation and upgrading shall be determined. If a dispute arises the Design-Build Team shall immediately setup a meeting between the City of El Paso Project Manager and the utility company to resolve the dispute. The Design-Build Team in behalf of the City of El Paso shall request from all utility companies that they relocate all lines that conflict with new improvements. However, each utility company can request that the City of El Paso include as part of the street and relocation of their utility lines, provided that the utility company signs an agreement with the City.
 3. The Design Build Team shall be responsible for all coordination and pay for utility installation and/or relocation during construction.
 4. All correspondence and meeting minutes (including email confirmation that coordination was conducted) shall be submitted to the City of El Paso when each phase is due. Construction documents shall clearly show all existing and proposed utility lines and utility company contacts. All documents and coordination efforts by the Design-Build Team shall be complete by or before the final construction documents. The Design-Build Team shall submit all utility clearance letters from each of utility company by or before the start of construction.
 5. The Design-Build Team shall assist the City in providing schedules for obtaining utility easements and general utilities installation such as electric, water, sewer, telephone, and cable-TV. The cost of easement Metes and Bounds surveys will be paid by the design- Build team. The cost of all utilities shall be the responsibility of the Design-Build Team.

F. PERMITS

1. The Design-Build Team shall comply with all local, state, and federal building codes. The Design-Build Team shall submit the required construction document sets to the City of El Paso Planning and Inspections Department for review and approval during the pre-final construction documents phase.
2. It shall be the responsibility of the Design-Build Team to follow up review and approval process with the City of El Paso Planning and Inspections Department. The Design-Build Team shall respond to the comments within 10-business days. After approval, the Design- Build Team will pick up approved plans and store them in a safe place.
3. The Design-Build Team shall be responsible for obtaining the permits required for the project. It is the responsibility of the City of El Paso Planning and Inspections Department to review the grading and drainage, and storm water pollution prevention plan permit requirements. The Design-Build Team shall be responsible to prepare all documents that include but are not limited to metes and bounds descriptions, site plans, profiles, sections, and applications for permits, special permits, and land use permits. The Design-Build Team shall represent the City of El Paso to make presentations, and answer questions at the City of El Paso Design Review Committee meeting and City Council meetings.

G. APPLICABLE CODES AND ORDINANCES

The Design-Build Team shall comply with the current versions of all federal, state and local Codes, Regulation and Ordinances including but not limited to the following:

- 2021 Edition of the International Building Codes
- Chapter 18 of the Building and Administrative Code of the City of El Paso
- Capital Improvement Department Design Manual for Construction
- City of El Paso Design and Construction Standards
- City of El Paso Zoning and Land Use Requirements
- City of El Paso Grading Ordinance
- City of El Paso Comprehensive Bike Plan
- Texas Department of State Health Services (Section 341)
- Texas Administrative Code, Title 25 (Chapter 265)
- Institute of Transportation Engineers (ITE) manual adopted by the City of El Paso for pedestrian friendly roadways
- Texas Commission and Environmental Quality (TCEQ) requirements
- Texas Department of Health requirements
- Current ADA and Texas Accessibility Standards (2012 TAS)
- TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges (2014)
- AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing (Thirty-Fourth Edition)
- NFPA 1001: Standard for Fire Fighter Professional Qualifications
- NFPA 1403: Standard on Live Fire Training Evolutions
- NFPA 1500: Standard on Fire Department Occupational Health & Safety
- NFPA 54: Fuel Gas Code
- NFPA 70: National Electrical Code
- NFPA 1402: Guide to Building Fire Service Training Centers
- NFPA 86, The Standard for Ovens and Furnaces, Sixteenth Edition
- UL 508A The Standard for Industrial Control Equipment.
- NFPA 13: Standard of Installation of sprinkler systems
- NFPA 30: Standard on flammable and combustible liquid codes
- NFPA 54: Fuel gas code
- NFPA 51B: Prevention during welding, cutting hot work
- NFPA 70: National Electrical Code
- NFPA 86: Standard for ovens and furnaces, sixteenth edition
- NFPA 88B: Repair garages
- NFPA 91: Exhaust systems
- NFPA 230: Fire protection storage
- NFPA 231D: Storage of rubber tires
- NFPA 298: Standard on firefighting foam chemicals
- NFPA 414: Standard for Aircraft Rescue and firefighting
- NFPA 1001: Standard for firefighter professional qualifications
- NFPA 1002: Standard for Fire Apparatus Driver/operator professional qualifications (2017 ed.)
- NFPA 1041: Standard for Fire Service Instructor Professional qualifications (2019 ed.)
- NFPA 1402: Standard on facilities for fire training and associated props (2019 ed)
- NFPA 1402: Guide to building fire services training centers

- NFPA 1403: Standard on live fire training evolutions
- NFPA 1500: Standard on Fire Department Occupational Health & Safety
- NFPA 1561: Standard on Emergency service incident management system (2020 edition)
- NFPA 1580: Standard for emergency responder occupational health and wellness
- NFPA 1581: Standard on open-circuit self-contained breathing apparatus for emergency services/ standard on personal alert safety systems (2019 editions)
- NFPA 1710: Standard for Organization and deployment of fire suppression operations, emergency medical operations, and special operations to the public by career fire departments
- NFPA 1852: Standard on selection, care and maintenance of open-circuit self-contained breathing apparatus (2019 edition)
- NFPA 1901: Automotive Fire Apparatus
- NFPA 1911: The inspection, maintenance, testing, and retirement of in-service emergency vehicles
- NFPA 1914: Testing aerial devices
- NFPA 1915: Maintenance program
- NFPA 1971: Standard on protective ensembles for structural firefighting and proximity firefighting (2018 edition)
- NFPA 1981: Standard on fire Department infection control program (2020 edition)
- NFPA 1989: Standard on breathing air quality for emergency services respiratory protection (2019 edition)
- UL 508A: The standard for industrial control equipment
- TCOLE (Texas Commissioning on Law Enforcement) applicable rules including §215.2.General application and approval process
- Other local, state, and federal codes, ordinances, and requirements

H. MATERIAL QUALITY STANDARDS

Bridging document will be used for reference, the quality of the finished materials will be specified by the DB Team, to allow for as much latitude as is prudent in order to provide the highest quality product.

I. QUALITY ASSURANCE and QUALITY CONTROL REQUIREMENTS

The Design-Build Team shall:

- Maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this contract. The Design-Build Team shall submit, for Owner's approval, resumes of the key personnel that will work on the project
- Assign to the City of El Paso a designated single point of contact representative who will be responsible for the coordination and administration of the project
- Upon City of El Paso's issuance of the Notice to Proceed, the Consultant shall begin the design work and submit all design elements for review and determination of scope compliance by CID
- Attend meetings with City of El Paso representatives as directed by CID
- Implement and maintain a constructability program to identify and document project cost and schedule savings opportunities

- Consult with representatives of the City of El Paso, CID and PM on the selection of materials, equipment, component systems and types of construction used on the project through formal design reviews
- Provide CA services during construction of the projects in accordance with the agreement and general conditions. , including but not limited to;
 - Review submittals
 - RFI review and clarification
 - Field Directives
 - Pay app review
 - Inspections
 - Punch List
 - Attend site meetings bi-weekly (at a minimum)
 - Provide signed and sealed set of as-built construction documents in both printed and electronic versions to the City of El Paso.

Exhibit 1 – Design Cost Detail and Schedule and Rates of Members of Design-Builder Team



7700 C.F. Jordan Drive
El Paso, TX 79912
P: 915.877.3333
F: 915.877.3999

A Foundation of Excellence™

Via e-mail: GarciaCA2@elpasotexas.gov

Monday, April 8, 2024

Ms. Claudia Garcia
Assistant Director of Purchasing & Strategic Sourcing
City of El Paso - Purchasing & Strategic Sourcing Department
El Paso, TX 79901

Subject: Solicitation 2022-0759R Design-Build Services for El Paso Public Safety and Fire Department Headquarters and Vehicle Maintenance and Logistics Center – Proposal for Pre-Design Verification Services

Ms. Garcia,

The Jordan Foster Design-Build team is pleased to provide you with this draft outline of the scope of services to be provided in the requested Pre-Design Planning Study for the El Paso Public Safety and Training Campus needs. Our design partner, Architects Design Group and Carl Daniels Architects, will lead this pre-design effort, with oversight and estimating services by Jordan Foster. We anticipate this effort will take 12 weeks. Please see attached schedule for proposed timeline of this process.

Each proposed task is listed in sequential phases including the following:

- A. Update Spatial Needs Assessment** to establish all future building programs and training props desired to be located on the El Paso Public Safety and Training Campus. It will also account for possible partnerships with other agencies and the square footage needs for that programmatic element. This report will provide a detailed space-by-space definition of the elements to be included within the public safety campus, such as Fire Administration Headquarters, Vehicle Maintenance, Fire Logistics and Warehouse, Fire Training Academy, Fire Apparatus and Vehicle Storage, Police Academy, Indoor Shooting Range, and a shared Gym, Weight Room and Lockers facility. Supplemental Facilities will consist of a Residential Fire Training Structure, Commercial Fire Training Structure, and a Hogan's Alley, and exterior site requirements. It will also include projections for potential future buildings / prop needs such as a Behavioral Sciences and Simulation Facility, Shared Auditorium, Police EVOC Storage, a Pool Pavilion, EVOC Outdoor Classroom, and a Fire Outdoor Classroom.
 - Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, and OPLA Consulting.
- B. Site Analysis** services will be conducted for the training site. This effort may include the review of the existing aerial and underground utilities, roadways, ingress and egress locations for vehicular and pedestrian access, site features, trees, buffer zones, stormwater management requirements, delivery points, secured parking parameters, etc. Items to be provided by CoEP include any existing surveys, environmental assessments, land development regulations for the site, etc.
 - Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, Souder Miller & Associates (SMA), OPLA Consulting, JR2 Consulting, Greenway Studio, Verdacity, Hendrix Engineers, and LOI
- C. Exploratory Services:** Our team will contract with LOI to provide three borings to do a preliminary geotechnical assessment. The fee for two additional soil borings would be \$1,670. The Jordan Foster Design-Build team shall retain no liability for the work of the Geotechnical Engineering Consultant if this effort is provided as a pass-through service. SMA will provide any survey, environmental, and initial civil work needed on this site.
 - Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, and LOI

- D. Conceptual Site Planning & Architectural Master Plan** of the site. All known building, training prop, and site amenity features shall be identified in consideration of the long-term build out of the training site with the understanding that the City of El Paso may elect to implement a phased development approach depending upon the first phase funding already allocated at \$78,000,000. If the current funding will not allow all elements to be developed at one time, a phased development approach will be reflected in the master plan documents accordingly.
- Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, Sounder Miller & Associates (SMA), OPLA Consulting, JR2 Consulting, and Greenway Studio
- E. Preliminary Technology Review:** This report will also include a preliminary technology review including the security access control and CCTV systems, audio-visual technology needs, and the coordination of the data distribution network with DPS' Information Technology Department representatives. The technology assessment can be conducted virtually or on-site.
- Team Members during this phase: Jordan Foster, Architects Design Group, and TLC Engineering.
- F. Conceptual Building Design Sketches:** Our team will develop a conceptual building design approach incorporating the information developed in phases A through E. This effort will include the development of the operational adjacency diagrams, engineering discipline narratives of anticipated construction methods, material selections, and systems selections, as approved by CoEP. It will also include conceptual massing and exterior elevation studies. This information will be used for the city's use in budgeting what elements can be accomplished in the stated budget during Phase I, and the additional funding needed for future phases for full development of the site.
- Team Members during this phase: Jordan Foster, Architects Design Group, and Carl Daniels Architects
- G. Community Engagement Session:** We understand the CoEP does not anticipate any further community engagement sessions, however should this change, we will have members in person to participate, if necessary.
- Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, and SMA.
- H. Preparation of an Estimate of Probable Development Costs and GMP:** A preliminary budget estimate will be prepared that is based upon the conceptual architectural master plan and descriptive architectural and engineering narratives produced by each discipline including architecture, interior design, civil, structural, mechanical, electrical, plumbing, fire protection, technology, acoustics, structural, and green globes / sustainability. It will provide a total project cost, as well as break down costs between potential phasing.
- Team Members during this phase: Jordan Foster, Architects Design Group, Carl Daniels Architects, Sounder Miller & Associates (SMA), Greenway Studio, Hendrix Engineers, HKN Engineers, Fokus on Architecture, Verdacity, OPLA consulting, JR2 Consulting, Siebein Associates, and LOI
- I. Final Report and Briefing / Presentation:** All of the information outlined above will result in a detailed report that will contain recommendations and options for the development of the CoEP's much needed improvement to the fire department and public safety training facilities. Our team will provide a formal presentation of the study and recommended solutions to CoEP and stakeholders.
- Team Members during this phase: Jordan Foster, Architects Design Group, and Carl Daniels Architects

Fee Summary:

As noted above, we anticipate this effort will take 12 weeks total for pre-design verification and cost estimates to finalize a GMP. Upon acceptance and successful contract negotiations, the total fee for this pre-design verification will be credited within the GMP. If we cannot achieve successful contract negotiations, the fees for this effort will be reimbursed to the design build team.

Task A - Update Spatial Needs Assessment	\$ 77,030.80
Task B - Site Analysis	\$ 27,777.50
Task C - Geotechnical Engineering	\$ 4,506.93
Task D - Master Planning	\$ 52,070.00
Task E - Conceptual Building Design	\$ 61,377.00
Task F - Preliminary Technology Review	\$ 12,812.50
Task G - Community Engagement Session	\$ -
Task H - Cost Estimates / Development of GMP	\$ 18,450.00
Task I - Final Report + Briefing / Presentation	\$ 6,150.00
Subtotal	\$ 260,174.73
Project-Specific Reimbursable Expense Allowance	\$ 16,400.00
	\$ -
Total Phase One Professional Fee:	\$ 276,574.73
Phase One Fee as percentage of \$78M Project Budget	0.355%

City Involvement:

We understand the city wants to move quickly on this project. We appreciate the urgency and would like to expedite the process as well. Our intent is to provide a GMP representative of the 2024 current and future needs of the city, fire, and police departments. We would ask the city to have the following team members present during the pre-design verification meetings to streamline this process and ensure all necessary stakeholders are engaged and accounted for in the process.

- CID representatives
- City IT representative
- Facilities maintenance representative
- Design criteria team, if applicable.

We will also need right of entry to the site for the following items. Please let us know who we need to coordinate with to get the dates scheduled.

- Exploratory excavation
- Survey
- Preliminary borings

Conclusion:

We appreciate the City's time in reviewing this proposal and look forward to the opportunity to partner with the City of El Paso on this very exciting, mission critical component of the region's commitment to its strategic goals and public safety. Please feel free to reach out to us with any questions.

Sincerely,



Ash Kamath
Vice President, Building Group
Jordan Foster Construction, LLC

Enclosures attached

- Proposed schedule for pre-design verification

cc: Paul Bauer, COO, Jordan Foster Construction
Katy Nero, VP, ADG
Carl Daniel, CDA

File

EP Police and Fire HQ							SCHEDULE UPDATE							Data Date: 09-Apr-24									
EPHQ							ALL ACTIVITIES							Run Date: 08-Apr-24									
Activity ID		Activity Name		Orig Dur	Rem Dur	Phys % Compl	Start	Finish	2024														
									Mar	Apr		May		Jun		Jul		Aug					
EP Police and Fire HQ																							
PRECONSTRUCTION & DESIGN PHASE																							
PROJECT ADMINISTRATION																							
DOCUMENT DEVELOPMENT																							
GUARANTEED MAXIMUM PRICE																							
GMP-2000	CITY ISSUES RFP	0	0	100%	26-Feb-24 A																		
GMP-2010	D/B TEAM REVIEWS RFP AND SUBMITS QUESTIONS	10	0	100%	26-Feb-24 A	08-Mar-24 A	TEAM REVIEWS RFP AND SUBMITS QUESTIONS																
GMP-2020	CITY GATHERS RESPONSES	5	0	100%	08-Mar-24 A	15-Mar-24 A	CITY GATHERS RESPONSES																
GMP-2030	MEETING WITH D/B TEAM TO RESPOND TO QUESTIONS	0	0	100%		15-Mar-24 A	MEETING WITH D/B TEAM TO RESPOND TO QUESTIONS																
GMP-2040	D/B TEAM DEVELOPS PROPOSAL FOR PRE-DESIGN PHASE	5	0	100%	15-Mar-24 A	22-Mar-24 A	D/B TEAM DEVELOPS PROPOSAL FOR PRE-DESIGN PHASE																
GMP-2050	CITY EVALUATES PROPOSAL	5	15	0%	25-Mar-24 A	29-Apr-24	CITY EVALUATES PROPOSAL																
GMP-2060	CITY APPROVES D/B PRE-DESIGN PROPOSAL	0	0	0%	30-Apr-24		CITY APPROVES D/B PRE-DESIGN PROPOSAL																
GMP-2070	D/B PREPARES PROGRAMMING CLARIFICATION PACKAGE	10	10	0%	30-Apr-24	13-May-24	D/B PREPARES PROGRAMMING CLARIFICATION PACKAGE																
GMP-2100	SITE SURVEY AND GEOTECH EXPLORATION	20	20	0%	07-May-24	04-Jun-24	SITE SURVEY AND GEOTECH EXPLORATION																
GMP-2080	D/B HOLDS PROGRAMMING MEETING WITH STAKEHOLDERS	2	2	0%	14-May-24	15-May-24	D/B HOLDS PROGRAMMING MEETING WITH STAKEHOLDERS																
GMP-2090	D/B DEVELOPES PRE-DESIGN PACKAGE	45	45	0%	16-May-24	19-Jul-24	D/B DEVELOPES PRE-DESIGN PACKAGE																
GMP-2110	D/B DEVELOPS GMP	25	25	0%	26-Jun-24	31-Jul-24	D/B DEVELOPS GMP																
GMP-2120	D/B SUBMITS PRE-DESIGN PACKAGE AND GMP	0	0	0%		31-Jul-24	D/B SUBMITS PRE-DESIGN PACKAGE AND GMP																
BID & SUBCONTRACTOR PROCUREMENT PHASE																							
GENERAL REQUIREMENTS																							
CONSTRUCTION PHASE																							
COMMISSIONING & CLOSEOUT																							

SPATIAL NEEDS ASSESSMENT (SCOPE, BASIS OF THE DESIGN, FRAMEWORK TO GUIDE THE PROJECT)		
Project Number:	1109	
Project Name:	EL PASO PSF	
Current Issue Date:	4/8/2024	
		PHASE GOALS = ESTABLISH BENCHMARK & CONSENSUS OF PROJECT REQUIREMENTS. INCLUDES SPACE (PROGRAM), REDUNDANCY, HARDENING, RESILIANCY, STANDARDS & CODES. (QUALITATIVE AND QUANTITATIVE)
		INVOLVEMENT OF INTERESTED PARTIES IN THE DEFINITION OF THE SCOPE OF WORK PRIOR TO DESIGN. GATHERING AND ANALYZING DATA EARLY IN THE PROCESS SO THE DESIGN IS BASED ON SOUND DECISIONS. EFFICIENT USE OF TIME BY AVOIDING REDESIGN AS REQUIREMENTS EMERGE DURING THE ARCHITECTURAL DESIGN DEVELOPMENT.
PHASE 1 REPORT DELIVERABLES		
	ADG/CDA	COVER PAGE
	ADG/CDA	COVER LETTER
	ADG/CDA	EXECUTIVE SUMMARY & SPATIAL NEEDS ASSESSMENT
	ADG/CDA	ARCHITECTURAL NARRATIVE
	ADG/CDA	INTERIOR DESIGN NARRATIVE
	ADG/CDA	PROJECT CRITERIA AND STANDARDS NARRATIVE
	ADG/CDA	CODE ANALYSIS
	STR	STRUCTURAL NARRATIVE
	MEP	MECHANICAL NARRATIVE
	MEP	ELECTRICAL NARRATIVE
	MEP	PLUMBING NARRATIVE
	MEP	FIRE PROTECTION NARRATIVE
	TLC	TECHNOLOGY NARRATIVE
	GW	LANDSCAPE NARRATIVE
	SA	ACOUSTIC REPORT
	OPLA	FIREARMS TRAINING NARRATIVE
	ADG/CDA	CONCEPTUAL MASTER PLAN
	CIV	CONCEPTUAL SITE PLAN / GRADING / DRAINAGE / UTILITIES
	CIV	OFFSITE IMPROVEMENTS - TXDOT / UTILITIES
	ADG/CDA	CONCEPTUAL FLOOR PLANS
	ADG/CDA	CONCEPTUAL ELEVATIONS / 3D RENDERING
	ADG/CDA	CONCEPTUAL ELEVATIONS
	ADG/CDA	CONCEPTUAL 3D VIEWS / RENDERINGS
	ADG/CDA	FEMA FIRMETTE
	ADG/CDA	SPACE STANDARDS (3D)
	ADG	OPINION OF PROBABLE COST
	ADG/CDA	GEOTECHNICAL REPORT EXHIBIT
	ADG/CDA	SITE SURVEY EXHIBIT
	ADG/CDA	HAZARD ANALYSIS EXHIBIT

El Paso Public Safety Training Academy and Fire Department Headquarters

Design Build Lead

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P: 915.877.3333 x 4291 | F: 915.877.3999 |

Architect of Record

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915.533.2700

Carl V. Daniel, Jr.
AIA, NCARB, CNU-A, LEED AP, Owner
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F: 915.533.2799

Local Staff:

Carl Daniel, Jr., AIA, NCARB, LEED AP – Principle in Charge
Hugo Saldaña, AIA, NCARB, CNU-a – Project Architect

Public Safety Experts

Architects Design Group

Staff:

Ian Reeves – Public Safety Training Architect
ianr@adgusa.org
Fred Rambo – Public Safety Training PM
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MEP Engineering

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MEP Staff:

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Keith Mayes – MEP Designer

El Paso Public Safety Training Academy and Fire Department Headquarters

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Structural Staff:
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Civil Engineer

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Security & Technology Consultant

TLC Engineering for Architecture
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Taw North / Mandy Missal
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Cc: Mandy.Missal@tlc-eng.com

TLC staff: Taw North – Security & Technology

Landscape Architecture

Greenway Studios
GREENWAY STUDIO, LLC
David Parra, RLA, CNU-A, ASLA
Principal / Landscape Architect
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c: 915.215.9488

El Paso Public Safety Training Academy and Fire Department Headquarters

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LOI ENGINEERS

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Bernardino Olague, P.E., Vice President

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Firearms Training Consultant

OPLA Consulting

Firearms Training Staff:

Eric Clapsaddle – Firearms & Operating analysis

Acoustical Engineer Consultant

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Green Globes / Sustainable Coordinator

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Green Globes / Sustainable Coordinator Staff:

Kris Callori – Green Globes / Sustainable Coordinator

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ADG/CDA FEE BREAKDOWN

El Paso
El Paso Texas

ADG Project No.:1109
April 9, 2024

PROJECT PERSONNEL TITLE		PRINCIPAL		PROJECT MANAGER		DESIGNER / PROJECT COORDINATOR		CLERICAL SUPPORT		COMPUTER PROJECT DESIGNERS I		SPECIFICATIONS WRITER		INTERIOR DESIGNER		GRAPHIC DESIGNER		Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$285.00		\$220.00		\$185.00		\$80.00		\$140.00		\$140.00		\$185.00		\$90.00			
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task A: SNA Review and Update																			
1.1	Review Previous SNA with Design Criteria Team	4	\$1,140.00	4	\$880.00													8	\$2,020.00
1.2	Update Progam Spaces and Square Footages with DCT feedback	8	\$2,280.00	16	\$3,520.00	16	\$2,960.00	16	\$1,280.00									56	\$10,040.00
1.3	Update Space Standards							2	\$160.00					8	\$1,480.00			10	\$1,640.00
1.4	Review Meeting with Design Criteria Team	2	\$570.00	2	\$440.00													4	\$1,010.00
1.5	Compare Current Code & Best Practice Requirements with Previous Study	2	\$570.00	6	\$1,320.00	2	\$370.00											10	\$2,260.00
1.6	Update Essential Facility Design Criteria & Standards	2	\$570.00	6	\$1,320.00	2	\$370.00	4	\$320.00									14	\$2,580.00
1.7	Submit Updated SNA			2	\$440.00	4	\$740.00	2	\$160.00									8	\$1,340.00
	Task Subtotal																	110	\$20,890.00
	Discount																		(\$70.00)
	Task Total																		\$20,820.00
Task B: Site Analysis																			
2.1	Reivew Site Location Data / Documentation			1	\$220.00	1	\$185.00	2	\$160.00									4	\$565.00
2.2	Evaluate Site documents			1	\$220.00	1	\$185.00											2	\$405.00
2.3	Gather and review analysis data (utilities, infrastructure, geographical)			4	\$880.00	2	\$370.00									60	\$5,400.00	66	\$6,650.00
2.4	Coordinate Survey					2	\$370.00									16	\$1,440.00	18	\$1,810.00
2.5	Coordinate with Geotechnical, Civil and Structural Engineers			2	\$440.00	4	\$740.00											6	\$1,180.00
2.6	Develop graphical analysis of site to include in final Phase-1 Report	2	\$570.00	4	\$880.00	8	\$1,480.00	1	\$80.00							18	\$1,620.00	33	\$4,630.00
2.7	Prepare site analysis narratives to include in final Phase-1 Report			1	\$220.00	2	\$370.00	1	\$80.00							6	\$540.00	10	\$1,210.00
	Task Subtotal																	139	\$16,450.00
	Discount																		(\$1,850.00)
	Task Total																		\$14,600.00
Task C: Geotechnical Engineering (see subconsultant Fee Breakdown)																			
	N/A																		
Task D: Master Planning																			
2.1	Devlop Master Plan Site Options	2	\$570.00	16	\$3,520.00	16	\$2,960.00											34	\$7,050.00
2.2	Coordination Meetings			2	\$440.00	1	\$185.00											3	\$625.00
2.3	Reivew Master Plan Options with Design Criteria Team	1	\$285.00	1	\$220.00													2	\$505.00
2.4	Modify Plan with Design Criteria Team Input			4	\$880.00	16	\$2,960.00	2.5	\$200.00									22.5	\$4,040.00
2.5	Submit Master Plan Concept			2	\$440.00			2	\$160.00									4	\$600.00
	Task Subtotal																	65.5	\$12,820.00
	Discount																		(\$20.00)
	Task Total																		\$12,800.00

ADG/CDA FEE BREAKDOWN

Task E: Conceptual Building Design																			
2.1	Establish/ Prepare Package and coordinate work plan			2	\$440.00	4	\$740.00										6	\$1,180.00	
2.2	Review and Incorporate Survey,Zoning, site planning and other information			4	\$880.00	8	\$1,480.00										12	\$2,360.00	
2.3	Coordination Meetings			4	\$880.00	4	\$740.00										8	\$1,620.00	
2.4	Prepare Narratives, project criteria and hazzard analysis	1	\$285.00	4	\$880.00	4	\$740.00	4	\$320.00					4	\$740.00		17	\$2,965.00	
2.5	Consultant Coordination			2	\$440.00	4	\$740.00										6	\$1,180.00	
2.6	Conceptual Floor Plans	1	\$285.00	2	\$440.00	8	\$1,480.00			20	\$2,800.00						31	\$5,005.00	
2.7	Conceptual Elevations / 3D views	1	\$285.00	2	\$440.00	8	\$1,480.00			22	\$3,080.00						33	\$5,285.00	
2.8	Review Conceptual Building Design with Design Criteria Team	1	\$285.00	1	\$220.00					1	\$140.00						3	\$645.00	
2.9	Modify Conceptual Building Design with Design Criteria Team input	1	\$285.00	2	\$440.00	8	\$1,480.00			14	\$1,960.00						25	\$4,165.00	
2.10	Prepare and Submit Final Conceptual Buildign Design concept			1	\$220.00	1	\$185.00	1	\$80.00	1	\$140.00						4	\$625.00	
	Task Subtotal																145	\$25,030.00	
	Discount																	(\$150.00)	
	Task Total																	\$24,880.00	
Task F: Preliminary Technology Review (see subconsultant Fee Breakdown)																			
	N/A																		
Task G: Community Engagement Session																			
	N/A																		
Task H: Cost/GMP																			
2.1	Typology / Area cost analysis vs. comparable projects	2	\$570.00	8	\$1,760.00	17	\$3,145.00										27	\$5,475.00	
2.2	Analysis of site costs	2	\$570.00	4	\$880.00	4	\$740.00										10	\$2,190.00	
2.3	Prepare exhibits for Phase-1 report			1	\$220.00	1	\$185.00										2	\$405.00	
	Task Subtotal																39	\$8,070.00	
	Discount																	(\$70.00)	
	Task Total																	\$8,000.00	
Task I: Final Report / Briefing / Presentation																			
2.1	Preparation of presentation and exhibits	2	\$570.00	8	\$1,760.00												10	\$2,330.00	
2.2	Briefing and Presentation	2.5	\$712.50	2.5	\$550.00												5	\$1,262.50	
2.3	Travel	8	\$2,280.00	8	\$1,760.00												16	\$4,040.00	
	Task Subtotal																31	\$7,632.50	
	Discount																	(\$1,632.50)	
	Task Total																	\$6,000.00	
ADDITIONAL RELATED ITEMS																	FEE		
																	TEAM REIMBURSABLE EXPENSES PRINTING AND DELIVERY ALLOCATION		\$16,000.00
																	TOTAL ADG/CDA PHASE I COST:		\$103,100.00

PROJECT PERSONNEL TITLE		PRINCIPAL		Sr. PROJECT MANAGER		Sr. Estimator		Estimator										Hours Per Task	TOTAL D/B DESIGN FEE
Hourly Rate with Multiplier		\$250.00		\$175.00		\$150.00		\$100.00											
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task A: SNA Review and Update																			
1	Review Previous SNA with Design Criteria Team	1	\$250.00	2	\$350.00													3	\$600.00
2	Review Meeting with Design Criteria Team	1	\$250.00	2	\$350.00													3	\$600.00
3	Update Essential Facility Design Criteria & Standards	0		2	\$350.00	4	\$600.00	4	\$400.00									10	\$1,350.00
4	Submit Updated SNA																	0	\$0.00
	Task Subtotal																	16	\$2,550.00
	Discount																		(\$50.00)
	Task Total																		\$2,500.00
Task B: Site Analysis																			
1	Review Site Location Data / Documentation			1	\$175.00	2	\$300.00	2	\$200.00									5	\$675.00
2	Evaluate Site documents	0.5	\$125.00	2	\$350.00	2	\$300.00	2	\$200.00									6.5	\$975.00
3	Gather and review analysis data (utilities, infrastructure, geographical)			2	\$350.00	1	\$150.00	2	\$200.00									5	\$700.00
4	Coordinate with Geotechnical, Civil and Structural Engineers			1	\$175.00													1	\$175.00
	Task Subtotal																	17.5	\$2,525.00
	Discount																		(\$25.00)
	Task Total																		\$2,500.00
Task C: Geotechnical Engineering (see subconsultant Fee Breakdown)																			
	N/A																		
Task D: Master Planning																			
1	Devlop Master Plan Site Options					1	\$150.00	1	\$100.00									2	\$250.00
2	Coordination Meetings	1	\$250.00	4	\$700.00	2	\$300.00	2	\$200.00									9	\$1,450.00
3	Review Master Plan Options with Design Team	0.5	\$125.00	1	\$175.00	1	\$150.00	1	\$100.00									3.5	\$550.00
4	Submit Master Plan Concept			2	\$350.00													2	\$350.00
	Task Subtotal																	16.5	\$2,600.00
	Discount																		(\$100.00)
	Task Total																		\$2,500.00

JFC FEE BREAKDOWN (Design Builder)																		ADG Project No.:1109
El Paso																		April 9, 2024
El Paso Texas																		
Task E: Conceptual Building Design																		
2.1	Establish/ Prepare Package and coordinate work plan	0.5	\$125.00	2	\$350.00	2	\$300.00										4.5	\$775.00
2.3	Coordination Meetings			2	\$350.00	2	\$300.00										4	\$650.00
2.8	Review Conceptual Building Design with Design Team	0.5	\$125.00	1	\$175.00	2	\$300.00	2	\$200.00								5.5	\$800.00
2.10	Prepare and Submit Final Conceptual Building Design concept			1	\$175.00	1	\$150.00	1	\$100.00								3	\$425.00
	Task Subtotal																17	\$2,650.00
	Discount																	(\$150.00)
	Task Total																	\$2,500.00
Task F: Preliminary Technology Review (see subconsultant Fee Breakdown)																		
	N/A																	
Task G: Community Engagement Session (N/A)																		
	N/A																	
Task H: Cost/GMP																		
2.1	Typology / Area cost analysis vs. comparable projects	1	\$250.00	2	\$350.00	6	\$900.00	24	\$2,400.00								33	\$3,900.00
2.2	Analysis of site costs	1	\$250.00	2	\$350.00	6	\$900.00	8	\$800.00								17	\$2,300.00
2.3	Prepare GMP cost estimate for Phase-1 report	2	\$500.00	6	\$1,050.00	12	\$1,800.00	24	\$2,400.00								44	\$5,750.00
	Task Subtotal																94	\$11,950.00
	Discount																	(\$1,950.00)
	Task Total																	\$10,000.00
Task I: Final Report / Briefing / Presentation																		
	N/A																0	\$0.00
	Task Subtotal																0	\$0.00
	Discount																	
	Task Total																	\$0.00
ADDITIONAL RELATED ITEMS																		FEE
TOTAL JFC D/B PHASE I COST:																		\$20,000.00

OPLA FEE BREAKDOWN (RANGE / TRAINING CONSULTANT)

El Paso
El Paso Texas

April 9, 2024

PROJECT PERSONNEL TITLE		PRINCIPAL																Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$300.00																	
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task F: Preliminary Training Assessment																			
1	Prepare and Participate in virtual design kickoff meeting	2	\$600.00															2	\$600.00
2	Initial Client Interview / Site visit (up to two days)	32	\$9,600.00															32	\$9,600.00
3	Master Plan Development (functional relationships, review meetings, coordination with A/E team, preparation of report)	20	\$6,000.00															20	\$6,000.00
4	Preliminary Firearms Training Curriculum Assessment (including analysis of historic and current training, future training priorities, budget impacts, operating costs/offsets...)	38	\$11,400.00															38	\$11,400.00
5	Site Visit during Concept Development, additional meetings	24	\$7,200.00															24	\$7,200.00
6	Preparation of Preliminary Report	4	\$1,200.00															4	\$1,200.00
	Task Subtotal																	120	\$36,000.00
	Discount																		(\$250.00)
	Task Total																		\$35,750.00

TLC FEE BREAKDOWN (TECHNOLOGY CONSULTANT)

El Paso
El Paso Texas

ADG Project No.:1109
April 9, 2024

PROJECT PERSONNEL TITLE		PRINCIPAL		PROJECT MANAGER		DESIGNER / PROJECT COORDINATOR		CLERICAL SUPPORT		COMPUTER PROJECT DESIGNERS I		SPECIFICATIONS WRITER		INTERIOR DESIGNER		GRAPHIC DESIGNER		Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier				\$250.00						\$125.00									
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task F: Preliminary Technology Review																			
1	Review Existing IT Technologies with Stakeholders			2	\$500.00													2	\$500.00
2	Review Existing Security Technologies with Stakeholders			2	\$500.00													2	\$500.00
3	Review Existing AV Technologies with Stakeholders			2	\$500.00													2	\$500.00
4	Site Infrastructure Review and Coordination with Telecommunicaitons Service Providers			8	\$2,000.00													8	\$2,000.00
5	Visioning Session with Stakeholders to look at Future Technologies (IT, Security and AV)			4	\$1,000.00													4	\$1,000.00
6	Develop Pre-Design/GMP Developement Narratives			8	\$2,000.00													8	\$2,000.00
7	Develop Pre-Design/GMP Development Drawings			4	\$1,000.00					18	\$2,250.00							22	\$3,250.00
8	Review Meetings			2	\$500.00													2	\$500.00
9	Issue Final Documents			2	\$500.00					4	\$500.00							6	\$1,000.00
10	Review GMP Estimates			4	\$1,000.00					2	\$250.00							6	\$1,250.00
	Task Subtotal			38	\$9,500.00					24	\$3,000.00							62	\$12,500.00
	Discount																		\$0.00
	Task Total			38	\$9,500.00					24	\$3,000.00							62	\$12,500.00

SIEBEIN ACOUSTIC FEE BREAKDOWN

El Paso
El Paso Texas

ADG Project No.:1109
April 9, 2024

PROJECT PERSONNEL TITLE		SENIOR PRINCIPAL		ASSOCIATE PRINCIPAL		SENIOR CONSULTANT (Computer Modeling)		SENIOR CONSULTANT (Site Measurements)		CONSULTANT (Data Analysis and Drawings)								Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$315.00		\$195.00		\$155.00		\$145.00		\$105.00									
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task A: Base Line Ambient Sound Level Measurements																			
1.1	Travel to and from site	2	\$630.00		\$0.00		\$0.00	16	\$2,320.00		\$0.00		\$0.00		\$0.00		\$0.00	18	\$2,950.00
1.2	Kick off meeting (virtual)	4	\$1,260.00	4	\$780.00			4	\$580.00									12	\$2,620.00
1.3	Stakeholder meetings (virtual)	4	\$1,260.00	4	\$780.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	8	\$2,040.00
1.4	Prepare for trip - calibrate, pack equipment etc	3	\$945.00	3	\$585.00			4	\$580.00									10	\$2,110.00
1.5	Measurements on site		\$0.00		\$0.00		\$0.00	12	\$1,740.00		\$0.00		\$0.00		\$0.00		\$0.00	12	\$1,740.00
1.6																		0	\$0.00
1.7	Reimbursable travel expenses		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	0	\$4,003.00
Task Total																		60	\$15,463.00
Task B: Data Analysis, Computer Model, and Report																			
																		0	\$0.00
2.1	Data analysis	2	\$630.00	2	\$390.00		\$0.00		\$0.00	6	\$630.00							10	\$1,650.00
2.2	Computer model	2	\$630.00		\$0.00	40	\$6,200.00		\$0.00		\$0.00						\$0.00	42	\$6,830.00
2.3	Noise mitigation design and optimization	2	\$4.00	4	\$780.00	8	\$1,240.00		\$0.00		\$0.00						\$0.00	14	\$2,024.00
2.4	Design recommendations and coordination	2	\$630.00	2	\$390.00	8	\$1,240.00		\$0.00		\$0.00						\$0.00	12	\$2,260.00
2.5	Report	2	\$630.00	4	\$780.00	8	\$1,240.00		\$0.00	5	\$525.00						\$0.00	19	\$3,175.00
2.6	Review meeting	2	\$630.00	4	\$780.00	4	\$620.00											10	\$2,030.00
2.7	Revise and submit report	3	\$945.00	5	\$975.00	2	\$310.00			4	\$420.00							14	\$2,650.00
Task Total			\$0.00		\$0.00		\$0.00				\$0.00							121	\$20,619.00
																		181	\$36,082.00
SIEBEIN ACOUSTIC TOTAL																			

SOUDER, MILLER & ASSOCIATES FEE BREAKDOWN

El Paso
El Paso Texas

ADG Project No.:1109
April 9, 2024

PROJECT PERSONNEL TITLE	SENIOR PRINCIPAL		SENIOR ENGINEER		SENIOR CAD TECH IV		CAD TECH VI		PROJECT FINANCE ACCOUNTING								Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier	\$250.00		\$175.00		\$150.00		\$110.00		\$90.00									
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Preliminary Civil Design Tasks																		
1.1 Design Coordination Meetings	4	\$1,000.00	5	\$875.00	4	\$600.00	16	\$1,760.00		\$0.00		\$0.00		\$0.00		\$0.00	29	\$4,235.00
1.2 Preliminary Site Grading	5	\$1,250.00	24	\$4,200.00	40	\$6,000.00	8	\$880.00									77	\$12,330.00
1.3 Preliminary Site Drainage Calculations	5	\$1,250.00	16	\$2,800.00	24	\$3,600.00		\$0.00		\$0.00		\$0.00		\$0.00		\$0.00	45	\$7,650.00
1.4 Conceptual TxDOT Improvements	4	\$1,000.00	12	\$2,100.00	16	\$2,400.00	8	\$880.00									40	\$6,380.00
1.5 Conceptual Offsite Utility Extensions	4	\$1,000.00	12	\$2,100.00	16	\$2,400.00	12	\$1,320.00		\$0.00		\$0.00		\$0.00		\$0.00	44	\$6,820.00
1.6 Internal QA/QC Review	3	\$750.00	5	\$875.00	4	\$600.00											12	\$2,225.00
1.7 Project Finanacial Administraction		\$0.00		\$0.00		\$0.00		\$0.00	4	\$360.00		\$0.00		\$0.00		\$0.00	4	\$360.00
SOUDER, MILLER & ASSOCIATES TOTAL																	251	\$40,000.00

HKN FEE BREAKDOWN (STRUCTURAL)

ADG Project No.:1109

El Paso

El Paso Texas

April 9, 2024

PROJECT PERSONNEL TITLE		ENGINEER																Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$150.00																	
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task F: Preliminary Training Assessment																			
1	Prepare and Participate in virtual design kickoff meeting	1	\$150.00															1	\$150.00
2	Coordination meetings	3	\$450.00															3	\$450.00
3	Analysis of structural systems	28	\$4,200.00															28	\$4,200.00
4	Preparation of Phase 1 narratives for Report	8	\$1,200.00															8	\$1,200.00
	Task Subtotal																	40	\$6,000.00
	Task Total																		\$6,000.00

HCE FEE BREAKDOWN (MEP)

ADG Project No.:1109

El Paso

El Paso Texas

April 9, 2024

PROJECT PERSONNEL TITLE		SR. ENGINEER		Project Manager														Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$250.00		\$225.00															
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task F: Preliminary Training Assessment																			
1	Prepare and Participate in virtual design kickoff meeting	2	\$500.00	2	\$450.00													2	\$950.00
2	Coordination meetings	4	\$1,000.00	4	\$900.00													4	\$1,900.00
3	Analysis of MEP Systems	11.6	\$2,900.00	6	\$1,350.00													11.6	\$4,250.00
4	Preparation of Phase 1 narratives for Report	4	\$1,000.00	4	\$900.00													4	\$1,900.00
	Task Subtotal																	21.6	\$9,000.00
	Discount																		
	Task Total																		\$9,000.00

GREENWAY STUDIO FEE BREAKDOWN (LANDSCAPE ARCHITECTURAL)

El Paso
El Paso Texas

ADG Project No.:1109
April 9, 2024

PROJECT PERSONNEL TITLE		PRINCIPAL		LANDSCAPE ARCHITECT		RENDERING SPECIALIST		PROJECT MANAGER / LICENSED IRRIGATOR		LANDSCAPE / IRRIGATION DESIGNER		ADMINISTRATIVE						Hours Per Task	TOTAL A/E DESIGN FEE
Hourly Rate with Multiplier		\$140.00		\$135.00		\$95.00		\$90.00		\$75.00		\$70.00							
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
Task F: Preliminary Training Assessment																			
1	Site Analysis and Preparation of Landscape / Irrigation Narrative	0		2	\$270.00	0		2	\$180.00	0		0						4	\$450.00
2	Design Team Virtual Kick Off-Meeting	0		2	\$270.00	0		2	\$180.00	0		0						4	\$450.00
3	Coordination Meetings (4)	0		8	\$1,080.00	0		8	\$720.00	0		0						16	\$1,800.00
4	Conceptual Opinion of Probable Cost	0		0		0		0		4	\$300.00	0						4	\$300.00
												0							
	Task Subtotal																	28	\$3,000.00
	Discount																		
	Task Total																		\$3,000.00

Total Cost Breakdown by Trade & Division

Item		ADG/CD	JF D/B	Geotech	TLC	OPLA	Siebein	Civil	Structural	MEP	Landscape	SUBTOTAL FOR TASK	w D/B OH&P
A	Spatial Needs Assmt.	\$ 20,820	\$ 2,500			\$ 15,750	\$ 36,082					\$ 75,152	\$ 77,030.80
B	Site Analysis	\$ 14,600	\$ 2,500					\$ 10,000				\$ 27,100	\$ 27,777.50
C	Geotech			\$ 4,397								\$ 4,397	\$ 4,506.93
D	Master Planning	\$ 12,800	\$ 2,500			\$ 5,500		\$ 30,000				\$ 50,800	\$ 52,070.00
E	Conceptual Building	\$ 24,880	\$ 2,500			\$ 14,500			\$ 6,000	\$ 9,000	\$ 3,000	\$ 59,880	\$ 61,377.00
F	Technology				\$ 12,500							\$ 12,500	\$ 12,812.50
G	Community Engagement	\$ -										\$ -	\$ -
H	Cost / GMP	\$ 8,000	\$ 10,000									\$ 18,000	\$ 18,450.00
I	Final Report	\$ 6,000										\$ 6,000	\$ 6,150.00
	SUBTOTAL	\$ 87,100										\$ 253,829	\$ 260,174.73
	Reimbursables	\$ 16,000										\$ 16,000	\$ 16,400.00
													\$ -
	SUB-TOTAL	\$ 103,100	\$ 20,000	\$ 4,397	\$ 12,500	\$ 35,750	\$ 36,082	\$ 40,000	\$ 6,000	\$ 9,000	\$ 3,000	\$ 269,829	\$ 276,574.73
	D/B OH&P	\$ 2,577.50	\$ 500.00	\$ 109.93	\$ 312.50	\$ 893.75	\$ 902.05	\$ 1,000.00	\$ 150.00	\$ 225.00	\$ 75.00	\$ 6,745.73	
	TOTAL	\$ 105,677.50	\$ 20,500.00	\$ 4,506.93	\$ 12,812.50	\$ 36,643.75	\$ 36,984.05	\$ 41,000.00	\$ 6,150.00	\$ 9,225.00	\$ 3,075.00	\$ 276,574.73	

Exhibit 2 – Forms of Payment Bond and Performance Bond

PAYMENT BOND

THE STATE OF TEXAS	§	
	§	KNOW ALL BY THESE PRESENTS:
COUNTY OF EL PASO	§	

That we, _____, as Principal herein, and (2) _____, a corporation organized and existing under the laws of the State of Texas and who is authorized and admitted to use surety bonds in the State of Texas, as surety, are held and firmly bound unto the City of El Paso located in El Paso County, Texas, Obligee herein, in the amount of _____ Dollars (\$) for the payment whereof, the said Principal and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Obligee dated the _____ day of _____, 20_____, which contract is hereby referred to herein as “the Contract” and is incorporated herein to the same extent as if copied at length, for the following project: 2022-0759R El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall directly or indirectly timely make payment to each and every claimant (as defined in Chapter 2253, Texas Government Code, as amended) supplying labor or materials in the prosecution of the work under the Contract, then this obligation shall be void; otherwise, to remain in full force and effect. *This obligation may be enforced by the Obligee in the event of bankruptcy or default by Principal in payments to suppliers of labor or materials in the prosecution of the work under the Contract, in either of which events the Surety shall make such payments as Principal has failed to pay and as may be required to complete the work under the contract.* The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any notices provided in such regard shall not create as to any party a duty related thereto.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of said statute, to the same extent as if it were

copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this _____ day of _____, 20____.

The date of bond shall not be prior to date of Contract.

ATTEST:

(Principal) Secretary

(S E A L)

Witness as to Principal

ATTEST:

Secretary

(S E A L)

Witness as to Surety

PRINCIPAL

By: _____

Name: _____

Title: _____

Address: _____

Telephone Number: _____

SURETY

By: _____

Name: _____
Attorney in Fact

Address: _____

Telephone Number: _____

An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.

PERFORMANCE BOND

THE STATE OF TEXAS	§	
	§	KNOW ALL BY THESE PRESENTS:
COUNTY OF EL PASO	§	

That we, _____, as Principal herein, and _____, a corporation organized and existing under the laws of the State of _____, and who is authorized and admitted to issue surety bonds in the State of Texas, Surety herein, are held and firmly bound unto the City of El Paso, located in El Paso County, Texas, Obligee herein, in the sum of _____ Dollars (\$ _____) for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a certain written contract with the Obligee dated the ____ day of _____, 20____, herein referred to as “the Contract” and incorporated herein and made a part hereof for all purposes, for the construction of 2022-0759R El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics.

NOW, THEREFORE, the condition of this obligation is such, if the said Principal shall faithfully perform the work in accordance with the plans, specifications, and other Contract Documents and shall fully indemnify and hold harmless the Obligee from all costs and damages which Obligee may suffer by reason of Principal’s failure to perform the Work in conformity with the Contract Documents, and reimburse and repay Obligee for all outlay and expense that Obligee may incur in making good such default, then this obligation shall be void; otherwise, to remain in full force and effect. Whenever Contractor shall be declared by Obligee to be in default under the Contract, the Surety shall, upon request of Obligee and within seven (7) calendar days from receipt of Obligee’s notice of Contractor’s default, commence and thereafter complete performance of Contractor’s obligations under the Contract. This Bond covers all contractual obligations of Contractor under the Contract, including, without limitation, the indemnity, warranty and guaranty obligations. The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of any of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any notices provided in such regard shall not create as to any party a duty related thereto. The penal limit of this bond shall automatically be increased by

the amount of any change order, supplemental agreement or amendment which increases the price of the Contract.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of such statute, to the same extent as if it were copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this _____ day of _____, 20____.

The date of bond shall not be prior to date of Contract.

ATTEST:

(Principal) Secretary

(S E A L)

Witness as to Principal

ATTEST:

Secretary

(S E A L)

Witness as to Surety

PRINCIPAL

By: _____

Name: _____

Title: _____

Address: _____

Telephone Number: _____

SURETY

By: _____

Name: _____
Attorney in Fact

Address: _____

Telephone Number: _____

An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.

Exhibit 3 – Insurance Rider

Owner's Insurance Requirements of Contractor

1. Specific Insurance Requirements

The following insurance shall be maintained in effect with limits not less than those set forth below at all times during the term of this Agreement and thereafter as required:

Insurance	Coverage/Limits	Other Requirements
Commercial General Liability (Occurrence Basis)	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Per Occurrence ▪ \$2,000,000 General Aggregate ▪ \$2,000,000 Products/Completed Operations Aggregate ▪ \$1,000,000 Personal And Advertising Injury ▪ Designated Construction Project(s) General Aggregate Limit 	<ul style="list-style-type: none"> ▪ Current ISO edition of CG 00 01 ▪ Additional insured status shall be provided in favor of Owner Parties on a combination of ISO forms CG 20 10 04 13 and CG 20 37 04 13. ▪ This coverage shall be endorsed to provide primary and non-contributing liability coverage. It is the intent of the parties to this Agreement that all insurance coverage required herein shall be primary to and will not seek contribution from any other insurance held by Owner Parties, with Owner Parties' insurance being excess, secondary and non-contributing. ▪ Stop Gap coverage shall be provided if any work is to be performed in a monopolistic workers' compensation state. ▪ The following exclusions/limitations (or their equivalent(s), are prohibited: <ul style="list-style-type: none"> ○ Contractual Liability Limitation CG 21 39 ○ Amendment of Insured Contract Definition CG 24 26 ○ Limitation of Coverage to Designated Premises or Project, CG 21 44 ○ Exclusion-Damage to Work Performed by Subcontractors On Your Behalf, CG 22 94 or CG 22 95 ○ Exclusion-Explosion, Collapse and Underground Property Damage Hazard, CG 21 42 or CG 21 43 ○ Any Classification limitation ○ Any Construction Defect Completed Operations exclusion ○ Any endorsement modifying the Employer's Liability exclusion or deleting the exception to it ○ Any endorsement modifying or deleting Explosion, Collapse or Underground coverage ○ Any Habitational or Residential exclusion applicable to the Work ○ Any "Insured vs. Insured" exclusion except Named Insured vs. Named Insured ○ Any Punitive, Exemplary or Multiplied Damages exclusion ○ Any Subsidence exclusion

Business Auto Liability	<p>Amount of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Per Accident 	<ul style="list-style-type: none"> ▪ Current ISO edition of CA 00 01 ▪ Arising out of any auto (Symbol 1), including owned, hired and nonowned
Workers' Compensation and Employer's Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ Statutory Limits ▪ \$1,000,000 Each Accident and Disease ▪ Alternate Employer endorsement ▪ USL&H must be provided where such exposure exists. 	<ul style="list-style-type: none"> ▪ The State in which work is to be performed must be listed under Item 3.A. on the Information Page ▪ Such insurance shall cover liability arising out of the Contractor's employment of workers and anyone for whom the Contractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted. ▪ Where a Professional Employer Organization (PEO) or "leased employees" are utilized, Contractor shall require its leasing company to provide Workers' Compensation insurance for said workers and such policy shall be endorsed to provide an Alternate Employer endorsement in favor of Contractor and Owner. Where Contractor uses leased employees with Workers' Compensation insurance provided by a PEO or employee leasing company, Contractor is strictly prohibited from subletting any of its work without the express written agreement of Owner.
Excess Liability (Occurrence Basis)	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$5,000,000 Each Occurrence ▪ \$5,000,000 Annual Aggregate 	<ul style="list-style-type: none"> ▪ Such insurance shall be excess over and be no less broad than all coverages described above. ▪ Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured.
Professional Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Each Occurrence ▪ \$2,000,000 Annual Aggregate ▪ If a combined Contractor's Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate. ▪ Such insurance shall cover all services rendered by the Contractor and its consultants under the Agreement, including but not limited to design or design/build services. ▪ Policies written on a Claims-Made basis shall be maintained for at least two years beyond termination of the Agreement. 	<ul style="list-style-type: none"> ▪ Such insurance shall cover all services rendered by the Contractor and its subcontractors under the Agreement. ▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> ○ bodily injury or property damage where coverage is provided in behalf of design professionals or design/build contractors ○ habitational or residential operations ○ mold and/or microbial matter and/or fungus and/or biological substance ○ punitive, exemplary or multiplied damages. ▪ Any retroactive date must be effective prior to beginning of services for the Owner. ▪ Policies written on a Claims-Made basis shall have an extended reporting period of at least two years beyond termination of the Agreement. Vendor shall trigger the extended reporting period if identical coverage is not otherwise maintained with the expiring retroactive date.

Contractors Pollution Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Each Loss ▪ \$2,000,000 Annual Aggregate ▪ If a combined Contractor's Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate. ▪ The policy must provide coverage for: <ul style="list-style-type: none"> ○ the full scope of the named insured's operations (on-going and completed) as described within the scope of work for this Agreement ○ loss arising from pollutants including but not limited to fungus, bacteria, biological substances, mold, microbial matter, asbestos, lead, silica and contaminated drywall ○ third party liability for bodily injury, property damage, clean up expenses, and defense arising from the operations; ○ diminution of value and Natural Resources damages ○ contractual liability ○ claims arising from non-owned disposal sites utilized in the performance of this Agreement. 	<ul style="list-style-type: none"> ▪ The policy must insure contractual liability, name Owner Parties as an Additional Insured, and be primary and noncontributory to all coverage available to the Additional Insured. ▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> ○ Insured vs. insured actions. However exclusion for claims made between insured within the same economic family are acceptable. ○ impaired property that has not been physically injured ○ materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval. ○ property damage to the work performed by the contractor ○ faulty workmanship as it relates to clean up costs ○ punitive, exemplary or multiplied damages ○ work performed by subcontractors ▪ If coverage is provided on a Claims Made basis, coverage will at least be retroactive to the earlier of the date of this Agreement or the commencement of contractor services relation to the Work. ▪ The policy will offer an extended discovery or extended reporting clause of at least three (3) years. ▪ Completed Operations coverage shall be maintained through the purchase of renewal policies to protect the insured and additional insured for at least two (2) years after the property owner accepts the project or this contract is terminated. The purchase of an extended discovery period or an extended reporting period on a Claims Made policy or the purchase of occurrence based Contractors Environmental Insurance will not be sufficient to meet the terms of this provision.
Builders Risk	<ul style="list-style-type: none"> ▪ Coverage shall be provided in an amount equal at all times to the full contract value, including change orders, and cost of debris removal for any single occurrence. ▪ Coverage shall be at least as broad as an unmodified ISO Special form, shall be provided on a completed-value basis, and shall be primary to any other insurance coverage 	<ul style="list-style-type: none"> ▪ Insureds shall include Owner, General Contractor, all Loss Payees and Mortgagees, and subcontractors of all tiers in the Work as Insureds. ▪ Such insurance shall cover: <ul style="list-style-type: none"> ○ all structure(s) under construction, including retaining walls, paved surfaces and roadways, bridges, glass, foundation(s), footings,

	<p>available to the named insured parties, with that other insurance being excess, secondary and non-contributing.</p> <ul style="list-style-type: none"> ▪ The policy must provide coverage for: <ul style="list-style-type: none"> ○ Agreed Value Included ○ Damage arising from error, omission or deficiency in construction methods, design, specifications, workmanship or materials, including collapse Included ○ Debris removal additional limit \$1,000,000 ○ Earthquake and Earthquake Sprinkler Leakage \$5,000,000 ○ Flood \$5,000,000 ○ Freezing Included ○ Mechanical breakdown including hot & cold testing Included ○ Ordinance or law \$1,000,000 ○ Pollutant clean-up and removal \$ 25,000 ○ Preservation of property Included ○ Theft Included • Deductible shall not exceed <ul style="list-style-type: none"> ○ All Risks of Direct Damage, Per Occurrence, except \$10,000 ○ Named Storm 2% subject to \$50,000 minimum ○ Earthquake and Earthquake Sprinkler Leakage, Per Occurrence \$100,000 ○ Flood, Per Occurrence or excess of NFIP if in Flood Zone A or V \$100,000 	<p>underground pipes and wiring, excavations, grading, backfilling or filling;</p> <ul style="list-style-type: none"> ○ all temporary structures (e.g., fencing, scaffolding, cribbing, false work, forms, site lighting, temporary utilities and buildings) located at the site; ○ all property including materials and supplies on site for installation; ○ all property including materials and supplies at other locations but intended for use at the site; ○ all property including materials and supplies in transit to the site for installation by all means of transportation other than ocean transit; and ○ other Work at the site identified in the Agreement to which this Exhibit is attached. • No protective safeguard warranty shall be permitted. • The termination of coverage provision shall be endorsed to permit occupancy of the covered property being constructed This insurance shall be maintained in effect, unless otherwise provided for the Agreement Documents, until the earliest of: <ul style="list-style-type: none"> ○ the date on which all persons and organizations who are insureds under the policy agree that it shall be terminated; ○ occupancy, in whole or in part; ○ the date on which release of substantial completion is executed; or ○ the date on which the insurable interests of Contractor in the Covered Property has ceased. • A waiver of subrogation provision shall be provided in favor of all insureds.
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2. General Insurance Requirements

A. Definitions. For purposes of this Agreement:

- i. "ISO" means Insurance Services Office.
- ii. "Contractor" shall include subcontractors of any tier.
- iii. "Owner Parties" means (a) Karnes County ("Owner"), (b) the Project, (c) any lender whose loan is secured by a lien against the Work, (d) their respective shareholders, members, partners, joint venturers, affiliates, subsidiaries, successors and assigns, (e) any directors, officers, employees, or agents of such persons or entities, and (f) others as required by the Construction Documents.

B. Policies.

- i. Contractor shall maintain such General Liability, Excess Liability, Professional and Pollution insurance in identical coverage, form and amount, including required endorsements, for at least two (2) years following Date of Substantial Completion of the Work to be performed under this Agreement. Contractor shall provide written representation to Owner stating Work completion date.
- ii. All policies must:
 - a. Be written through insurance companies authorized to do business in the State in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide at all times Work is to be performed.
 - b. Provide a waiver of subrogation in favor of Owner Parties on all insurance coverage carried by Contractor, whether required herein or not.
 - c. Contain an endorsement providing for thirty (30) days prior written notice of cancellation to Owner.
 - d. Be provided to the Owner Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Owner.
- iii. Failure of any Owner Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Owner Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.
- iv. Contractor shall provide to the Owner a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Owner prior to the expiration of the previous policy.
- v. Commencement of Work without provision of the required certificate of insurance, evidence of insurance and/or required endorsements, or without compliance with any other provision of this Agreement, shall not constitute a waiver by any Owner Party of any rights. The Owner shall have the right, but not the obligation, of prohibiting the Contractor or any subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Owner.

C. Limits, Deductibles and Retentions

- i. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- ii. No deductible or self-insured retention shall exceed \$25,000 without prior written approval of the Owner, except as otherwise specified herein. All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Contractor's sole risk. The Contractor shall not be reimbursed for same

D. Forms

- i. If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit are superseded or discontinued, Owner will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this Exhibit must be approved in advance by Owner.

E. Evidence of Insurance. Insurance must be evidenced as follows:

- i. ACORD Form 25 Certificate of Liability Insurance for liability coverages.
- ii. ACORD Form 28 Evidence of Commercial Property Insurance for property coverages.
- iii. Evidence shall be provided to Owner prior to commencing Work and prior to the expiration of any required coverage.
- iv. ACORD Forms specify:
 - a. Owner as certificate holder at Owner's mailing address;
 - b. Insured's name, which must match that on this Agreement;
 - c. Insurance companies producing each coverage and the policy number and policy date of each coverage;
 - d. Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
 - e. Additional Insured status in favor of Owner Parties;
 - f. Amount of any deductible or self-insured retention in excess of \$25,000;

- g. Designated Construction Project(s) General Aggregate Limit;
- h. Primary and non-contributory status;
- i. Waivers of subrogation; and
- j. All exclusions and limitations added by endorsement to the General Liability coverage. This can be achieved by attachment of the Schedule of Forms and Endorsements page.
- v. Copies of the following shall also be provided:
 - a. General Liability Additional insured endorsement(s);
 - b. General Liability Schedule of Forms and Endorsements page(s); and
 - c. 30 Day Notice of Cancellation endorsement applicable to all required policies.

F. Contractor Insurance Representations to Owner Parties

- i. It is expressly understood and agreed that the insurance coverages required herein (a) represent Owner Parties' minimum requirements and are not to be construed to void or limit the Contractor's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages the Contractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Contractor in support of the Contractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Agreement.
- ii. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Agreement. If the Contractor shall fail to remedy such breach within five (5) business days after notice by the Owner, the Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Owner Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Contractor by the Owner. In the event of any failure by the Contractor to comply with the provisions of this Agreement, the Owner may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- iii. This Exhibit is an independent contract provision and shall survive the termination or expiration of the Construction Agreement.

G. Insurance Requirements of Contractor's Subcontractors

- i. Insurance similar to that required of the Contractor shall be provided by all subcontractors (or provided by the Contractor on behalf of subcontractors) to cover operations performed under any subcontract agreement. The Contractor shall be held responsible for any modification in these insurance requirements as they apply to subcontractors. The Contractor shall maintain certificates of insurance from all subcontractors containing provisions similar to those listed herein (modified to recognize that the certificate is from subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary liability as required herein, and make them available to the Owner upon request.
- ii. The Contractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Contractor's or its subcontractor's property shall be the Contractor's and its subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Contractor shall not be reimbursed for same. Should the Contractor or its subcontractors choose to self insure this risk, it is expressly agreed that the Contractor hereby waives, and shall cause its subcontractors to waive, any claim for damage or loss to said property in favor of the Owner Parties.

H. Use of the Owners Equipment

The Contractor, its agents, employees, subcontractors or suppliers shall use the Owners equipment only with express written permission of the Owners designated representative and in accordance with the Owners terms and condition for such use.

If the Contractor or any of its agents, employees, subcontractors or suppliers utilize any of the Owners equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of the Owner, the Contractor shall defend, indemnify and be liable to the Owner Parties for any and all loss or damage which may arise from such use.

I. Release and Waiver

The Contractor hereby releases, and shall cause its subcontractors to release, the Owner Parties from any and all claims or causes of action whatsoever which the Contractor and/or its subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Contractor and/or its subcontractors pursuant to this Agreement. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE OWNER PARTIES.**

Exhibit 4 – Prevailing Wage Rates



NOTICE OF CLARIFICATION PREVAILING WAGE RATES

2022-0759R El Paso Public Safety Training Academy and Fire Department Headquarters and Vehicle Maintenance and Logistics Center

Contract No. 2022-0759R

Effective December 7, 2021, City Council passed a resolution adopting the City of El Paso Prevailing Wage Rates for "Building," and effective February 28, 2017, City Council passed a resolution adopting the City of El Paso Prevailing Wage Rates for "Highway" and "Heavy" construction in accordance with Chapter 2258.022(a)(1) of the Texas Government Code.

This Contract contains multiple sets of wage rates:

- The City of El Paso Prevailing Wage Rates

Where there are similar job classifications in both the Federal Wage Rates and the City of El Paso Prevailing Hourly Wage Rates, the higher wage of the two within the relevant construction type shall be paid.

The Building wage determination will apply to all buildings including any construction which connects them.

The Heavy/Highway wage decision will apply beyond the five (5) foot perimeters of the building(s) to the parking lot and access ramps that lead away from the buildings.

*****APPRENTICES MAY BE REQUIRED FOR THIS PROJECT*****



CITY OF EL PASO, TEXAS

2020 Building Wages

CLASSIFICATION	BASE WAGE	BENEFITS	HOURLY PREVAILING WAGE RATE	(8 HOURS) PER DIEM WAGE RATE
Asbestos/Lead Abatement/Mold Remediation	31.51	12.06	43.57	348.56
Automatic Fire Sprinkler Fitter, Certified	30.64	21.68	52.32	418.56
Block, Brick, and Stone Mason	17.97	0.00	17.97	143.76
Carpenters – Acoustical Ceiling Installation	17.36	0.00	17.36	138.88
Carpenter – Rough	17.64	0.00	17.64	141.12
Carpenter – All Other Work	17.40	0.00	17.40	139.20
Caulker / Sealers	11.29	0.00	11.29	90.32
Cement and Concrete Finishers	16.30	0.00	16.30	130.40
Commercial Truck Driver	14.75	0.00	14.75	118.00
Communication/Security Technician	16.50	2.12	18.62	148.96
Crane and Heavy Equipment Operator	31.05	0.00	31.05	248.40
Door & Hardware Specialist	12.00	1.35	13.35	106.80
Drywall and Ceiling Tile Installers	14.40	0.00	14.40	115.20
Drywall Finishers & Tapers	15.55	0.00	15.55	124.40
Electrician	22.70	7.32	30.02	240.16
Elevator Installers and Repairers	31.35	15.10	46.45	371.60
Fence Erectors – Include with Skilled Labor	10.00	0.00	10.00	80.00
Floor Layers- Carpet and Resilient	12.87	0.00	12.87	102.96
Floor Layers- Specialty	13.00	0.00	13.00	104.00
Floor Layers - Wood	11.50	0.00	11.50	92.00
Glaziers	15.86	1.00	16.86	134.88
Hazardous Materials Removal Workers	10.00	0.00	10.00	80.00
Heating, Air Conditioning and Refrigeration Service Technician	31.14	12.43	43.57	348.56
Insulation Workers – Mechanical	31.26	11.96	43.22	345.76
Irrigator – Landscape, Certified	15.28	0.00	15.28	122.24
Laborer	13.13	0.58	13.71	109.68
Locksmith	12.00	1.35	13.35	106.80
Mechanic	17.00	0.00	17.00	136.00
Painters - Building	13.86	0.00	13.86	110.88
Paper Hanger	14.00	0.00	14.00	112.00
Pipe Layer (Utility)	18.00	0.00	18.00	144.00

CLASSIFICATION	BASE WAGE	BENEFITS	HOURLY PREVAILING WAGE RATE	(8 HOURS) PER DIEM WAGE RATE
Pipe Fitters and Steamfitters	23.53	9.02	32.55	260.40
Plaster, Stucco, Lather and EIFS Applicator	16.82	0.00	16.82	134.56
Plumber/ Medical Gas Installer	31.39	10.77	42.16	337.28
Reinforcing Iron and Rebar Workers	22.69	0.00	22.69	181.52
Roofers	16.00	0.00	16.00	128.00
Scaffolding Erector	13.69	0.00	13.69	109.52
Sheet Metal Workers	27.16	0.00	27.16	217.28
Structural Iron and Steel Workers / Metal Building Erector	25.57	13.24	38.81	310.48
Tile Setters	13.86	0.00	13.86	110.88

2020 BUILDING DEFINITIONS

1	Asbestos/Lead Abatement/Mold Remediation	Assembles work platform and seals off work area, using plastic sheeting and duct tape. Positions mobile decontamination unit or portable showers at entrance of work area. Positions portable air evacuation and filtration system inside work area. Cuts and scrapes asbestos, mold or paint from surfaces, using knife and scraper. Assists in demolition and deconstruction activities of buildings. Shovels asbestos, mold or paint into plastic disposal bags and seals bags, using duct tape. Cleans work area of loose asbestos, mold or paint, using vacuum, broom, and dust pan. Places asbestos, mold or paint in disposal bags and seals bags, using duct tape, loads bags into truck. Cleans and maintains tools, sampling equipment and lab equipment. Responsible for keeping site and grounds clean and neat. Performs daily equipment checks. Picks up necessary supplies and tools from warehouse as directed. Loads and unloads scrap materials into trucks and roll off boxes. Performs work safely in accordance with departmental safety procedures and operates equipment safely. Reports any unsafe work condition or practice to supervisor. Performs other related and non-related duties as assigned.
2	Automatic Fire Sprinkler Fitter, Certified	Sprinkler Fitters specialize in piping associated with fire sprinkler systems. These types of systems are required to be installed and maintained in accordance with strict guidelines, usually National Fire Protection Association (NFPA) standards, in order to maintain compliance with building and fire codes. Sprinkler Fitters work with a variety of pipe and materials including: plastic, copper, steel, cast iron, and ductile iron. The fire suppression piping may contain: water, air, antifreeze, fire retardant foam, gas, or chemicals for hood systems. Sprinkler systems installed by Sprinkler Fitters can include but not limited to: underground supply, standpipes, fire pumps as well as overhead piping systems.
3	Block, Brick, and Stone Mason	Lay and bind building materials, such as: brick, structural tile, concrete block, cinder block, glass block, and terra-cotta block, with mortar and other substances to construct, or repair walls, partitions, arches, sewers, and other structures. Classify installers of mortarless segmental concrete masonry wall units. Constructs partitions, fences, walks, fireplaces, chimneys, smokestacks, et cetera using stone, marble, granite, slate. Cutting, grouting, and pointing of materials listed above which is necessary shall be part of this classification.
4	Carpenters – Acoustical Ceiling Installation	Construct, erect, install or repair acoustical ceiling grid, ceiling tile, and other items laid in acoustical grid.
5	Carpenter – Rough	Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; wood stairways, window and door frames. May also install cabinets, and siding. Include brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways to control the proper circulation of air through the passageways.

6	Carpenter—All Other Work	Construct, erect, install or repair cabinets and other fixtures or structures requiring a high level of workmanship. Includes Cabinetmakers and Bench Carpenters – cut, shape, and assemble wooden articles or set up and operate a variety of woodworking machines, such as power saws, jointers, and mortisers to surface, cut or shape lumber or to fabricate parts for wood products. Perform related duties such as trim work.
7	Caulker/Sealers	Applies waterproofing agents or caulk to a variety of structures and materials.
8	Cement and Concrete Finishers	Smooth and finish surfaces of poured concrete, such as floors, walks, sidewalks, roads, or curbs using a variety of hand and power tools. Align forms for sidewalks, curbs, or gutters; patch voids; use saws to cut expansion joints. Classify installers of mortarless segmental concrete wall units.
9	Commercial Truck Driver	Drive a truck, van or tractor-trailer combination to transport and deliver goods, or materials in liquid, loose, or packaged form. May be required to unload truck.
10	Communication/Security Technician	Set-up, re-arrange, or remove switching and dialing equipment used in central offices. Service or repair telephones and other communication equipment on customers' property. May install equipment in new locations or install wiring and telephone jacks in buildings under construction. Install, program, maintain, and repair security and fire alarm wiring and equipment. Ensure that work is in accordance with relevant codes. Exclude "Electricians" who do a broad range of electrical wiring.
11	Crane and Heavy Equipment Operator	A worker who operates a crane or other types of heavy equipment to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber-tired. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Perform other related duties.
12	Door and Hardware Specialist	Installs or repairs doors, hardware and accessories. Are responsible for the installation of contract commercial hardware and custom architectural grade wood doors, steel doors and frames for all Prevailing Wage jobs. Shall be trained by their employer's, employer's apprenticeship, or in factory training classes in the proper methods and techniques and requirements for the installation of Architectural Grade commercial wood and metal doors, frames and hardware in conformance with all local, state, and federal code.
13	Drywall and Ceiling Tile Installers	Apply plasterboard, or other wallboard to ceilings, or interior walls of buildings. Apply or mount acoustical tiles or blocks, strips, or sheets of sound-absorbing materials to ceilings and walls of buildings to reduce or reflect sound. Materials may be of decorative quality. Includes metal stud framing. Exclude "Carpet Installers", "Carpenters – Acoustical Ceiling Installation", and "Tile and Marble Setters".
14	Drywall Finishers and Tapers	Seal joints between plasterboard or other wallboard, including bedding and texturing, to prepare wall surface for painting or papering.

15	Electrician	Plan and execute the layout and installation of electrical conduit, switch panels, buss bars, outlet boxes, electrical wires and cables, lighting standards, lighting fixtures, receptacles, switches, and other electrical devices and apparatus necessary for the complete electrical installation. To include the installation of cabling, wire, conduits and end devices for Temperature Control, Building Automation, and Energy Management Systems, et cetera. Includes installation of photovoltaic solar panels.
16	Elevator Installers and Repairers	Assemble, install, repair, or maintain electric or hydraulic freight or passenger conveyances including but not limited to elevators, escalators, dumbwaiters, moving walks and wheelchair lifts.
17	Fence Erectors - Include with Skilled Labor	Erect and repair metal and wooden fences and fence gates around highways, industrial establishments, residences, or farms, using hand and power tools. Excludes rock and stone fences.
18	Floor Layers – Carpet and Resilient	Apply blocks, strips, or sheets of shock-absorbing, sound-deadening, or decorative coverings to floors. Lay and install carpet from rolls, tiles or blocks on floors. Install padding and trim flooring materials. Installs variety of soft floor materials including vinyl and VCT. Exclude wood floors and specialty floors.
19	Floor Layers - Specialty	Prepares surface, installs and finishes specialty floor material such as manufactured or engineered and laminated wood.
20	Floor Layers - Wood	Install, scrape and sand wooden floors to smooth surfaces using floor scraper and floor sanding machine, and apply coats of finish to include gymnasium and bowling alleys.
21	Glaziers	Installs glass in windows skylights, store fronts and display cases, or on surfaces such as: building fronts, interior walls, ceilings and table tops. The installation, setting, cutting, preparing, fabricating, distributing, handling or removal of the following: glass and glass substitutes used in place of glass, pre-glazed windows, retrofit window systems, mirrors, curtain wall systems, window wall systems, cable net systems, canopy systems, structural glazing systems, unitized systems, interior glazing systems, photovoltaic panels and systems, suspended glazing systems, louvers, skylights, entranceway systems including doors and hardware, revolving and automatic door systems, patio doors, store front systems including the installation of all metals, column covers, panels and panel systems, glass hand rail systems, decorative metals as part of the glazing system, and the sealing of all architectural metal and glass systems for weatherproofing and structural reasons, vinyl, molding, rubber, lead, sealants, silicone and all types of mastics in wood, iron, aluminum, sheet metal or vinyl sash, doors, frames, stone wall cases, show cases, book cases, sideboards, partitions and fixtures. Performs other related duties.

22	Hazardous Materials Removal Workers	Identify, remove, pack, transport, or dispose of hazardous materials, including asbestos, lead-based paint, waste oil, fuel, transmission fluid, radioactive materials, contaminated soil, mold, et cetera. Specialized training and certification in hazardous materials handling or a confined entry permit are generally required. May operate earth-moving equipment or trucks.
23	Heating, Air Conditioning and Refrigeration Service Technician	Repair and service heating, central air conditioning, or refrigeration systems, including oil burners, hot-air furnaces, heating stoves, and air handlers. (Installation of systems is performed by sheet metal worker). Includes HVAC mechanic.
24	Insulation Workers – Mechanical	This work includes the preparation, alteration, application, removal, hauling, erection, assembling, molding, spraying, pouring, mixing, hanging, adjusting, repairing, dismantling, reconditioning, maintenance, finishing, and/or weatherproofing of cold or hot thermal insulations with such materials as may be specified when those materials are to be installed for thermal purposes in voids, or to create voids, or on either piping, fittings, valves, boilers, ducts, flues, tanks, vats and equipment, or on any hot or cold surfaces for the purpose of thermal control or to be installed for sound control purposes mechanical devices, equipment, piping, surfaces related in an integral way to the insulation of such mechanical devices, equipment and piping. This work also includes all labor connected with insulation for; temperature control, personnel protection, safety and/or prevention of condensation. This work also includes all labor connected with hauling, distribution and cleanup of materials on the job premises. All thermal tape, pads, metered fittings (insulation, metal or plastic), batts and lags.
25	Irrigator- Landscape, Certified	Certified by TCEQ to install watering systems in various sizes and grades of lawn in order to maintain sufficient pressure and to insure even dispersal of water.
26	Laborer	Performs manual duties in all phases of construction. Demolition (interior and exterior), Flagging and Traffic Control, General Clean-Up, Air and Power Tool Operators (Including chipping guns, jackhammers and tampers), all material handling and clean-up, except refractory, chute/hose operator, raking, shoveling and vibrating, raking, shoveling, luting, ironing, dumping and spreading, trenching, material handling, back filling (*Equipment Operators Incidental to Laborers' scope of work). Landscape or maintain grounds of property using equipment as needed. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler repair, and installation of mortarless segmental concrete masonry wall units. Does not ordinarily perform work permitting exercise of independent judgment or without close direction by other workers.
27	Locksmith	Self-explanatory.

28	Mechanic	Maintains and repairs construction tools and equipment.
29	Painters - Building	Paint walls, equipment, buildings, bridges, and other structural surfaces, using brushes, rollers, and spray guns. May remove old paint to prepare surface prior to painting. May mix colors or oils to obtain desired color or consistency. Exclude "Paperhangers."
30	Paper Hanger	Measures, cuts, and hangs wallpaper and Fiber Reinforced Paneling.
31	Pipe Layer (Utility)	Installs concrete, clay, steel, ductile iron, plastic, corrugated pipe and any other type of pipe for storm drainage, water lines, gas lines and sanitary sewer lines. Lays underground communication and electrical ducts. May install and set electrical ground boxes, hand holes, manholes, inlets and other structures. Caulks joints, makes threaded and flanged connections. Installs valves and other accessories. Performs other related duties.
32	Pipe Fitters and Steamfitters	Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, or other liquids or gases. May install heating and cooling equipment and mechanical control systems. Includes pressurized lines and flow lines for gas, air, and oil found in industrial settings.
33	Plaster, Stucco, Lather, and EIFS Applicator	Apply interior or exterior plaster, stucco, or similar materials. May also set ornamental plaster. Applies acoustical plaster, interior and exterior plastering of stone imitation or any patented materials when cast. Molds and sets ornamental plaster and trim and runs ornamental plaster cornice and molding.
34	Plumbers/ Medical Gas Installer	Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, or other liquids or gases. May install heating and cooling equipment and mechanical control systems. Assemble, install, alter, and repair pipelines or pipe systems that carry medical gases or liquids. Specialized training and certification required.
35	Reinforcing Iron and Rebar Workers	Position and secure steel bars or mesh in concrete forms in order to reinforce concrete. Includes post-tensioning. Use a variety of fasteners, rod-bending machines, blow torches, and hand tools.
36	Roofers	Cover roofs of structures with shingles, tile, slate, asphalt, aluminum, wood, metal and related materials. May spray roofs, sidings, and walls with material to bind or seal sections of structures. Includes metal and membrane roofs.

37	Sheet Metal Workers	Fabricate, assemble, install, and repair sheet metal products and equipment, such as ducts, seal the system, pressure test and test and balance, control boxes, drain pipes, architectural sheet metal, hangers, brackets, used in the installation of sheet metal, and installs grills, registers, and furnace casings. Work may involve any of the following: setting-up and operating fabricating machines to cut, bend, and straighten sheet metal, operating soldering equipment to join sheet metal parts; inspecting, assembling, and smoothing seams and joints of burred surfaces, including metal flashings, gutters, canopies, soffit's, louvers, skylights and custom metal roofs. Installs warm air furnaces except where necessary piping for gas, or oil is performed under the plumbing and pipefitting classification. Include sheet metal duct installers who install prefabricated sheet metal ducts used for heating, air conditioning, or other purposes. Fire life safety, damper inspection, stairwell pressurization. May install other heating and cooling devices which are in connection with duct systems.
38	Structural Iron and Steel Workers/Metal Building Erector	Rigging, raise, place, and unite iron or steel, prefabricated metal buildings precast concrete, precast "tilt-up" panels, concrete and steel bridge members, concrete decking, ornamental iron, hand rails, stairs, curtain wall/glass framework, girders, columns, beams, and other structural members to form completed structures or structural frameworks using hand tools, power tools, and hoisting equipment. Erects frame of building, using hoist. Bolts steel frame members together. Attaches wire and insulating materials to framework. Attaches sheet metal panels to framework including standing seam sheets. Installs and trims sheet metal on prefabricated metal buildings, using cutting torch, power saw, and tin snips. Rigging of heavy equipment, assembly and disassembly of cranes. May erect metal storage tanks. Exclude "Reinforcing Iron and Rebar Workers".
39	Tile Setters	Apply hard tile, terrazzo tile and veneer to walls, floors, and ceilings. Include surface preparation as necessary.
40	Scaffolding Erector	Erection of a temporary elevated platform (both supported and suspended) and its supporting structure (including points of anchorage) to be used for supporting employees or material or both.

- **Welder** - Receives rate prescribed for craft performing operation to which welding is incidental.
- **Fork Lift and Man Lift (boom and scissor)** - Receives rate prescribed for craft performing operation to which operation of this equipment is incidental.



CITY OF EL PASO, TEXAS

2016 Paving and Street Construction, Dirt Work, Heavy Construction, Pipeline Work, Highway Wage Rates

CLASSIFICATION	BASE WAGE PER HOUR	TOTAL FRINGES PER HOUR	HOURLY PREVAILING WAGE RATE	(8 HOURS) PER DIEM WAGE RATE
Asphalt Distributor Operator	14.64	0.00	14.64	117.12
Asphalt Paving Machine Operator / Spreader Box Operator	14.20	0.00	14.20	113.60
Asphalt Raker	12.99	0.00	12.99	103.92
Backhoe Operator	15.95	0.00	15.95	127.60
Concrete Finishers (Paving and Structures)	13.88	0.00	13.88	111.04
Crane Operator, Lattice Boom	17.50	0.00	17.50	140.00
Crane Operator, Hydraulic	17.50	0.00	17.50	140.00
Electrician	23.09	0.00	23.09	184.72
Excavator Operator	16.10	0.00	16.10	128.80
Form Builder/Setter	15.02	0.00	15.02	120.16
Form Setter (Paving and Curb)	12.86	0.00	12.86	102.88
Front End Loader	14.82	0.00	14.82	118.56
Laborer	11.89	0.00	11.89	95.12
Laborer (Skilled)(Utility)	13.65	0.00	13.65	109.20
Mechanic	17.50	0.00	17.50	140.00
Motor Grader Operator (Fine)	17.54	0.00	17.54	140.32
Pipe Layer	12.94	0.00	12.94	103.52
Reinforcing Steel Setter (Structure and Paving)/ Structural Steel Worker	17.00	0.00	17.00	136.00
Rock Mason	12.00	0.00	12.00	96.00
Roller Operator	13.70	0.00	13.70	109.60
Servicer	14.33	0.00	14.33	114.64
Truck Driver, Single Axle	13.19	0.00	13.19	105.52
Truck Driver, Tandem Axle	15.32	0.02	15.34	122.72
Utility Operator Grade 1	12.00	0.00	12.00	96.00
Utility Operator Grade 2	13.95	0.00	13.95	111.60
Welder, Certified/ Structural Steel Welder	13.83	0.00	13.83	110.64

All persons required to be licensed or certified must meet those qualifications to be paid the associated rate.

2016 HEAVY / HIGHWAY DEFINITIONS

1	Asphalt Distributor Operator	Drives distributor truck, sets spray bars and operates valves and levers to control distribution of bituminous material for highway surfacing. May oil, grease or otherwise service and make adjustments to equipment as needed. Performs other related duties.
2	Asphalt Paving Machine Operator/Spreader Box Operator	Operates paving machine that spreads and levels asphaltic concrete on highway. Controls movement of machine, raises and lowers screed, regulates width of screed. Operates spreader box by adjusting hopper and strike-off blade so that gravel, stone or other material may be spread to a specific depth on road surface during seal coat and surface treatment operations. May oil, grease, service and make adjustments to equipment as needed. Performs other related duties.
3	Asphalt Raker	Distributes asphaltic materials evenly over road surface by hand-raking and brushing material to correct thickness; may control screed to regulate width and depth of materials; directs Laborers (skilled and unskilled) when to add or take away material to fill low spots or to reduce high spots.
4	Backhoe Operator	Operates a rubber-tired machine mounted with a backhoe bucket on one end and a loader bucket on the other end. Used for excavating ditches and structures, laying pipe and precast concrete structures, carrying material in the loader bucket, and general excavation and backfill. May also be equipped with hydraulic attachments. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
5	Concrete Finisher (Paving and Structures)	Finishes the exposed surfaces of fresh concrete paving, median barrier and every element of concrete structures. Operates bridge deck finishing machine. Forms and finishes edges and joints. Finishes concrete curbs and gutters. Finishes exposed surface of concrete after forms have been removed by patching imperfections with fresh concrete, rubbing surface with abrasive stone, and directing others in removing excess or defective concrete with power tools. Performs other related duties.
6	Crane Operator, Lattice Boom	A worker who operates a lattice boom type crane to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber tired. May include placement of rock riprap, clamshell, dragline, pipe and pile driving operations. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.

7	Crane Operator, Hydraulic	A worker who operates a hydraulic telescoping boom type crane to hoist and move materials, raise and lower heavy weights and perform other related operations. May be crawler type or rubber-tired. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
8	Electrician	Plan and execute the layout and installation of electrical conduit, switch panels, buss bars, outlet boxes, electrical wires and cables, lighting standards, lighting fixtures, receptacles, switches, and other electrical devices and apparatus necessary for the complete installation of wiring systems, works on overhead distribution systems and underground distribution systems. Includes installation of photovoltaic solar panels.
9	Excavator Operator	Operates a crawler or rubber-tired machine mounted with an excavator bucket. Used for excavating ditches and structures, laying pipe and precast concrete structures, loading trucks and placing rock riprap. May also be equipped with various hydraulic attachments. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
10	Form Builder/Setter	Works from plans to build, assemble, fit together, align, plumb, and set in place forms for molding concrete structures. Forms may be wood, steel, aluminum, fiberglass or any other type of material. Checks forms while concrete is being placed. May install miscellaneous materials integral to concrete structures. May set precast concrete elements. Prepares for slipforming traffic rail and median barrier. May install permanent metal deck forms. May work with power tools. Performs other related duties. Includes guardrail installation.
11	Form Setter (Paving and Curb)	Fits together, aligns and sets to grade metal and wooden forms for placement for concrete paving and curbs. Works with survey crew to set stringline for paving, curb and gutter and curb. Performs other related duties.
12	Front End Loader	Operates a rubber-tired, skid steer or crawler type tractor with an attached scoop type bucket on front end. Machine is used to load materials from stockpiles, excavation, charging batch plants, loading and unloading trucks. May be used with attachments in lieu of the bucket. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
13	Laborer	A general term used on construction work covering many unskilled classifications requiring work of a physical nature. Performs a variety of work ranging from pick and shovel work to cleaning up lumber with hammer, shoveling and placing concrete, uses air tools, under the supervision of qualified personnel. Cleans concrete joints and fills joints with sealing compound from bucket or with hose and nozzle from a central source, applies coating of oil to inside face of forms and strip forms, unloads and transports reinforcing steel, cures newly poured concrete, assists pipelayers, works with dirt crew keeping construction layout stakes out of the way of dirt-moving equipment. May fine grade excavation and ditches, shovels hot asphalt material. May use power tools and other necessary equipment in demolition work under the supervision

		of qualified personnel. Does not ordinarily perform work permitting exercise of independent judgment or without close direction by other workers. Installs and maintains erosion control. Performs other related duties.
14	Laborer (Skilled) (Utility)	Performs a variety of manual duties, usually working in a utility capacity by working on multiple projects and tasks where demands require workmen with varied experience and ability to work without close direction. Unloads and transports reinforcing steel. Directs laborers in pouring concrete. Erects trench shoring and bracing. Installs, operates, and maintains watering systems. May assist equipment operators in positioning machines, verifying grades and signaling operators to dumping positions to maintain grades as directed. Uses power tools and air tools. May work as lead man in a labor crew. Is more or less a general utility construction worker. May be a second step in learning a skill. Includes Concrete/Granite Pump Operator, Concrete Saw Operator, Fence Erector, Flagger, and Sign Erector. Performs other related duties.
15	Mechanic	Assembles, assist set up, adjusts and maintains and repairs all types of construction equipment and trucks. May perform the duties of a welder in repair of equipment. Performs other related duties.
16	Motor Grader Operator (Fine)	Operates motor grader. Performs many of the same duties of Motor Grader, Rough, but in addition performs finish grade work to bluetops or other close specification control. This work is subject to strict inspection and must conform closely to specifications. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
17	Pipe Layer	Installs concrete, clay, steel, ductile iron, plastic, corrugated pipe and any other type of pipe for storm drainage, water lines, gas lines and sanitary sewer lines. Lays underground communication and electrical ducts. May install and set electrical ground boxes, hand holes, manholes, inlets and other structures. Caulks joints, makes threaded and flanged connections. Installs valves and other accessories. Performs other related duties.
18	Reinforcing Steel Setter (Structure and Paving)/ Structural Steel Worker	Works from plans to lay out and install reinforcing steel within forms or in mats of concrete paving. Erects and places reinforcing steel and fabricated structural steel members, such as girders, plates, diaphragms, lateral bracing, and unites them permanently to form a completed structural steel unit, including reinforcing members. Fastens steel members together by welding or bolting. May include dismantling and erecting large units of equipment. Gives direction to reinforcing steel worker apprentice or utility laborers. Performs other related duties.
19	Rock Mason	Constructs partitions, fences, walls, using rock. Cutting, grouting and pointing of materials listed above which is necessary shall be part of this classification. May also build or repair rock retaining walls, cutting or placing of rock in mortar or other similar material.

20	Roller Operator	Operates a self-propelled machine with either steel wheels or pneumatic tires which is used to compact and smooth bituminous and flexible base materials and compact earth fills, subgrade, and all other types of materials. May oil, grease or otherwise service and make necessary adjustments to equipment as needed. Performs other related duties.
21	Servicer	Drives a truck which carries various fuels, oils, greases and filters. Must have knowledge of and is responsible for the correct oiling and greasing and changing of filters on equipment according to manufacturers' specifications. Uses compressed air grease guns, wrenches and other tools. May make adjustments to clutches, brakes and other mechanical items. Keeps record of service for preventive maintenance records. May require a Commercial Driver's License if driving truck on public highways. Performs other related duties.
22	Truck Driver, Single Axle	Drives a light capacity truck for transporting loads of construction material. The truck is of single rear axle type, may have various kinds of beds attached such as dump, flat bed, tank, etc. May require CDL license for driving on highway. May service and make necessary adjustments for proper operation of equipment. Performs other related duties.
23	Truck Driver, Tandem Axle	Drives a tandem axle powered vehicle. Hauls dirt, rock, aggregates or other material. May require CDL license for driving on highway. May service and make necessary adjustments for proper operation of equipment. Performs other related duties.
24	Utility Operator Grade 1	Clam, ditching machine, side booms (except those in Grade 2), operator on dredges, cleaning machine, coating machine, blending machine, water-kote machine, equipment welder, track tractor, derrick, dragline, shovel, motor grader rough grade, Crawler tractor, foundation drill operator, crawler and truck mounted, and piledriver.
25	Utility Operator Grade 2	Pipe, gin truck or winch truck with poles when used for hoisting, side boom (cradling rock drill), tow tractor, farm tractor road boring machine, fork lift (industrial type), pot fireman (power agitated), straightening machine, boring machine, bombardier (track or tow rig), , hydrostatic testing operator, scraper, stalking machine, plant mix pavement roller operator, plant mix pavement, pneumatic motor operator. Concrete paving curing, float, texturing machine, subgrade trimmer, slip-form machine, milling machine, self-propelled sweeping machine, trenching machine, directional drill, trenching, screening plant, and joint sealer. Off Road Hauler, Pavement Marking Machine Operator Reclaimer/Pulverizer Operator, Slurry Seal or MicroSurfacing Machine Operator.

26	Welder, Certified/ Structural Steel Welder	<p>Certified by the American Welding Society to perform structural steel welding. Operates welding equipment. Welds structural steel girders and diaphragms. May weld permanent metal deck forms. Cuts, lays-out, fits and welds metals or alloyed metal parts to fabricate or repair equipment. Welds the joints between lengths of pipe for oil, gas or other types of pipelines. May assist in welding of permanent metal deck forms. Performs other related duties.</p>
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Exhibit 5– Apprenticeship Program

Apprenticeship Program

City construction contracts require that the construction contractors performing work for the City for such contract shall participate in a United States Department of Labor (“DOL”) certified apprenticeship program when the work required under the contract includes work that must be performed by any of the apprenticeable occupations listed in the City’s apprenticeship program adopted September 24, 2013, as amended, and the work involving such apprenticeable occupation has a value of **fifty thousand dollars** or more. Information relating to the apprenticeship program, use of apprentices and trades shall be submitted prior to the start of the work of the applicable occupations listed below. Prior to the start of the work of the applicable apprenticeable occupations listed below the contractor or the applicable subcontractor through the prime contractor shall provide written certification to the city that it is a sponsor or participant in a DOL approved apprenticeship program.

Apprenticeable Occupations:

Bricklayer
Carpenter
Cement mason
Drywall applicator
Electrician
Glazier
Operating engineer
Painter
Pipefitter
Plasterer
Plumber
Roofer
Sheet metal worker
Structural worker/ironworker
Taper
Carpenter – Acoustical Ceilings
Cabinet Maker
HVAC
Insulation Worker
Electronic Technician
Elevator Installer & Repairer
Floor Layer
Locksmith
Tile and Marble Setter

The Contractor shall comply with the following:

1. Shall hire registered apprentices enrolled in a DOL certified apprenticeship program.
2. Shall not substitute helpers, unregistered apprentices or other substitutes to perform apprentice level work in place of registered apprentices.
3. Shall pay wage rates and benefit package for apprentices as determined by the apprenticeship program/DOL.
4. Shall comply with DOL requirements for the ratio of apprentices to journeymen.

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship & Training or a State Apprenticeship Agency (where appropriate) to be eligible for probation employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor/subcontractor as to the entire work force under the registered program.

The Contractor shall furnish the City's Capital Improvement Department with sufficient information, which demonstrates that apprentices are employed pursuant to and individually registered in a bona fide apprenticeship program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the City wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the City wage determination for the work actually performed. Every apprentice must be paid at not less than the rates specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman's hourly rate specified in the City wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Bureau of Apprenticeship Training determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship & Training, or a state apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

The Contractor shall post the prevailing wage rate schedules made part of this contract at each work site in a prominent location readily accessible to the workers through the duration of the project. In addition, the Contractor shall post a notice to be provided by the Capital Improvement Department Director regarding prevailing wage rates and the City of El Paso Apprenticeship Program, in English and Spanish, which shall be posted nearby the prevailing wage rates schedules.

The Contractor shall, in addition to all other information items to be provided to City, certify to City the names of all apprentices on the project; verification of their status as registered apprentices; and documentation as to their proper wage rates; and documentation as the journeyman-to-apprentice ratios for each trade as determined by the apprenticeship program.

No worker shall be discharged by the Contractor or Subcontractor or in any other manner discriminated against because such worker has filed an inquiry or complaint, has instituted or caused to be instituted any legal or equitable proceeding or has testified or is about to testify in any such proceeding under or relating to the apprenticeship program.

The Contractor and every subcontractor shall allow immediate entry, into all areas of the job site, by the Capital Improvement Department Director and his/her agents and representatives displaying and presenting proper identification credentials to the job site superintendent or his/her representative. While on the job site the Capital Improvement Department Director and his/her agents and representatives may inspect for all job site and regulations, including but not limited to those concerning safety, security and fire prevention. The Contractor and each subcontractor shall allow any employee to be interviewed at random, at any time and for any reasonable duration by the Capital Improvement Department Director and his/her agents and representatives to determine compliance with the provisions of this contract regarding the apprenticeship program. *The Contractor and each subcontractor shall allow access to its personnel and apprenticeship books and records, at any time and for any reasonable duration by the Capital Improvement Department Director and his/her agents and representatives to determine compliance with the provisions of this contract regarding the apprenticeship program.*

The City reserves the right to terminate this Contract for cause in the Contractor and/or any subcontractor shall breach any of these provisions regarding the apprenticeship program.

The Contractor shall cause these and any other appropriate provisions regarding the apprenticeship program to be inserted in all subcontractor relative to the work to bind the subcontractor to the same apprenticeship program requirements as are applicable to the Contractor.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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Definitions and Terminology

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both.
 10. *Claim*—(a) A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Owner's decision regarding a Change Proposal; seeking resolution of a contractual issue that

Owner has declined to address; or seeking other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Construction Documents* - The documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design Consultant consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by these General Conditions of Contract.
13. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
14. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
15. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
16. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
17. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work. If the Work is to be performed using a Design-Build project delivery method, then any reference to the Contractor herein, shall mean the Contractor, Architect or Engineer comprising the Design-Build Team.
18. *Cost of the Work*—See Paragraph 13.01 for definition.
19. *Design-Build Team*— Group comprised of the General Contractor, Architect, Design Engineers/Consultants, and key Subcontractors identified by the Design-Builder.
20. *Design Consultant (if applicable)*- A qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed

or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.

21. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
22. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
23. *Engineer*—The individual or entity named as such in the Agreement. The individual or entity may be an employee of Owner, whether that individual holds the title of City Engineer or is an individual within the City Engineer's department, or may be an independent design consultant retained by Owner for the Project. In any event, the Engineer will serve as Owner's agent during design and construction phases, and provide technical guidance and recommendations, subject to Owner's approval.
24. *Field Order*—A written order approved by Owner and issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
25. *Final Completion* - The date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared in accordance with the General Conditions of Contract and the submission of all documents required by the General Conditions of Contract.
26. *Force Majeure Events* - Those events that are beyond the control of both Contractor and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, unusually severe weather conditions not reasonably anticipated, and other acts of God, not due to the negligence of the party claiming Force Majeure.
27. *GMP Exhibit* - That exhibit attached to the Agreement, which exhibit will have been agreed upon by Owner and Design- Build prior to the execution of the Agreement. The GMP Exhibit will be referred to as the Design-Build Agreement.
28. *GMP Proposal* - That proposal developed by Contractor in accordance with the Agreement Between Owner and Contractor with an option for a Guaranteed Maximum Price.
29. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
30. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
31. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior

to Substantial Completion of all the Work.

32. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
33. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
34. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
35. *Owner’s Project Criteria* – Criteria developed by or for Owner to describe Owner’s program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Build Teams performance of the Work. Owner’s Project Criteria may include conceptual documents, design criteria, performance requirements, prescriptive specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.
36. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
37. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
38. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
39. *Resident Project Representative*—The authorized representative of Owner assigned to assist Owner at the Site. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative. Owner’s Resident Project Representative may be the Engineer or Architect if Owner so designates.

40. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
41. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review and Owner’s approval of the submittals and the performance of related construction activities.
42. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
43. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
44. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
45. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
46. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
47. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer and subject to the Owner’s approval, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
48. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
49. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
50. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at

the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.

51. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
52. *Unit Price Work*—Work to be paid for on the basis of unit prices.
53. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents. If the Work is to be performed using a Design-Build project delivery method, then the Work also includes the design services required by the Contract Documents. If the Work is to be performed using a CMAR project delivery method, then the Work also includes the preconstruction services required by the Contract Documents.
54. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
55. *Design-Build Contingency*- Allocated amount established in the GMP. Design build contractor, can utilize Design build contingency, for both design and construction contingency. Contingency can be utilized during design to assure that the design addresses full scope at project completion. During Construction, contingency can be utilized to clarify design as necessary to provide a fully functioning facility that meets all scope requirements, changes in market conditions, and issues that occur through no fault of the contractor, including supplementing subcontractors and suppliers to assure an on-time completion of the design and full scope. Contingencies shall not be used to correct construction deficiencies, rework, quality control issues or warranty, for internal staffing necessary for contractor controlled delays and shall not be utilized to cover costs of liquidated damages
56. *Owner's contingency*- Allocated amount established in the GMP. Owner's contingency shall be utilized solely at the Owners discretion to address and authorize additional scopes of work not included in the original requirements. Owner's contingency can be utilized to address any differing site conditions identified during construction.

57. *Allowances* shall be included in the GMP per the direction of the City, for the sole purpose to address design and construction activities where scope is not clear and quantifiable at the time of development of the GMP proposal. Allowance shall specify the general scope for that allowance and may be subject to approval by the City. Funds remaining in an allowance upon completion of the specific SOW will transfer to Owner's contingency
58. Remediation plan- guideline that proposes a series of procedures/actions in order to correct deficiencies or defective work, including any proposed schedule revision needed to maintain project schedule completion.
59. Buyout savings- The difference between the cost for portions of work budgeted on the GMP including construction Manager's Fee and the actual cost of work received by Design Builder during bidding when the cost for the portion of work is less than the amount budgeted in the GMP proposal approved by the owner.

1.02 *Terminology*

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Day*:
 1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- C. *Defective*:
 1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or has been damaged prior to Engineer's recommendation of final payment unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion.
- D. *Furnish, Install, Perform, Provide*:
 1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- E. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four copies of the Contract as follows: One fully executed original of the Agreement, two copies of executed Agreement and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by the Architect, engineers and other design professionals.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit for Engineer’s review and - Owner’s approval:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and
 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. Should the Contractor or Owner wish to establish any Milestones that will be subject to individual schedules and/or completion dates, these Milestones shall be established at this conference and any Change Orders or contract modifications relating to the establishment of Milestones will be presented to the Owner for acceptance and execution by the Parties in accordance with the terms and provisions contained herein.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, Owner, and others as appropriate, will be held to review for acceptability to Owner as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer and approved by Owner based on Engineer's recommendations.
 - 1. The Progress Schedule will be acceptable to Engineer and Owner if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer or Owner responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer and Owner if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer and Owner as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, three-dimensional modeling (such as Building Information Models), and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secured 3rd party Project website.
- B. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating

systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

2.07 *Designation of Authorized Representatives*

- A. As part of the Agreement, Design-Builder shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Subject to Owner's approval, such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to the Owner any errors or omissions within the Contract Documents.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer and Owner in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer subject to Owner's approval, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Should Contractors perform the Work after discovery of such a conflict without reporting the conflict or before receipt of a clarification or interpretation by Engineer, Contractor will be solely liable for any correction or other measures that may be required to overcome the conflict or bring the Work into compliance with the Contract Documents.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder. The Engineer will provide a recommendation to Owner who

will ultimately approve or disapprove such Work.

- B. Engineer will, with reasonable promptness and with Owner's prior written approval, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence upon issuance of notice to proceed.

4.02 *Commencement of Performance*

- A. No Work shall be done at the Site prior to such date. Contractor may commence performance upon receipt of the Notice to Proceed and in accordance with any terms and dates contained therein.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.
- B. Contractor shall note the location of all reference points and controls on a set of red-lined drawings or exhibits to be maintained at all time on the jobsite.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit for Engineer's review and Owner's approval (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will

not result in changing the Contract Times.

2. Contractor shall provide an updated schedule with each Pay Application for Owner's review. Extensions to the Project Schedule that propose to increase Contract Time must be submitted for the Owner's approval and such approval must be reflected and memorialized in a written Change Order.
 3. The Contractor shall maintain a current Progress Schedule at the Project site. The current Progress Schedule shall be displayed at the site and shall be available for use and reference by the Owner, Engineer, and Contractor. The Contractor shall have weekly meetings with the Owner where the current Progress Schedule is reviewed and evaluated based on work performed in the past week and planned work for the following week. Should the Progress Schedule require an update or amendment as a result of these meetings, the Progress Schedule provided with the subsequent Pay Application shall so indicate.
 4. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Time. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
1. severe and unavoidable natural catastrophes such as fires, floods, epidemics/pandemics and earthquakes;
 2. abnormal weather conditions;

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
 - E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
 - F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
 - G. Contractor must submit any Change Proposal seeking an adjustment in Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.
 - H. Contractor expressly waives any right to an adjustment in Contract Price for any event of delay. Contractor's sole remedy for any delay shall be limited to an adjustment in Contract Time.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall

not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS FROM AND AGAINST ANY SUCH CLAIM, AND AGAINST ALL COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY CLAIM OR ACTION, LEGAL OR EQUITABLE, BROUGHT BY ANY SUCH OWNER OR OCCUPANT AGAINST OWNER OR ANY OTHER PARTY INDEMNIFIED HEREUNDER TO THE EXTENT CAUSED DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART BY, OR BASED UPON, CONTRACTOR'S PERFORMANCE OF THE WORK, OR BECAUSE OF OTHER ACTIONS OR CONDUCT OF THE CONTRACTOR OR THOSE FOR WHICH CONTRACTOR IS RESPONSIBLE.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations. If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger

them.

5.03 *Subsurface and Physical Conditions*

- A. Contractor accepts the responsibility to satisfy itself as to the soil conditions and nature and type of geological formations in and through which this Project will be constructed. Such information as may be obtained from the test borings and accompanying notations shown on the plans and/or documents provided by the Owner is merely for reference only of the Contractor and is not to be construed in any manner as a guarantee by the Owner that such conditions of sub- surface strata are infallible.
- B. Contractor waives any and all rights to make a claim against Owner relating to representations related to geotechnical data provided in the contract documents, plans and specifications. The locations of the test holes, if applicable, are shown in the Geotechnical Report. Logs of these test holes are included in the Geotechnical Report. Test holes information represents subsurface characteristics to the extent indicated and only for the point location of the test hole. Contractor shall make its own interpretation of the character and condition of the materials, which will be encountered. Contractor may, at its own expense, make all additional surveys and investigations as it may deem necessary to determine conditions, which will affect performance of the Work.
- C. *Reports and Drawings.* Owner will identify to the Contractor:
 - 1. any reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. any drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- D. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified by Owner with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared by the Contractor's consultants for the Project. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.
 - 4. It is the responsibility of the Design-Builder to retain all necessary geotechnical survey and environmental Surveys required for the performance of its work.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents; then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner or Owner's representative in writing about such condition and provide action plan to the Owner for review. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.
- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Times to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's time required for performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
 2. Contractor shall not be entitled to any adjustment in the Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor submitted its Bid or entered into the Agreement with Owner for the Project; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study

- of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
- c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Contract Documents:
 - 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice and remediation plan to that owner and to Owner.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the

Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility.* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. Contractor shall be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site regardless of whether such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- B. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for

the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

- C. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and deduct all costs incurred from the contract balance or if no contract balance, may file a claim for costs.
- D. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- E. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- G. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE

FAILURE TO CONTROL, CONTAIN, OR REMOVE A CONSTITUENT OF CONCERN BROUGHT TO THE SITE BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE, OR TO A HAZARDOUS ENVIRONMENTAL CONDITION CREATED BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE.

- H. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond in accordance with chapter 2253 of the Texas Government Code. Contractor shall also furnish such other bonds as are required by other specific provisions of the Contract.
- B. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds in a form acceptable to Owner. The surety on the bonds must be duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in Texas, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide bonds from another surety, all of which shall comply with the requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

6.02 *Insurance—General Provisions*

- A. Owner is self-insured as a municipality of the State of Texas.
- B. Contractor shall provide all insurance with required by Exhibit A to these General Conditions, Owner's Insurance Requirements.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and

procedures of construction, unless the Contract Documents give other specific instructions concerning these matters.

- B. The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
- C. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written consent of Owner. Such consent shall not be unreasonably withheld.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.
- C. Prevailing Wages must be paid to all laborers on the Project. Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage. The City of El Paso has performed and requires the use of its Wage Rate Determination. Such wage rate determination is available to Contractor and shall be the basis of any bids and payments to labor for the Project. If the Project involves federal funding, the Contractor is required to pay the higher wage as between the El Paso wage rate determination and the rates published by the U.S. Department of Labor pursuant to the Davis-Bacon Act.
- D. Certified payrolls demonstrating compliance with the prevailing wage requirements shall be maintained by the Contractor and all Subcontractors performing the Work. The Contractor is required to submit to the Owner a copy of all certified payrolls for any pay period with each Pay Application. Pursuant to Chapter 2258, Texas Government Codes, the Contractor shall forfeit as a penalty to the City of El Paso sixty dollars (\$60.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under this contract, by him, or by any subcontractor under him. Furthermore, failure to provide certified payrolls may be grounds for withholding of funds and default as provided in sections 15.01 and 15.06 herein.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and

incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer or Owner, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 “Or Equals”

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer recommend the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below and subject to written approval by Owner.
 - 1. If Engineer in its discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, and provided Owner has authorized such determination, Engineer shall deem it an “or equal” item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor’s Expense.* Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.

- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the judge of acceptability, subject to Owner's approval. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination. Use of an unapproved "or-equal" item will render such Work defective and will be subject to Article 14 provisions.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer, with Owner's approval, authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other

- direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer will be the judge of acceptability. Subject to Owner's approval, no substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- E. *Effect of Engineer's Determination*: If Engineer and Owner approve the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- B. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- C. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- D. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

- E. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- F. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- G. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- H. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner.
- I. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents. However, if the Contractor has reason to believe that the design, process or product required by the Owner is an infringement of a copyright or a patent, the Contractor shall be responsible for such any loss on account thereof, unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Contractor, the Owner shall give prompt written notice to the Contractor.
- B. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS OF EACH AND ANY OF THEM FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY INFRINGEMENT OF PATENT RIGHTS OR COPYRIGHTS INCIDENT TO THE USE IN THE PERFORMANCE OF THE WORK OR RESULTING FROM THE INCORPORATION IN THE WORK OF ANY INVENTION, DESIGN, PROCESS, PRODUCT, OR DEVICE NOT

SPECIFIED IN THE CONTRACT DOCUMENTS.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, fees, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

7.09 *Taxes*

- A. The Owner enjoys tax-exempt status as a municipality. To enjoy the cost-savings benefits of its tax-exempt status, the Owner will provide a Tax Exemption Certificate to the Contractor for use on the Project. The Contractor shall use that certificate to exempt any purchases made for the Work from taxes. All savings for the tax-exempt status will be passed on to the Owner by the Contractor. The Contractor agrees to bind all Subcontractors of any tier to the obligation to present and use the Tax Exemption Certificate and pass all savings to the Owner.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses. However, Contractor has no responsibility or liability for determining whether the Work as described in the Contract Documents complies with applicable Laws or Regulations.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Schedules, O&Ms (Operations and Maintenance manuals), Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings and submittals. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer and Owner for reference. Upon completion of the Work, Contractor shall deliver these record documents to Owner. Delivery of a complete set of record documents to Owner is a condition precedent to Final Completion.

7.12 *Safety and Protection*

- A. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall comply with all Laws and Regulations regarding safety and shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks,

pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

- B. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. Upon recommendation provided by Engineer, if Owner determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.
- B. In the event there is an accident involving injury to any individual on or near the Work, the Contractor shall notify Owner's Representative within twenty-four (24) hours of the event and shall be responsible for recording the location of the event and the circumstances surrounding the event through photographs, interviewing witnesses, obtaining medical reports and other documentation that describes the event. Copies of such documentation shall be provided to Owner, for the Owner's and Engineer's records, within forty-eight (48) hours of the event. Nothing in this section will relieve Contractor of its obligations and responsibilities with respect to an injury under any state and federal laws and regulations.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 - 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 - 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and Owner's approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - c. Contractor shall submit the number of Samples required in the Specifications.
 - d. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's and Owner's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer and Owner. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's and Owner's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
 3. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 4. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

5. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.
- E. *Resubmittal Procedures:*
1. Contractor shall make corrections required by Engineer or Owner and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
 2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
 3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- B. The Contractor warrants and guarantees for one (1) year from Final Completion, or for a longer period if expressly stated in the Contract Documents, the Work. This includes a Warranty and Guarantee against any and all defects. The Contractor must correct any and all defects in material and/or workmanship which may appear during the Warranty and Guarantee period, or any defects that occur within one (1) year of Final Completion even if discovered more than one (1) year after Final Completion, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the Owner, within a reasonable period of time, and to the Owner's satisfaction.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than

Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- E. The Design-Builder must furnish all special warranties required by the Design-Build Documents to the Owner no later than Final Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work which is defective or nonconforming, or the acceptance of nonconforming Work.
- F. The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
- G. The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- H. The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
- I. Nothing contained in this section shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in this Section relates only to the specific obligation of the Contractor to correct the Work, pursuant to the warranties provided, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

7.18 *Indemnification*

- A. TO THE FULLEST EXTENT PERMITTED BY LAW, AND IN ADDITION TO ANY OTHER OBLIGATIONS OF CONTRACTOR UNDER THE CONTRACT OR OTHERWISE, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PERFORMANCE OF THE WORK, EVEN WHERE ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING FROM THE NEGLIGENCE OR ALLEGATIONS OF NEGLIGENCE ON THE PART OF THE CITY, ITS OFFICERS, AGENTS, OR EMPLOYEES AND BY ANY NEGLIGENT ACT OR OMISSION OF CONTRACTOR, ANY DESIGN CONSULTANT, ANY SUBCONTRACTOR, ANY SUPPLIER, OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM TO PERFORM ANY OF THE WORK OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.
- B. CONTRACTOR SHALL DEFEND ANY ACTION OR PROCEEDING BROUGHT AGAINST OWNER BASED ON ANY CLAIM THAT THE WORK, OR ANY PART THEREOF, OR THE OPERATION OR USE OF THE WORK OR ANY PART THEREOF, CONSTITUTES INFRINGEMENT OF ANY PATENT (ENFORCEABLE IN THE UNITED STATES), COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHT NOW OR HEREAFTER ISSUED ("IP RIGHT"). CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER FROM AND AGAINST ALL DAMAGES AND COSTS, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES AND EXPENSES AWARDED AGAINST OWNER OR CONTRACTOR IN ANY SUCH ACTION OR PROCEEDING. CONTRACTOR AGREES TO KEEP OWNER INFORMED OF ALL DEVELOPMENTS IN THE DEFENSE OF SUCH ACTIONS.
- C. IF OWNER IS ENJOINED FROM THE OPERATION OR USE OF THE WORK, OR ANY PART THEREOF, AS THE RESULT OF ANY IP RIGHT SUIT, CLAIM, OR PROCEEDING, CONTRACTOR SHALL AT ITS SOLE EXPENSE TAKE REASONABLE STEPS TO PROCURE THE RIGHT TO OPERATE OR USE THE WORK WITH DUE CONSIDERATION OF THE MINIMIZING THE IMPACT ON OWNER'S OPERATIONS AND THE COST THEREOF. IF CONTRACTOR CANNOT SO PROCURE SUCH RIGHT WITHIN A REASONABLE TIME, CONTRACTOR SHALL PROMPTLY, AT CONTRACTOR'S OPTION AND AT CONTRACTOR'S EXPENSE, (I) MODIFY THE WORK SO AS TO AVOID INFRINGEMENT OF ANY SUCH IP RIGHT OR (II) REPLACE SAID WORK WITH WORK THAT DOES NOT INFRINGE OR VIOLATE ANY SUCH IP RIGHT.
- D. PROVIDED THAT OWNER IS NOT IN BREACH OF ITS CONTRACTUAL OBLIGATION TO MAKE PAYMENTS TO CONTRACTOR FOR UNDISPUTED

AMOUNTS, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM ANY CLAIMS BROUGHT AGAINST OWNER OR AGAINST THE PROJECT AS A RESULT OF THE FAILURE OF CONTRACTOR, OR THOSE FOR WHOSE ACTS IT IS RESPONSIBLE, TO PAY FOR ANY SERVICES, MATERIALS, LABOR, EQUIPMENT, TAXES OR OTHER ITEMS OR OBLIGATIONS FURNISHED OR INCURRED FOR OR IN CONNECTION WITH THE WORK. WITHIN THREE (3) DAYS OF RECEIVING WRITTEN NOTICE FROM OWNER THAT SUCH A CLAIM HAS BEEN FILED, CONTRACTOR SHALL COMMENCE TO TAKE THE STEPS NECESSARY TO DISCHARGE SAID CLAIM, INCLUDING, IF NECESSARY, THE FURNISHING OF A PAYMENT BOND. IF CONTRACTOR FAILS TO DO SO, OWNER WILL HAVE THE RIGHT TO DISCHARGE THE CLAIM AND HOLD CONTRACTOR LIABLE FOR COSTS AND EXPENSES INCURRED, INCLUDING ATTORNEYS' FEES.

7.19 *Delegation of Professional Design Services*

- A. Contractor will be required to provide all professional design services unless such services in accordance with the Agreement, the Contract Documents or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's and Owner's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's and Owner's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

7.20 *Contractor's Payment Obligations*

- A. Contractor shall pay each Design Consultant, Subcontractor, and other person or entity providing services or work for the Contractor no later than the time period required by chapter 2251 of the Texas Government Code, and in accordance with its contractual obligations to such parties, all the amounts Contractor has received from Owner on account of their work. Contractor will impose similar requirements on Design

Consultants and Subcontractors to pay those parties with whom they have contracted.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer and Owner in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the Owner must provide written notice to the Contractor of additional work that includes the scope of the work, general location, time-frame, and the identity of the party(ies) performing the work. Additionally, the Owner must provide or have provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility on behalf of the Owner to address coordination of the activities among the various contractors;

2. an itemization of the specific matters to be covered by such authority and responsibility; and
 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in writing, the Contractor shall have responsibility for coordination among other parties at and adjacent to the Project Site. The Contractor shall ensure through such coordination that neither its Work, nor any other parties' work is delayed or impeded because of a lack of such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times and the Contractor performing its obligation pursuant to section 8.02.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ANY SUCH CLAIMS, AND AGAINST ALL COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO SUCH DAMAGE, DELAY, DISRUPTION, OR INTERFERENCE.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. For all Project and performance of Work matters, Owner will issue communications to Contractor through Engineer. However, Owner may, at its discretion, issue communications related to the Project directly to Contractor. In all such direct communications, Owner will endeavor to copy Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer. The replacement engineer’s status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due in the manner and within the time limits proscribed by chapter 2251 of the Texas Government Code.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner’s duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner’s duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

9.06 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

9.07 *Evidence of Financial Arrangements*

- A. Within Thirty (30) days of executing the Agreement, Contractor may request, and Owner shall furnish, reasonable evidence that financial arrangements have been made to satisfy Owner’s obligations under the Contract Documents.

9.08 *Safety Programs*

- A. While at the Site, Owner’s employees and representatives shall comply with the specific applicable requirements of Contractor’s safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

10.01 *Owner’s Representative*

- A. Engineer will act as the Owner’s representative for Project administration during the construction period. Engineer shall not have the authority to bind the Owner as that authority lies with the Owner’s designated representative, but Engineer may communicate on behalf of Owner in all Project matters.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer’s visits and observations are subject to all the limitations on Engineer’s authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer’s visits or observations of Contractor’s Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in this article 10.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14, subject to Owner’s approval.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer’s authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer’s authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Subject to Owner's approval, Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Engineer's authority, responsibility and actions as Owner's representative shall not give rise to any liability to Contractor. Contractor expressly waives any claims it has against Engineer for the performance of its responsibilities as Owner's representative.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto.
- C. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- D. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders:*
 - a. A Change Order shall be used to amend or supplement the Contract Documents when the Parties agree to the amendment, supplement, modification to the scope of work, or change in the Contract Price or the Contract Times.
2. *Work Change Directives:* A Work Change Directive may be issued by the Owner if the Parties cannot agree on a Change Order. A Work Change Directive may also be issued if the Parties expect that the change ordered by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times.
 - b. In the event the Owner has issued a Work Change Directive that the Parties subsequently agree shall be incorporated into a Change Order, the Contractor must submit its Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive.
 - c. Adjustments to the Contract Price for Work performed pursuant to a Work Change Directive issued by the Owner without agreement of the Parties shall be governed by the provisions in section 11.04.
 - d. Upon receipt of a Change Directive, Contractor shall promptly proceed with the change in the Work involved.
3. *Field Orders:* Owner or Engineer (with Owner's approval) may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein. Provided the Design-Build project delivery method is being used, subject to Owner's prior written approval, Contractor may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Contractor shall promptly inform Owner and Engineer, in writing, of any such changes and record such changes on the documents maintained by Contractor.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any

such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order or Work Change Directive. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2) properly itemized and supported by sufficient substantiating data to permit evaluation by the Owner; or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;

- b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
- c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
- d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order or Work Change Directive. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer and Owner to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer and Owner promptly (but in no event later than 30 days) after the start of the event giving rise

thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. Failure by Contractor to comply with this submittal procedure will constitute an express waiver of any Claim for relief.

2. *Engineer's Action:* Engineer will review each Change Proposal with Owner and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Engineer's action on a Change Proposal will not have the effect of adjusting the Contract Time or Contract Price without express written approval of Owner and a memorialization of Engineer's Action in a Change Order. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Contractor, unless Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver written notice directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. In the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The responsibility to substantiate a Claim shall rest with the party making the Claim. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, the mediation shall occur within 60 days of the agreement to mediate. However, the mediation may be stayed and its scope and schedule may be amended, provided that the mediation occur no later than 60 days following Final Completion. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a

mediator designated by the American Arbitration Association (“AAA”) pursuant to its Construction Industry Mediation Rules.

3. Owner and Contractor shall each pay one-half of the mediator’s fees and costs.
4. Mediation is a condition precedent to litigation before a court of competent jurisdiction or tribunal.
- E. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party.
- F. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise, that agreement should be memorialized in a Change Order if the Project is ongoing at the time of resolution and the agreement affects the Contract scope, price, or time.
- G. *Duty to Continue Performance*: Unless provided to the contrary in the Contract Documents, Contractor shall continue to perform the Work pending the final resolution of any dispute or disagreement between Contractor and Owner.
- H. The Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise arising out of or related to the Contract in accordance with the requirements of this article 12, the dispute resolution provisions of article 17 and within the time period specified by applicable law. The Contractor waives all claims and causes of action not commenced in strict accordance with this Article.
- I. *Claims Arising After Final Payment*: If the Contractor intends to make a Claim for an increase in the Contract Price or Contract Time, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property. Failure to provide written notice of a Claim in accordance with this Article and other applicable provisions of the Contract Documents constitutes an express waiver by the Contractor of any right of recovery on such Claim.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Payroll costs for employees in the employ of Contractor in the direct performance of the Work. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation and health and retirement benefits applicable thereto.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
 5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, approved by Owner, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. The cost of utilities, fuel, and sanitary facilities at the Site.
 - e. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
1. Payroll costs and other compensation of Contractor's employees, agents and other personnel not included in Paragraph 13.01.B, whether at the Site or in Contractor's principal or branch office for general administration of the Work. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee:* In the event that additional services are requested by the owner on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor and Owner the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Provided the Owner has approved such decision, Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.

- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer and Owner timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall be responsible for providing the services of an independent inspection and testing lab if the Contract Documents and Specifications so require.
- C. Contractor shall be responsible for arranging, obtaining, and coordinating all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 3. by manufacturers of equipment furnished under the Contract Documents;
 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

NOTE(S) TO USER: 14.02 Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner.

- D. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work, subject to Owner's approval.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner

may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Subject to Owner's prior written approval, Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
 - B. If any Work is covered contrary to the written request of Engineer or Owner, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
 - C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, upon Owner's approval and Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
- 6. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 7. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer or Owner to correct defective Work, or to remove and replace rejected Work as required by the Owner, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work. If no payments are due to the Contractor or insufficient funds remain as part of the Contract Price then unpaid to the Contractor, the Contractor shall be liable to the Owner and shall promptly reimburse the Owner for all costs following written notice of the amount due to the Owner.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer and Owner. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 - 1. At least 25 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer and Owner for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and

evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents; and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - d. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - e. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - f. the Work is defective, requiring correction or replacement;

- g. the Contract Price has been reduced by Change Orders;
- h. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- i. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- j. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required certified payrolls, bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. liquidated damages, if applicable, or other damages resulting from delay have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - h. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for

such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, services, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens, claims, security interests, encumbrances, and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment. If the Agreement calls for a Design-Build project delivery method, the Contractor shall issue a certificate of Substantial Completion to the Owner.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. At that inspection, Owner and Engineer will review, supplement, and edit the initial punch list prepared by Contractor or prepare an additional punch list if Contractor has not yet provided a punch list. If Owner or Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Owner and Engineer consider the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall set forth (i) the date of Substantial Completion, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Contractor's responsibility for the Project's security, maintenance, utilities and insurance pending final payment and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. If Owner and Engineer do not consider the Work substantially complete, the Engineer shall notify Contractor of such, in writing, with a specific explanation of those portions of the Work that are the basis for determining the Work is not substantially complete. If the Agreement calls for a Design- Build project delivery method, the Contractor shall submit a preliminary certificate of Substantial Completion to the Owner.
- D. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03 for that part of the Work.
 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Owner or Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Owner or Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work.
 4. No use or occupancy or separate operation of part of the Work by Owner will relieve Contractor of its insurance obligations under these Contract Documents.
- B. The Owner, at the Owner's sole option, shall have the right to take possession of and use any completed or partially completed portion of the Work regardless of the time for completing the entire Work. The Owner's exercise of such use and possession shall not be construed to mean that the Owner acknowledges that any part of the Work so possessed and used is substantially complete or that it is accepted by Owner, and the Owner's exercise of such use and possession shall not relieve the Contractor of its responsibility to complete all Work in accordance with the Contract Documents.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies. In such case, Contractor must bear the cost of any additional Work or services of the Owner until the Work is determined to be finally complete.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer and Owner, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled;
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights or claims arising out of the Work, and of Liens or claims filed in connection with the Work; and
 - f. a general release executed by Contractor waiving, upon receipt of final payment by Contractor, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien or claim could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in claims, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien or claim, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's

recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due*: Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from defective Work appearing after final inspection, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted, expressly reserved, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is in need of repair, adjustment, modification, correction, or found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.

- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply an Architect, Engineer, or sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 2. Fails to make payment to the Consultants, Contractors, Subcontractors, or Suppliers for services, materials or labor in accordance with their respective agreements with the Contractor;
 3. Repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

4. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents; or
 5. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor and the Contractor's surety, if any, ten (10) days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
1. declare Contractor to be in default,
 2. exercise any rights afford to it under the Contract Documents,
 3. give Contractor notice that the Contract is terminated; and/or
 4. enforce the rights available to Owner under any applicable performance bond.
- C. If Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient. If Owner chooses to complete the Work in accordance with this provision, Owner and Contractor expressly agree that Owner shall be exempt from publicly bidding the completion work pursuant to Sections 252.021 and 252.022 of the Texas Local Government Code.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within the ten (10) day cure period begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds to complete the Work and/or correct the default, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Contractor will only be entitled to be paid for Work performed prior to its default. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such costs shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Contractor's default.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety.

- G. If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Paragraph 16.03 of the Agreement.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven (7) days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid (subject to the GMP) for:
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work; and
 - 3. demobilization expenses.
- B. Contractor shall not be paid for any economic loss arising out of or resulting from such termination, except for those costs expressly identified above.
- C. Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:
 - 1. cease operations as directed by the Owner in the notice and, if required by the Owner, participate in an inspection of the Work with the Owner to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
 - 2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
 - 3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.
- D. If Owner terminates the contract for convenience and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in the Contract Documents.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 180 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 60 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 60 days to pay Contractor any sum finally determined to be due, Contractor may, seven (7) days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
 - 3. Reserved claims of Owner or Contractor under these Control Documents, including Article 12.
- B. *Final Resolution of Disputes:*
 - 1. For any disputes subject to this article, Owner and Contractor shall endeavor to resolve their Claims by mediation. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction. Mediation is a condition precedent to litigation before a court of competent jurisdiction.
 - 2. For any claim not resolved by mediation, the parties agree to submit such claims to the jurisdiction of the District Court of El Paso County, Texas for final dispute resolution.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended;
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice; or
 - 3. delivered by electronic means with a corresponding confirmation of delivery or read receipt.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday, Sunday or a legal holiday, the computation of time will conclude on the next business day.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available, by special warranty or guarantee, or by other provisions of the Contract.

18.04 *Limitation of Damages*

- A. The Contractor and Owner waive claims against each other for the following damages arising out of or relating to this Contract. This mutual waiver includes:
 - 1. damages incurred by the Owner for loss of financing, business opportunity and reputation, and for loss of management or employee productivity or of the services of such persons; and
 - 2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, bonding capacity, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.
- B. The damages limitation set forth in Paragraph 18.04.A above is not intended to affect the payment of liquidated damages, if applicable, or delay damages which both parties recognize has been established, in part, to reimburse Owner for some damages that might otherwise be deemed to be incidental to the Work.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state of Texas. However, the laws of the state in which Project is located, including applicable federal laws and governmental authorizations and permits issued with respect to the Work pursuant to state or federal law, shall pertain as to the duty of Contractor to construct the Work in compliance with legal requirements.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions, and shall not in any way be construed to limit or alter the meaning of any provision.

18.09 *Prevailing Wage*

- A. Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage.

18.10 *Right to Audit:*

- A. Whenever the Owner enters into any type of contractual arrangement with the Contractor, then the Contractor's "records" shall upon reasonable notice be open to inspection and subject to audit and/or reproduction during normal business working hours. The Owner's representative, or an outside representative engaged by the Owner, may perform such audits. The Contractor shall maintain all records relating to this Agreement for four (4) years from the date of final payment under this Agreement.
- B. The Owner shall have the exclusive right to examine the records of the Contractor. The term "records" as referred to herein shall include any and all information, materials and data of every kind and character, including without limitation records, books, papers, documents, contracts, schedules, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may, in the Owner's judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any contract document. Such records shall include (hard copy, as well as computer-readable data if it can be made available), written policies and procedures, time sheets, payroll registers, cancelled checks, personnel file data, correspondence, general ledger entries, and any other record in the Contractor's possession which may have a bearing on matters of interest to the Owner in connection with the Contractor's dealings with the Owner (all of the foregoing are hereinafter referred to as "records"). In addition, the Contractor shall permit interviews of employees as well as agents, representatives, vendors, subcontractors and other third parties paid by the Contractor to the extent necessary to adequately permit evaluation and verification of the following:
 - 1. The Contractor's compliance with contract requirements;
 - 2. The Contractor's compliance with the Owner's business ethics policies; and
 - 3. If necessary, the extent of the Work performed by the Contractor at the time of contract termination.
- C. The Contractor shall require all payees (examples of payees include subcontractors, insurance agents, material suppliers, etc.) to comply with the provisions of this Article

18.10 by securing the requirements hereof in a written agreement between the Contractor and payee. Such requirements include a flow-down right of audit provision in contracts with payees that also apply to subcontractors and sub-subcontractors, material suppliers, etc. The Contractor shall cooperate fully and shall require Related Parties and all of the Contractor's subcontractors to cooperate fully in furnishing or in making available to the Owner from time to time whenever requested, in an expeditious manner, any and all such information, materials, and data.

- D. The Owner's authorized representative or designee shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with this Article 18.10.
- E. If an audit inspection or examination in accordance with this Article 18.10 discloses overpricing or overcharges of any nature by the Contractor to the Owner in excess of one-half of one percent (.5%) of the total contract billings, then the reasonable actual cost of the Owner's audit shall be reimbursed to the Owner by the Contractor. Any adjustments and/or payments, which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records, shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the Owner's findings to the Contractor.

18.11 *Trust Funds*

- A. This Project is subject to the Texas Trust Fund Statute, chapter 162 of the Texas Property Code, and the Parties acknowledge that the payment obligations contained herein for the Contractor to receive funds from the Owner and then use those funds to pay such Subcontractors, Suppliers, Vendors, Consultants, and the like, are subject to the Trust Fund Statute and the Owner's audit rights outline in this article 18.

18.12 *Severability*

- A. If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

18.13 *Amendments*

- A. The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

18.14 *Assignment*

- A. Contractor shall not, without the written consent of the Owner assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents, other than to an affiliate. An assignment to an affiliate shall not relieve the assignor of its obligations under this Agreement.

18.15 *Confidential Information*

- A. Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (a) the transmitting party identifies as either confidential or proprietary; (b) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (c) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.
- B. A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

18.16 *Public Art Component*

- A. This Project is subject to the Owner's Public Art initiative and, as such, two percent (2%) of the Project budget, through separate funds, are devoted to the commission or acquisition and installation of a public art work. The Contractor expressly acknowledges that the Public Art component is part of the Work. The Contractor agrees to coordinate with the Owner and the artist for installation of the art work at the direction of the artist and the Owner. The cost of such coordination, direction and installation shall be born by Contractor and are part of the Contract Price.

18.17 *Open Records Act/Texas Public Information Act Requests*

- A. The Contractor recognizes that this Project is publicly owned and the Owner is subject to the disclosure requirements of the Texas Public Information Act ("TPIA"). As part of its obligations within the Contract Documents, the Contractor agrees, at no additional cost to the Owner, to cooperate with the Owner for any particular needs or obligations arising out of the Owner's obligations under the TPIA. This acknowledgement and obligation are in addition to and complimentary to the Owner's audit rights in section 18.10.



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-602, **Version:** 2

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Members of the City Council, Representative Cassandra Hernandez, (915) 212-0003

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action to approve a Resolution that declares the fourth Saturday of April as "Celebrate Trails Day" and urges all residents to participate in this observance by exploring and supporting our local trails.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: Mayor & Council

AGENDA DATE: 4.23.24

CONTACT PERSON NAME AND PHONE NUMBER: Representative Cassandra Hernandez ~ 915.212.0003

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL

Goal 4 - Enhance El Paso's Quality of Life through Recreational, Cultural and Educational Environments

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and action to approve a resolution that declares the fourth Saturday of April as "Celebrate Trails Day" and urges all residents to participate in this observance by exploring and supporting our local trails.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The Rails-to-Trails Conservancy, a non-profit organization dedicated to advocating for and creating a nationwide network of trails, has established a yearly Celebrate Trails Day held on the fourth Saturday of April as a day of national recognition for the value of trails in our communities.

The Paso del Norte Trail offers a blend of connectivity, historical significance, and environmental conservation, which enhance the quality of life for our residents and visitors alike.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, there have been many items on the agenda promoting El Paso's quality of life and recreation offerings.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

*****REQUIRED AUTHORIZATION*****

RESOLUTION

WHEREAS, the Rails-to-Trails Conservancy, a non-profit organization dedicated to advocating for and creating a nationwide network of trails, has established a yearly Celebrate Trails Day held on the fourth Saturday of April as a day of national recognition for the value of trails in our communities; and

WHEREAS, this observance aligns with City of El Paso's strategic goal of enhancing El Paso's quality of life through recreational, cultural, and educational environments; and

WHEREAS, trails provide safe, equitable, and accessible recreational opportunities for residents of all ages and abilities, contributing to the physical and mental well-being of our community; and

WHEREAS, the Paso del Norte Trail offers a blend of connectivity, historical significance, and environmental conservation, which enhance the quality of life for our residents and visitors alike; and

WHEREAS, Celebrate Trails Day encourages individuals and families to explore and enjoy the network of trails available in our community, fostering a greater appreciation for these valuable facilities, environmental stewardship, and sustainable transportation; and

WHEREAS, the collaboration between local governments, non-profit organizations, businesses, and community members is essential in the maintenance, expansion, and promotion of our trails system;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EL PASO:

Recognizes the importance of trails in promoting health, fitness, and conservation efforts, as well as in fostering community ties and economic development within our city and declares the fourth Saturday of April as "Celebrate Trails Day" and urges all residents to participate in this observance by exploring and supporting our local trails.

(Signatures begin on following page)

PASSED AND APPROVED this 23rd day of April, 2024.


THE CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Josette Flores
Deputy City Attorney



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-592, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Members of the City Council, Representative Brian Kennedy, (915) 212-0001

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action to direct the City Attorney to draft an ordinance amendment to the Sound Amplification Permit to include the Downtown District.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT:

Mayor and City Council

AGENDA DATE:

April 23, 2024

CONTACT PERSON NAME AND PHONE NUMBER:

City Representative Brian Kennedy, 915.212.0001

DISTRICT(S) AFFECTED:

All Districts

STRATEGIC GOAL:

Goal 2.8, Implement effective code enforcement strategies to reduce nuisances, enhance visual appearance and improve overall health and safety.

SUBJECT:

Discussion and action to direct the City Attorney to draft an ordinance amendment to the Sound Amplification Permit to include the Downtown District.

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A



Legislation Text

File #: 24-603, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Members of the City Council, Representative Henry Rivera, (915) 212-0007

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action to approve a Resolution that declares that the expenditure of District 7 discretionary funds, in an amount not to exceed \$5,500.00, to purchase two (2) radar-based traffic data collectors to be utilized by El Paso Police Department, this expenditure serves the municipal purpose of increasing public safety operation efficiency.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Mayor and Council

AGENDA DATE: 04/23/2024

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER: Henry Rivera 915-212-0007

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2 Set the Standard for safe and secure City.

SUBJECT:

Discussion and action to approve a resolution that declares that the expenditure of District 7 discretionary funds, in an amount not to exceed \$5,500.00, to purchase two (2) radar-based traffic data collectors to be utilized by El Paso Police Department, this expenditure serves the municipal purpose of increasing public safety operation efficiency.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Increases Public Safety by assisting our officers with equipment necessary to capture needed to curve speeders.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

N/A

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Funds will come from District 7 Discretionary Funds and has been budgeted.

*******REQUIRED AUTHORIZATION*******

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council declares that the expenditure of District 7 discretionary funds, in an amount not to exceed \$5,500.00, to purchase two (2) radar-based traffic data collectors to be utilized by El Paso Police Department, this expenditure serves the municipal purpose of increasing public safety operation efficiency.

APPROVED this _____ day of _____, 2024.

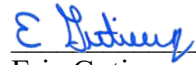
THE CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Eric Gutierrez
Senior Assistant City Attorney



Legislation Text

File #: 24-605, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 4

Members of the City Council, Representative Joe Molinar, (915) 212-0004

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action to authorize the expenditure of District 4 discretionary funds, in an amount not to exceed \$60,000.00, to supplement the cost of Playground Equipment, Option #1, for the sole installation and use at Arlington Park located at 10360 Pasadena Circle located on District 4, serves the municipal purpose of fostering community pride, improving the visual impression of the community, creating innovative recreational programs, and aligning and implementing key investment strategies sustaining and enhancing park system operations and outdoor offerings.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: MAYOR AND COUNCIL

AGENDA DATE: April 23, 2024

CONTACT PERSON NAME AND PHONE NUMBER:

City Representative Joe Molinar, 915-212-0004

DISTRICT(S) AFFECTED: District 4

STRATEGIC GOAL: (Goal 4 - Enhance El Paso's Quality of Life Through Recreational, Cultural & Educational Environments)

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and action to authorize the expenditure of District 4 discretionary funds, in an amount not to exceed \$60,000.00, to supplement the cost of Playground Equipment, Option #1, for the sole installation and use at Arlington Park located at 10360 Pasadena Circle located on District 4, serves the municipal purpose of fostering community pride, improving the visual impression of the community, creating innovative recreational programs, and aligning and implementing key investment strategies sustaining and enhancing park system operations and outdoor offerings.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

N/A

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

N/A

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

*****REQUIRED AUTHORIZATION*****

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council declares that the expenditure of District 4 discretionary funds, in an amount not to exceed \$60,000, to supplement the cost of Playground Equipment, Option #1, for the sole installation and use at Arlington Park located at 10360 Pasadena Circle located on District 4, serves the municipal purpose of fostering community pride, improving the visual impression of the community, creating innovative recreational programs, and aligning and implementing key investment strategies sustaining and enhancing park system operations and outdoor offerings; and

Further, that the City Attorney be authorized to negotiate and the City Manager be authorized to sign an appropriate contract and contract amendment to ensure that the funds are properly expended for the municipal purpose.

APPROVED this _____ day of _____ 2024.

THE CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Karla Saenz

Karla A. Saenz
Assistant City Attorney



Legislation Text

File #: 24-572, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Members of the City Council, Mayor Oscar Leeser, (915) 212-0021

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action to direct the City Manager and the City Attorney to eliminate City Council regularly scheduled Executive Sessions and make all items part of the public City Council meeting, so that El Pasoans receive the same access to information that special interest groups are receiving from members attending Executive Session.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: Mayor & Council

AGENDA DATE: April 23, 2024

CONTACT PERSON NAME AND PHONE NUMBER: Mayor Oscar Leeser (915) 212-0021

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 5: Promote Transparent and Consistent Communication
Amongst All Members of the Community

SUBJECT:

Discussion and action to direct the City Manager and the City Attorney to eliminate City Council regularly scheduled Executive Sessions and make all items part of the public City Council meeting, so that El Pasoans receive the same access to information that special interest groups are receiving from members attending Executive Session.

BACKGROUND / DISCUSSION:

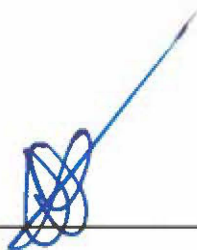
Backup and examples are pending.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

AMOUNT AND SOURCE OF FUNDING:

N/A

A handwritten signature in blue ink, consisting of a stylized, cursive 'O' or 'L' shape, is written over a horizontal line.

*****REQUIRED AUTHORIZATION*****



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-573, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

All Districts

Libraries, Norma Martinez, (915) 212-3200

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Management update on Enhanced Library Card.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Libraries

AGENDA DATE: 04/23/24

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Norma Martinez, 915-212-3200

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 4: Enhance El Paso's quality of life through recreational, cultural and educational environments

SUBGOAL: 4.2: Create innovative recreational, educational and cultural programs

SUBJECT:

Management Update on Enhanced Library Card

BACKGROUND / DISCUSSION:

Management update on progress made since last Council action, to include design and procurement of the card, documents to be used for verifying identify and residency, and next steps.

PRIOR COUNCIL ACTION:

October 24, 2023 – A presentation on the feasibility study for the municipal ID and Enhanced Library Card was presented. Council approved moving forward with the establishment of the Enhanced Library Card in a pilot program at 4 library locations with potential expansion to more locations in the future.

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Norma P. Martinez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-467, Version: 2

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Presentation and discussion by the El Paso Central Appraisal District's Executive Director and Chief Appraiser Dinah Kilgore on the City of El Paso's 2024 Pre-Preliminary Values and Protest Period.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 30, 2024

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER:

K. Nicole Cote, Managing Director, City Manager's Office (915) 212-1092

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: 6. Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: N/A

SUBJECT: Presentation, discussion by the El Paso Central Appraisal District's Executive director and Chief Appraiser Dinah Kilgore on the City of El Paso's 2024 Pre-Preliminary Values and Protest Period.

BACKGROUND / DISCUSSION:

PRIOR COUNCIL ACTION:

August 15, 2023 the property tax rate was adopted as part of the FY 2024 Budget process.

AMOUNT AND SOURCE OF FUNDING: N/A

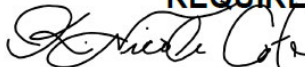
HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: City Manager's Office - Office of Management and Budget

SECONDARY DEPARTMENT: All City

*******REQUIRED AUTHORIZATION*******

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)



Legislation Text

File #: 24-556, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Kevin Smith, (915) 212-1566

El Paso Water, Adriana Castillo, (915) 594-5538

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

A Public Hearing to discuss and review a proposed ordinance amending Land Use Assumptions, Capital Improvements Plan, and Impact Fees.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Kevin Smith, (915) 212-1566
Adriana Castillo, El Paso Water, (915) 594-5538

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.1 Provide business friendly permitting and inspection process
3.2 Set one standard for infrastructure across the city

SUBJECT:

A public hearing to discuss and review a proposed ordinance amending land use assumptions, capital improvements plan, and impact fees.

BACKGROUND / DISCUSSION:

This item is a public hearing to discuss and review a proposed ordinance amending land use assumptions, capital improvements plan, and impact fee in accordance with Texas Local Government Code 395.054. This is part of the re-evaluation process of the impact fee structure for water and wastewater improvements.

PRIOR COUNCIL ACTION:

May 12, 2009 – City Council adopted Ordinance 017113 for impact fees for water and wastewater services and ancillary items.

February 26, 2024 – City Council received a briefing on an update on the land use assumptions and capital improvements plan. The draft impact fee calculations were also presented.

March 12, 2024 – a public hearing was held at City Council to discuss and review the update of the land use assumptions and capital improvements plan and determine whether to amend the plan.

March 12, 2024 – City Council adopted a Resolution establishing April 23, 2024 as the public hearing for a proposed ordinance amending land use assumptions, capital improvements plan, and impact fees.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

2024 UPDATE

LAND USE ASSUMPTIONS TECHNICAL REPORT

The review, evaluation, and update of underlying land use assumptions is required by Chapter 395 of the Texas Local Government Code to ensure reasonable future growth and acts as the basis of the City of El Paso's water and wastewater capital improvement plans, thus resulting in impact fee calculations. This report updates the land use assumptions adopted by the El Paso City Council on February 18, 2014, which serve as the foundation for the current water and wastewater impact fees levied on new development in each of the three identified service areas.

Introduction

Texas Local Government Code Chapter 395 permits the use of impact fees to finance capital improvement and facility expansion costs attributable to projected new development within identified service areas located in the corporate boundaries or extraterritorial jurisdiction of a political subdivision. To determine the costs of providing such infrastructure accurately, a planning study known as a Land Use Assumptions (LUA) report is assembled to include a description of changes in land uses, densities, intensities, and population projected within each of these service areas over a 10-year period, as well as at full build-out. The LUA report is referenced in the development of a Capital Improvements Plan (CIP) and the adoption of an impact fee ordinance.

To ensure reasonable future growth estimates serve as the basis for expected capital improvements and facility expansions necessitated by new development and the resulting impact fee calculations, the review, evaluation and update of the underlying LUA and CIP is required at least every five years. Following preparation of this update, the political subdivision's governing body (City Council) is required to hold a public hearing for the purpose of reviewing and determining whether amendments to the LUA, CIP, or the adopted impact fees are necessary.

This report, prepared by the City of El Paso's Planning and Inspections Department (P&I), in partnership with El Paso Water (EPW), is intended to fulfill the requirements of Chapter 395 of the Local Government Code with respect to the periodic review and update of the LUA report. Specifically, this report reassesses the land use assumptions adopted by the El Paso City Council on February 18, 2014. The assumptions adopted on that date comprise the first update of the original assumptions, adopted on March 24, 2009; this report comprises the second update.

In addition to providing information about projected land use characteristics within the three established service areas (Eastside, Northeast, and Westside Water and Sewer Impact Fee Service Areas), this report estimates the total number of projected service units, or standardized measurement of consumption, necessitated by new development, and also provides a snapshot forecast of demand for water and wastewater system improvements or expansion by the year 2033. While a number of unforeseeable future events may affect these predictions, the estimates in this report are based on the best information that is currently available.

Elements of the Land Use Assumptions Report Update

The body of this report is divided into five sections:

Impact Fee Service Areas: An explanation and description of the water and wastewater impact fee service areas.

Methodology: An explanation of the general methodology used to prepare and update the land use assumptions.

Full Build-Out Projection: Population and service unit holding capacity of land located within the impact fee service areas.

Ten-Year Growth Projection: Population and service unit growth assumptions for the period between 2024 and 2033.

Summary: A brief summation of the land use assumptions report 2024 update.

Impact Fee Service Areas

Per state law, one or more service areas must be identified and used in all impact fee analyses to ensure that planned capital improvements and facility expansions, as well as the resulting fee structure, are commensurate with projected proximate demand. A service area may include all or part of the land located within the corporate boundaries of the political subdivision or its extraterritorial jurisdiction (ETJ). Currently, City of El Paso water and wastewater impact fees are levied on three specific service areas within the City's corporate boundary and the ETJ; these areas are referred to as the Northeast, Westside, and Eastside Water and Sewer Impact Fee Service Areas. See Figure 1 for a map delineating the location of the three service areas.

Each service area includes portions or all of the sub-service areas defined in the City of El Paso's Final Annexation Assessment and Strategy Report, completed in the fall of 2008, as well as other areas identified within the Water and Wastewater Impact Fees – Report Addendum, completed in March 2009. See Table 1 for an overview of size and existing intensity characteristics within the three impact fee service areas and the nineteen (19) sub-service areas included in this edition of the report.

In total, the three service areas currently encompass 40,095 acres of land, with nearly two-thirds of the total acreage within the El Paso city limits, while the remaining portion lies within the City's ETJ. The Northeast Service Area is the largest of the three, comprising approximately 47 percent (19,096 acres) of the composite acreage, while the Eastside Service Area currently constitutes nearly 30 percent (12,012 acres) and the Westside Service Area approximately 23 percent (8,987 acres). Each of these areas is likely to be developed, at least partially, within the next ten years.

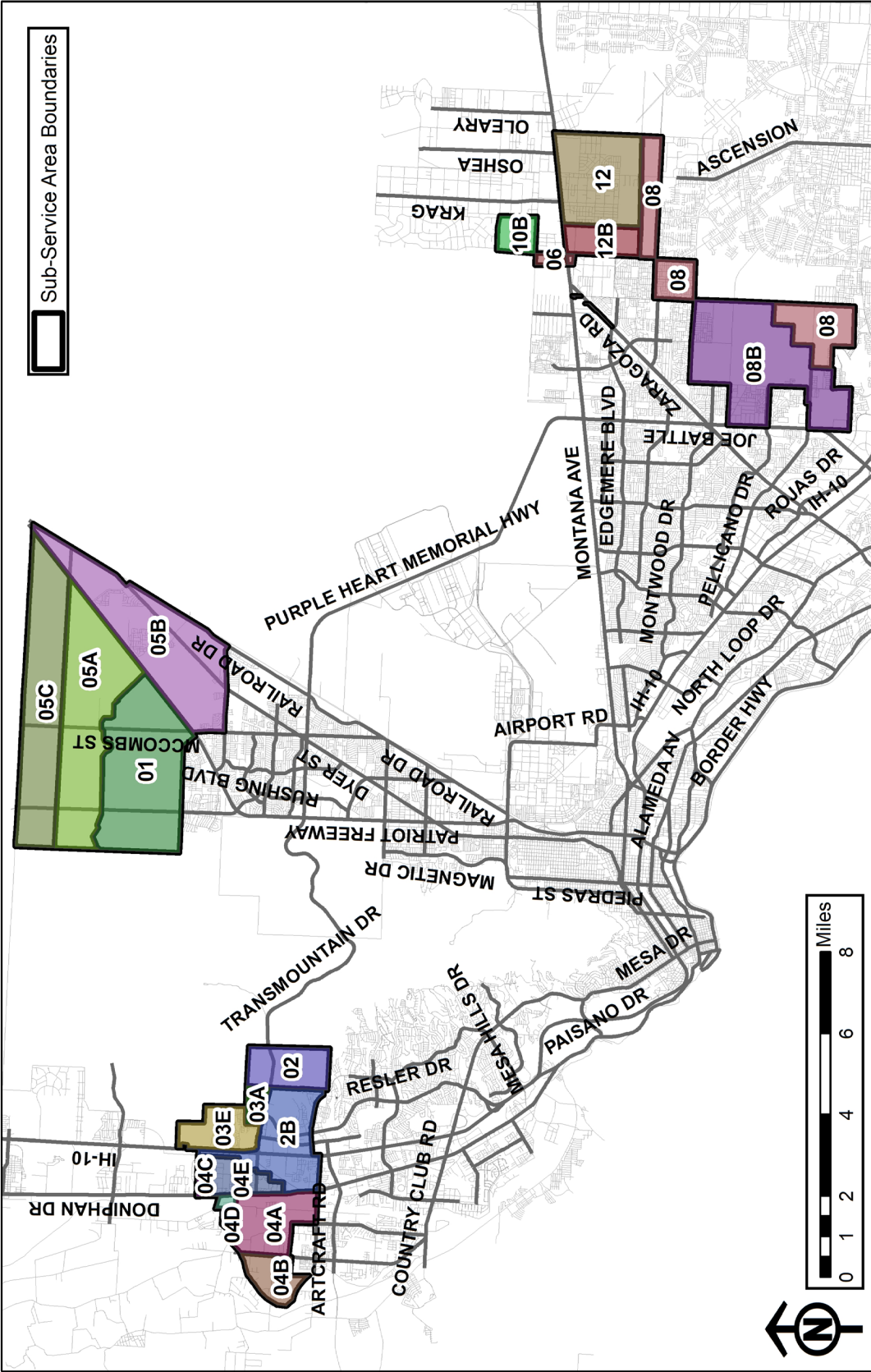


Figure 1. City of El Paso Water and Sewer Impact Fee Service Area

Table 1 provides a snapshot of existing development intensity within the impact fee service areas and sub-service areas. For the purposes of this report, development intensity is defined as the proportion of acreage within each impact fee service area built upon and zoned to a residential, commercial or industrial district. With respect to current development intensity, approximately 33% of the impact fee composite area is presently developed, representing approximately 13,128 acres.

Service Area	Total Acreage	Developed Acreage	% Acreage Developed
Northeast Impact Fee Service Area			
01 Northeast MP	4,835	610.1	13%
05A Northwest Fort Bliss A	4,812	574.4	12%
05B Northwest Fort Bliss B	4,929	2,153.8	44%
05C Northwest Fort Bliss C	4,520	965.9	21%
Northeast Subtotal	19,096	4,304	23%
Westside Impact Fee Service Area			
02 Westside MP	1,589	91.0	6%
03A Northwest Vinton A	294	38.7	13%
03E I-10375 MP	1,132	668.4	59%
04A Northwest Artcraft A	1,639	314.5	19%
04B Northwest Artcraft B	807	221.7	27%
04C Northwest Artcraft C	159	130.0	82%
04D Northwest Artcraft D	218	157.0	72%
04E Canutillo	801	705.0	88%
2B (Other)	2,348	1,845.4	79%
Westside Subtotal	8,987	4,172	46%
Eastside Impact Fee Service Area			
08B Eastside	4,826	1,165.6	24%
12 South Montana	2,919	1,695.9	58%
12B South Montana B	785	357.4	46%
06 South Fort Bliss	118	1.9	2%
08 East Battle	2,826	1,409.7	50%
10B South Fort Bliss B	538	21.2	4%
Eastside Subtotal	12,012	4,652	39%
Total	40,095	13,128	33%

Table 1. Impact Fee Service Area 2023 Existing Characteristics

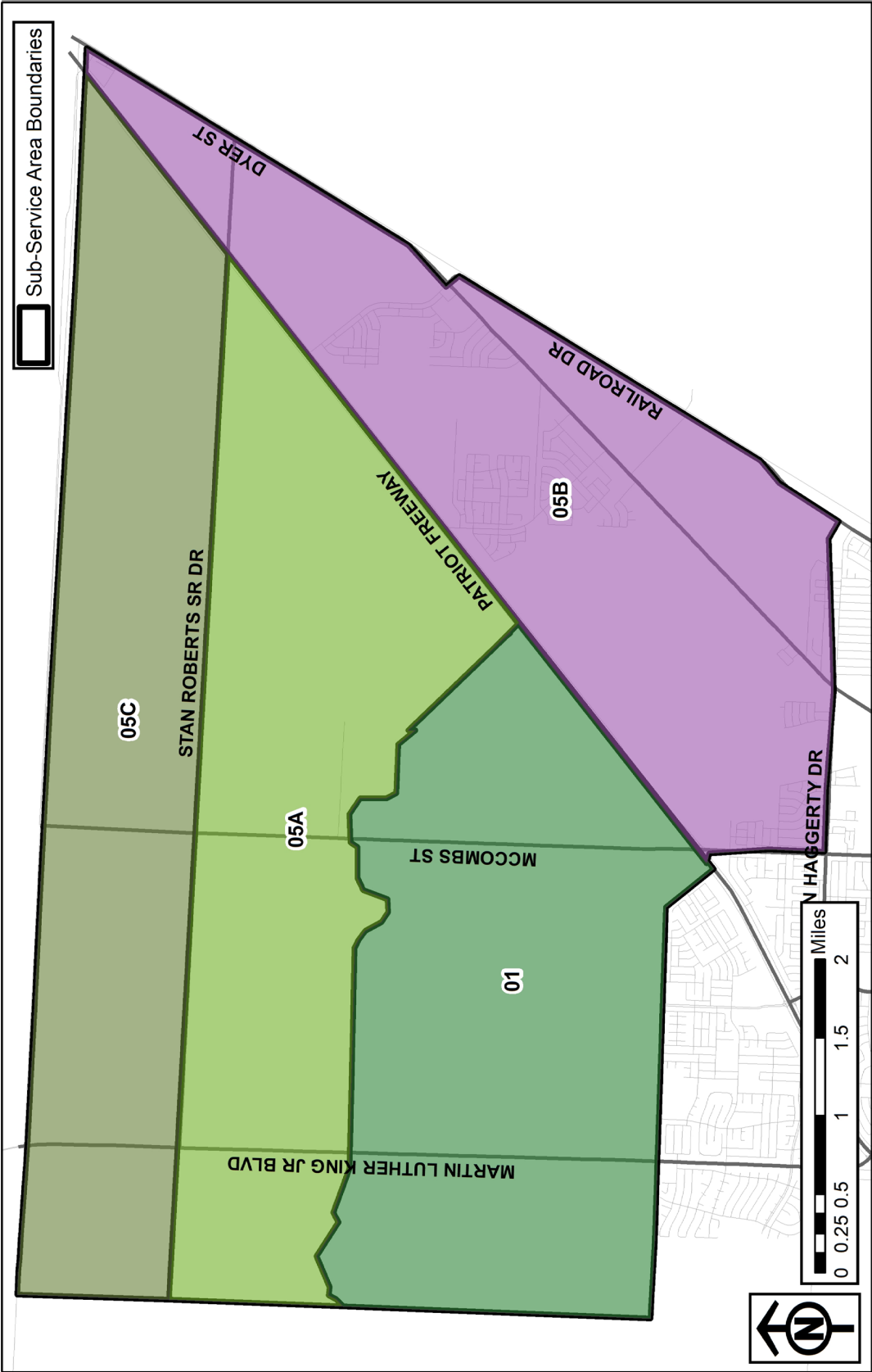


Figure 2. Northeast Water and Sewer Impact Fee Service Area

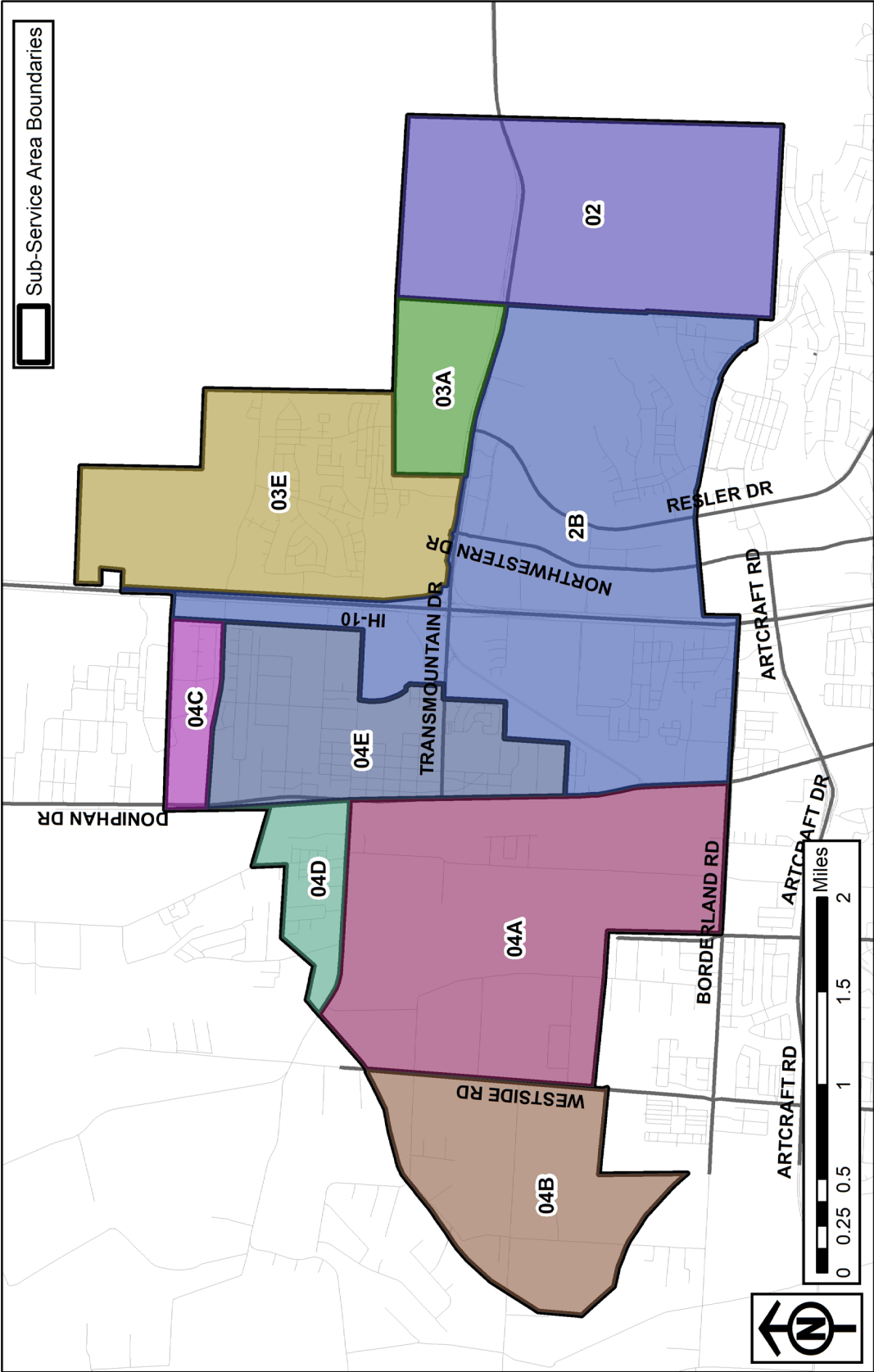


Figure 3. Westside Water and Sewer Impact Fee Service Area

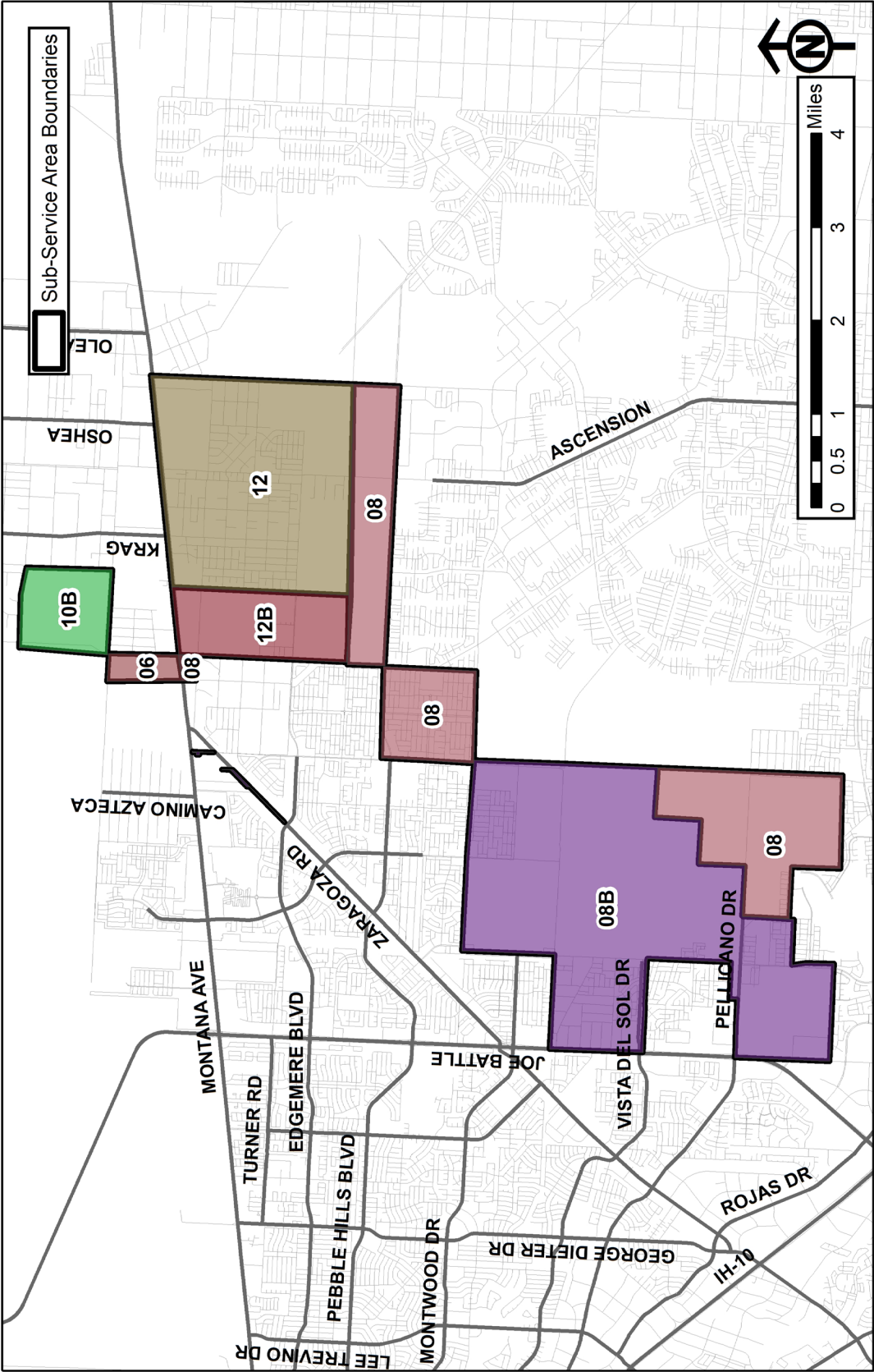


Figure 4. Eastside Water and Sewer Impact Fee Service Area

Methodology

The City of El Paso's existing water and wastewater fee structure is based on a series of growth assumptions which have in turn been used to inform expected capital improvement and facility expansion needs. The updated land use assumptions and associated population and service unit projections contained in this report are formulated based on consideration and incorporation of the following development patterns:

- Current development trends and characteristics;
- Zoning patterns in place and in process;
- Known or anticipated subdivision of land;
- Historic and anticipated growth trends;
- Expected future land use envisioned by *Plan El Paso*;
- Existing master plans

Land Use Assumption Update

Update of the 2014 growth projections began with the development of a database summarizing expected land use acreage at full build-out within each of the nineteen sub-service areas. Assembly of the database included analysis of the City's current zoning map and aerial photography. Zoning cases and subdivision plats in progress provided further information about near future development trends, as did surrounding development densities and types. Additionally, several approved master plans, including land studies and master zoning plans were used in determining the allocation of land use types. Developments were analyzed in each of the three impact fee service areas, including the Northeast (Campo Del Sol and Vista Del Norte Estates), Westside (Cimarron and Enchanted Hills developments), and in the Eastside (Gateway Estates and Tierra Del Este Phases IV, V, and VI).

Consistent with previous analyses, acreage within the impact fee service areas was allocated to either a non-residential or residential land use. Non-residential land use categories include: commercial, industrial, floodplain, institutional/utilities, open space, transportation, parkland or undeveloped land. Residential land use categories are defined by residential type (i.e. conventional or mixed-use) and associated density. Here, development density refers to the number of service units (either residential or residential equivalents) per acre. The level of density will differ by land use; for example, a high-density residential zone is assumed to accommodate relatively more service units per acre when compared to a low-density residential use. Appendix A provides a series of maps delineating previously adopted land use assumptions, as well as updated land use assumptions within each of the three impact fee areas.

Full Build-Out and Ten-Year Growth Projections Update

This expected land use acreage database was then used to update growth assumptions for two time horizons: a ten-year projection, and a full build-out projection. Development of these scenarios involved the estimation of population and service unit figures, two variables intended to provide information regarding demand for water and wastewater services in the impact fee service areas. A service unit is defined as a standardized measure of consumption attributable to an individual unit of development, while population is defined as the number of residents located within an impact fee service area.

Full Build-Out Projection:

The full build-out scenario is intended to provide information about the maximum realistic holding capacity for land within each of the impact fee service areas. It is therefore not tied to a specific time period as a number of external factors, such as economic growth and political events, will ultimately influence development.

Estimation of the full build-out scenario involves the following assumptions:

- For residential land uses, service units per acre are assigned according to the densities provided in Table 2 below. These densities are estimated based on current zoning restrictions, historic trends, and, where applicable, information provided in each of the approved master plans.
- Population per residential service unit is assumed to follow a household size of 2.94 persons per housing unit in El Paso County, as per the Census Quickfacts 2017-2021 estimates. Note that one housing unit is the equivalent of one residential service unit.
- For non-residential land uses, only lands categorized as a commercial or industrial land use type are expected to require water and wastewater services. Based on information provided by the El Paso Water, it is assumed that such land uses will require 7.25 residential equivalent service units per acre.

Land Use Type	Service Units per Acre
Conventional Residential Development	
Low Density	2
Medium Density	4.5
Medium High Density	6
High Density	9
Mixed-Use Development	
Mixed-Use	6
Non-Residential	
Commercial	7.25
Industrial	7.25

Table 2. Land Use Density Assumptions

Using the assumptions outlined in Table 2, the holding capacity within each impact fee service area is projected by first applying the non-residential and residential service unit density per acre to total commercial, industrial, and residential land use acreage figures as identified in the land use assumptions database (detailed in Appendices B-C). Land capacity for population is then derived by applying a factor of 2.94 to total residential service units at full build-out in each of the impact fee service areas.

Ten-Year Growth Projection

Following the development of the full build-out scenario, service unit and population growth projections for the time period corresponding to 2024-2033 were developed. In accordance with state law, the ten-year projections are intended to provide reasonable estimates of demand for water and wastewater services within the established impact fee service area boundaries over a practical planning period. These estimates are then used to inform potential modifications to the associated ten-year capital improvements plan and, if necessary, revisions to the existing impact fee structure.

In an effort to provide the most practical demand projections possible, growth rate assumptions vary by sub-service area. Estimating growth rates at the sub-service area level allows for the incorporation of several influencing factors, such as proximity to existing development and infrastructure, anticipated development projects, and expected phasing of master planned areas.

In the ten-year growth projections, the previously adopted projections were used as a starting point. Specifically, the 2014-2024 sub-service area projections were compared to existing development and adjusted to factor in the influencing factors outlined above, as well as revisions to land use assumptions summarized in Appendices A-C.

The remainder of this report provides service unit and population projections under the full build-out and ten-year scenarios. Each section includes projections by impact fee service area and by impact fee sub-service area. Refer to Appendices B-C for greater detail regarding land use assumptions, associated acreage, and projected service unit and population densities under the full build-out and ten-year scenarios.

Full Build-Out Projection

Table 3 on the following page summarizes total service unit and population projections by impact fee service area and sub-service area under the full build-out scenario. Given the land use assumptions summarized in this report, the three impact fee service areas are expected to hold 169,528 total service units and 281,107 residents at full capacity.

Service Area	Population at Build-Out	Service Units at Full-Build-Out		
		Residential	Non-Residential	Total
Northeast				
01 Northeast MP	48,334	16,440	2,175	18,615
05A Northwest Fort Bliss A	21,005	7,145	15,247	22,391
05B Northwest Fort Bliss B	41,128	13,989	12,144	26,133
05C Northwest Fort Bliss C	4,009	1,364	15,957	17,321
Northeast Subtotal	114,475	38,937	45,523	84,460
Westside				
02 Westside MP	0	0	0	0
03A Northwest Vinton A	209	71	761	832
03E I-10375 MP	10,333	3,515	1,740	5,255
04A Northwest Artcraft A	16,564	5,634	377	6,011
04B Northwest Artcraft B	9,182	3,123	261	3,384
04C Northwest Artcraft C	1,119	381	225	605
04D Northwest Artcraft D	2,209	752	80	831
04E Canutillo	6,178	2,102	1,240	3,341
02B Other	12,489	4,248	6,815	11,063
Westside Subtotal	58,283	19,824	11,498	31,322
Eastside				
08B Eastside	44,678	15,197	9,229	24,426
12 South Montana	25,225	8,580	2,791	11,371
12B South Montana B	7,722	2,627	1,276	3,903
06 South Fort Bliss	0	0	160	160
08 East Battle	21,803	7,416	3,437	10,853
10B South Fort Bliss B	8,921	3,035	0	3,035
Eastside Subtotal	108,349	36,854	16,893	53,746
Total	281,107	95,615	73,914	169,528

Table 3. Full Build-Out Projections

Ten-Year Growth Projection

Table 4 summarizes expected demand in 2033. Census data for 2000, 2010, and 2020 are provided as points of reference. By 2033 development within the composite impact fee service areas is anticipated to reach approximately 59% of total service unit holding capacity.

Service Area	Census			2033 Proj. Population	2033 Projected Service Units		
	2000	2010	2020		Residential	Non-Residential	Total
Northeast							
01 Northeast MP	0	0	13	39,193	13,331	1,740	15,071
05A Northwest Fort Bliss A	0	0	0	9,626	3,274	7,946	11,220
05B Northwest Fort Bliss B	2,199	4,799	10,735	29,162	9,919	6,537	16,456
05C Northwest Fort Bliss C	10	28	37	0	0	7,721	7,721
Northeast Subtotal	2,209	4,827	10,785	77,981	26,524	23,944	50,468
Westside							
02 Westside MP	0	0	0	0	0	0	0
03A Northwest Vinton A	0	0	0	209	71	207	278
03E I-10375 MP	0	0	2,142	9,202	3,130	653	3,783
04A Northwest Aircraft A	299	312	312	2,764	940	68	1,008
04B Northwest Aircraft B	289	251	289	3,014	1,025	81	1,106
04C Northwest Aircraft C	0	0	316	994	338	233	571
04D Northwest Aircraft D	836	1,001	635	2,020	687	80	767
04E Canutillo	3,633	4,760	4,615	8,258	2,809	1,091	3,900
02B Other	1,167	2,149	4,732	10,940	3,721	6,965	10,686
Westside Subtotal	6,224	8,473	13,041	37,400	12,721	9,378	22,099
Eastside							
08B Eastside	13	682	5,736	19,874	6,760	2,684	9,444
12 South Montana	6,766	7,625	7,483	11,457	3,897	2,198	6,095
12B South Montana B	0	7	12	4,933	1,678	809	2,487
06 South Fort Bliss	0	0	0	861	293	0	293
08 East Battle	0	0	1,460	16,420	5,585	2,920	8,505
10B South Fort Bliss B	0	0	0	2,984	1,015	0	1,015
Eastside Subtotal	6,779	8,335	14,691	56,530	19,228	8,611	27,839
Total	15,212	21,635	38,517	171,911	58,473	41,933	100,406

Table 4. Ten-Year Growth Projections

Summary

Table 5 provides a comparative analysis of the previously approved and updated residential service unit and population estimates under the full build-out scenario. Overall, total projected holding capacity for residential service units and population has remained relatively constant. While there is anticipated to be growth within these service areas, the effects of the COVID-19 pandemic, disruptions in the building supply chain, and current interest rates are impacting and anticipated to continue impacting the building growth over the next few years.

Service Area	Existing Build-Out Estimates		Updated Build-Out Estimates	
	Residential Service Units	Population	Residential Service Units	Population
Northeast	54,923	168,065	38,937	114,475
Westside	23,659	72,398	19,824	58,283
Eastside	37,753	115,524	36,854	108,349
Total	116,335	355,987	95,615	281,107

Table 5. Full Build-Out Projections Comparison

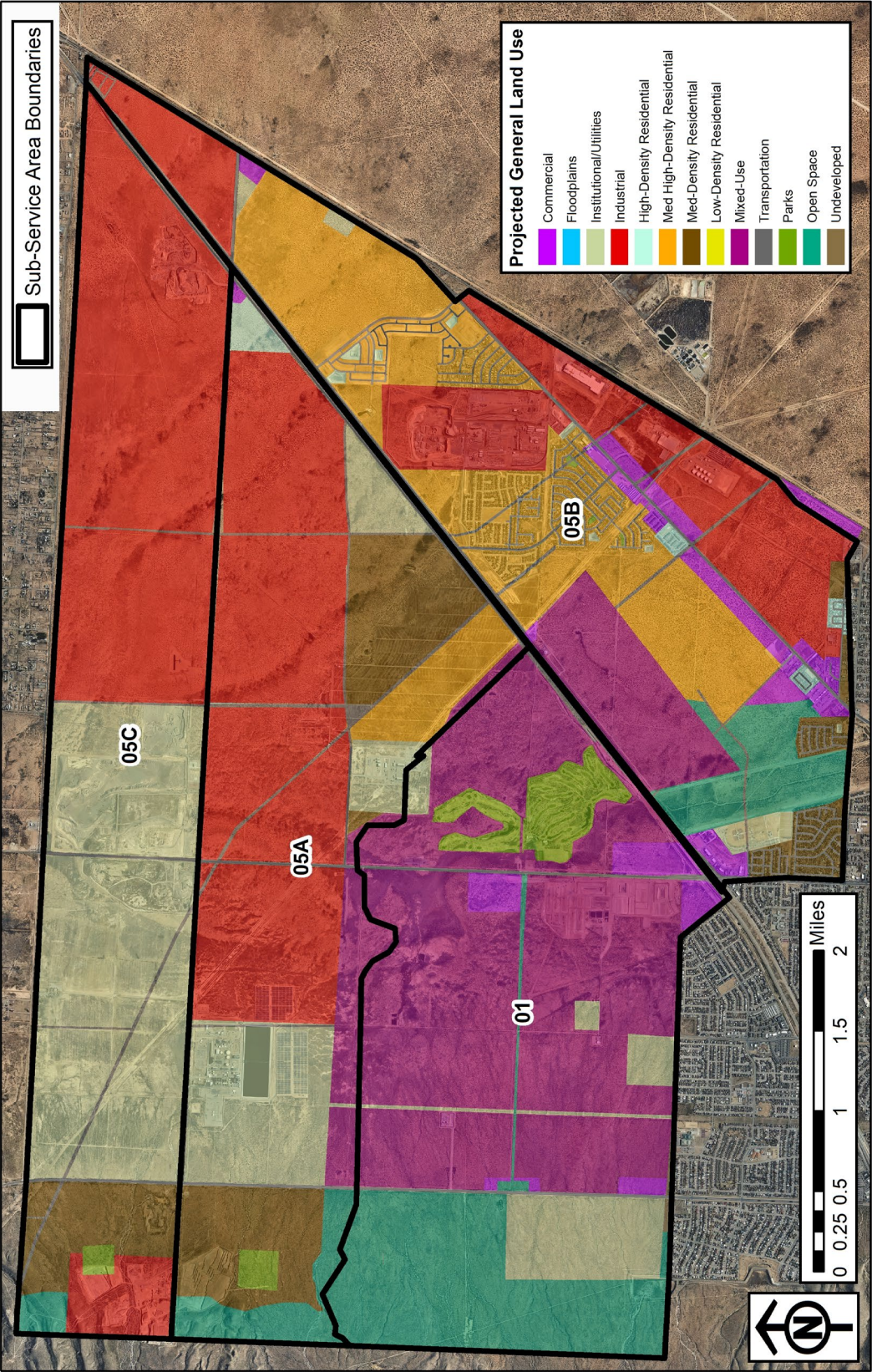
Table 6 provides a summary of the total service unit and population projections for both scenarios by impact fee service area. Given the updated land use assumptions, 170,232 total service units are projected at full build-out, while development demand will reach approximately 59% of the total holding capacity by 2033.

Service Area	Full Build-Out Scenario		2033 (Ten-Year) Scenario	
	Total Service Units	Population	Total Service Units	Population
Northeast	84,460	114,475	50,468	77,981
Westside	31,607	58,283	22,099	37,400
Eastside	54,165	108,349	27,839	56,530
Total	170,232	281,107	100,406	171,911

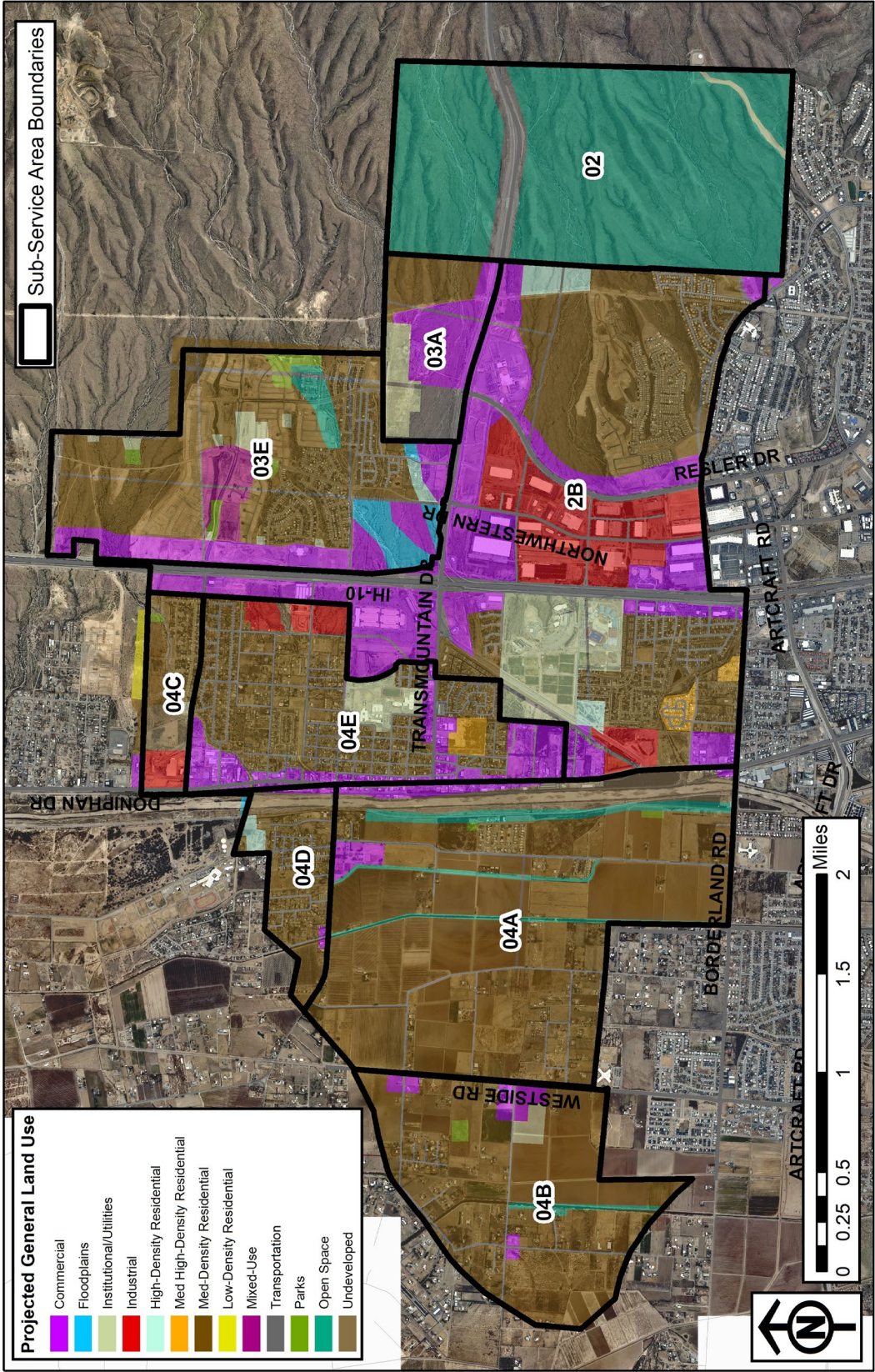
Table 6. Updated Projections Summary Table

Appendix A

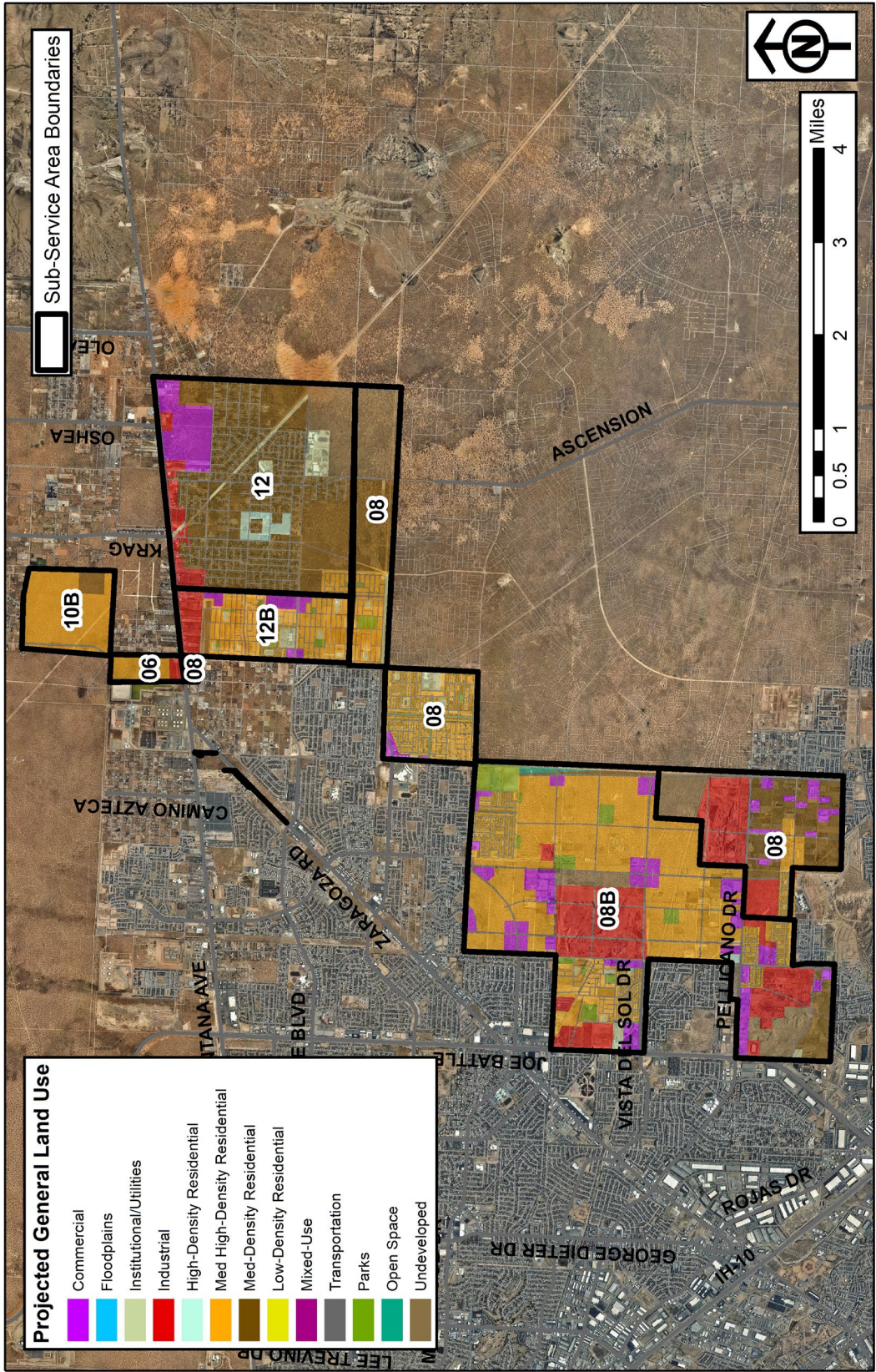
Land Use Assumptions Maps



Northeast Projected General Land Use



Westside Projected General Land Use



Eastside Projected General Land Use

Appendix B

Full Build-Out Projections

Service Area	Total Acreage		Non-Residential					Conventional Residential				Mixed Use			
	Transportation	Commercial	Industrial	Parkland	Floodplain	Open Space	Undeveloped	Institutional/Utilities	Low	Medium	Medium-High	High	Total	Mixed Use	
Northeast															
01 Northeast MP	4,835	99	300		255		968	20						0	
05A Northwest Fort Bliss A	4,812	260	5	2,098	38		229			775	229	51	1,055	304	
05B Northwest Fort Bliss B	4,929	446	304	1,371	9		348			172	1,649	37	1,858	498	
05C Northwest Fort Bliss C	4,520	154		2,201	23		51			303			303		
Northeast Subtotal	19,096	959	609	5,670	325	0	1,596	20	3,159	0	1,250	1,878	88	3,216	3,542
Westside															
02 Westside MP	1,589	91					1,483							0	
03A Northwest Vinton A	294	58	105							79				79	
03E I-10375 MP	1,132	71	220	20	34	57	50			581		9	590	60	
04A Northwest Artcraft A	1,639	75	52		4		106	150		1,252			1,252		
04B Northwest Artcraft B	807	38	36		6		17			694			694		
04C Northwest Artcraft C	159	15	5	26				16		17	77			94	
04D Northwest Artcraft D	218	25	11			3		22		147		10	157		
04E Canutillo	801	133	141	42				10		371	21	34	426		
02B (Other)	2,348	315	622	318						826	24	43	893		
Westside Subtotal	8,987	821	1,192	406	44	60	1,656	198	365	17	4,027	45	96	4,185	60
Eastside															
08B Eastside	4,826	509	471	802	186		23	228		167	2,388	13	2,568		
12 South Montana	2,919	347	247	138	121			242		1,716	38	70	1,824		
12B South Montana B	785	98	77	99	20					25	419		444		
06 South Fort Bliss	118	3		22						93			93		
08 East Battle	2,826	440	166	308	40			370		740	681		1,421		
10B South Fort Bliss B	538	21								45	472		517		
Eastside Subtotal	12,012	1,418	961	1,369	246	0	23	840	288	0	2,786	3,998	83	6,867	0
Total	40,095	3,198	2,762	7,445	615	60	3,275	1,058	3,812	17	8,063	5,921	267	14,268	3,602

Full Build-Out Projections

Service Area	Build-Out Non-Residential Service Units			Build-Out Conventional Service Units				Mixed Use Mixed Use	Build-Out Residential	Build-Out Non- Residential
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High			
Northeast				-	-	-	-	0		
01 Northeast MP	2,175		-	-	-	-	-	0	16,440	2,175
05A Northwest Fort Bliss A	36		15,211	-	3,488	1,374	459	5,321	7,145	15,247
05B Northwest Fort Bliss B	2,204		9,940	-	774	9,894	333	11,001	13,989	12,144
05C Northwest Fort Bliss C	-		15,957	-	1,364	-	-	1,364	1,364	15,957
Northeast Subtotal	4,415	0	41,108	0	5,625	11,268	792	17,685	38,937	45,523
Westside				-	-	-	-	-	-	-
02 Westside MP	-		-	-	-	-	-	-	-	-
03A Northwest Vinton A	761		-	-	356	-	-	356	356	761
03E I-10375 MP	1,595		145	-	2,615	-	540	3,155	3,515	1,740
04A Northwest Artcraft A	377		-	-	5,634	-	-	5,634	5,634	377
04B Northwest Artcraft B	261		-	-	3,123	-	-	3,123	3,123	261
04C Northwest Artcraft C	36		189	34	347	-	-	381	381	225
04D Northwest Artcraft D	80		-	-	662	-	90	752	752	80
04E Canutillo	935		305	-	1,670	126	306	2,102	2,102	1,240
02B Other	4,510		2,306	-	3,717	144	387	4,248	4,248	6,815
Westside Subtotal	8,555	0	2,944	34	18,122	270	1,323	19,749	20,109	11,498
Eastside				-	-	-	-	-	-	-
08B Eastside	3,415		5,815	-	752	14,328	117	15,197	15,197	9,229
12 South Montana	1,791		1,001	-	7,722	228	630	8,580	8,580	2,791
12B South Montana B	558		718	-	113	2,514	-	2,627	2,627	1,276
06 South Fort Bliss	-		160	-	419	-	-	419	419	160
08 East Battle	1,204		2,233	-	3,330	4,086	-	7,416	7,416	3,437
10B South Fort Bliss B	-		-	-	203	2,832	-	3,035	3,035	-
Eastside Subtotal	6,967	0	9,925	-	12,537	23,988	747	37,272	37,272	16,893
Total	19,937	0	53,976	34	36,284	35,526	2,862	74,706	96,318	73,914

Service Units Full Build-Out Projections

Service Area	Population at Build-Out	Service Units at Full-Build-Out		
		Residential	Non-Residential	Total
Northeast				
01 Northeast MP	48,334	16,440	2,175	18,615
05A Northwest Fort Bliss A	21,005	7,145	15,247	22,391
05B Northwest Fort Bliss B	41,128	13,989	12,144	26,133
05C Northwest Fort Bliss C	4,009	1,364	15,957	17,321
Northeast Subtotal	114,475	38,937	45,523	84,460
Westside				
02 Westside MP	0	0	0	0
03A Northwest Vinton A	209	71	761	832
03E I-10375 MP	10,333	3,515	1,740	5,255
04A Northwest Artcraft A	16,564	5,634	377	6,011
04B Northwest Artcraft B	9,182	3,123	261	3,384
04C Northwest Artcraft C	1,119	381	225	605
04D Northwest Artcraft D	2,209	752	80	831
04E Canutillo	6,178	2,102	1,240	3,341
02B Other	12,489	4,248	6,815	11,063
Westside Subtotal	58,283	19,824	11,498	31,322
Eastside				
08B Eastside	44,678	15,197	9,229	24,426
12 South Montana	25,225	8,580	2,791	11,371
12B South Montana B	7,722	2,627	1,276	3,903
06 South Fort Bliss	0	0	160	160
08 East Battle	21,803	7,416	3,437	10,853
10B South Fort Bliss B	8,921	3,035	0	3,035
Eastside Subtotal	108,349	36,854	16,893	53,746
Total	281,107	95,615	73,914	169,528

Full Build-Out Projections – Population and Service Unit Summary

Appendix C

Ten-Year Growth Projections

Service Area	2033 Non-Residential Service Units			2033 Conventional Service Units				Mixed Use Mixed Use	2033 Residential	2033 Non- Residential
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High			
Northeast										
01 Northeast MP	1,740		-	0	0	0	0	13,331	13,331	1,740
05A Northwest Fort Bliss A	-		7,946	0	1,697	334	331	912	3,274	7,946
05B Northwest Fort Bliss B	1,317		5,220	0	774	7,746	403	996	9,919	6,537
05C Northwest Fort Bliss C	-		7,721	0	0	0	0	0	-	7,721
Northeast Subtotal	3,057	0	20,887	0	2,471	8,080	734	15,239	26,524	23,944
Westside										
02 Westside MP	0		0	0	0	0	0	0	-	-
03A Northwest Vinton A	207		0	0	71	0	0	0	71	207
03E I-10375 MP	653		0	0	2,500	0	270	360	3,130	653
04A Northwest Artcraft A	68		0	0	940	0	0	0	940	68
04B Northwest Artcraft B	81		0	0	1,025	0	0	0	1,025	81
04C Northwest Artcraft C	37		196	17	321	0	0	0	338	233
04D Northwest Artcraft D	80		0	0	597	0	90	0	687	80
04E Canutillo	935		156	0	2,372	126	311	0	2,809	1,091
02B Other	4652		2313	0	3,352	144	225	0	3,721	6,965
Westside Subtotal	6,713	0	2,665	17	11,178	270	896	360	12,721	9,378
Eastside										
08B Eastside	833		1851	0	450	6,264	46	0	6,760	2,684
12 South Montana	1197		1001	2,842	664	0	391	0	3,897	2,198
12B South Montana B	91		718	0	112	1,566	0	0	1,678	809
06 South Fort Bliss	0		0	0	293	0	0	0	293	-
08 East Battle	907		2013	0	2,213	3,372	0	0	5,585	2,920
10B South Fort Bliss B	0		0	0	63	952	0	0	1,015	-
Eastside Subtotal	3,028	0	5,583	2,842	3,795	12,154	437	0	19,228	8,611
Total	12,798	0	29,135	2,859	17,444	20,504	2,067	15,599	58,473	41,933

2033 Service Unit Projections

Service Area	Census			2033 Proj. Population	2033 Projected Service Units		
	2000	2010	2020		Residential	Non-Residential	Total
Northeast							
01 Northeast MP	0	0	13	39,193	13,331	1,740	15,071
05A Northwest Fort Bliss A	0	0	0	9,626	3,274	7,946	11,220
05B Northwest Fort Bliss B	2,199	4,799	10,735	29,162	9,919	6,537	16,456
05C Northwest Fort Bliss C	10	28	37	0	0	7,721	7,721
Northeast Subtotal	2,209	4,827	10,785	77,981	26,524	23,944	50,468
Westside							
02 Westside MP	0	0	0	0	0	0	0
03A Northwest Vinton A	0	0	0	209	71	207	278
03E I-10375 MP	0	0	2,142	9,202	3,130	653	3,783
04A Northwest Artcraft A	299	312	312	2,764	940	68	1,008
04B Northwest Artcraft B	289	251	289	3,014	1,025	81	1,106
04C Northwest Artcraft C	0	0	316	994	338	233	571
04D Northwest Artcraft D	836	1,001	635	2,020	687	80	767
04E Canutillo	3,633	4,760	4,615	8,258	2,809	1,091	3,900
02B Other	1,167	2,149	4,732	10,940	3,721	6,965	10,686
Westside Subtotal	6,224	8,473	13,041	37,400	12,721	9,378	22,099
Eastside							
08B Eastside	13	682	5,736	19,874	6,760	2,684	9,444
12 South Montana	6,766	7,625	7,483	11,457	3,897	2,198	6,095
12B South Montana B	0	7	12	4,933	1,678	809	2,487
06 South Fort Bliss	0	0	0	861	293	0	293
08 East Battle	0	21	1,460	16,420	5,585	2,920	8,505
10B South Fort Bliss B	0	0	0	2,984	1,015	0	1,015
Eastside Subtotal	6,779	8,335	14,691	56,530	19,228	8,611	27,839
Total	15,212	21,635	38,517	171,911	58,473	41,933	100,406

2033 Population and Service Unit Summary

Water and Wastewater Impact Fees Fiscal Year 2023-24 Update

Draft Water and Wastewater Impact Fee Study

January 3, 2024

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Project Overview

Background of the Study

EPWater engaged Raftelis to update the existing Water and Wastewater Impact Fees in compliance with State law-Texas Statutes, Local Government Code, Chapter 395 (State Impact Fee Statutes). This report documents the 2024 update of the water and wastewater impact fees and replaces the previous Water and Wastewater Impact Fees-2019 Update. During the last impact fee update process, it was determined that the approved 2019 impact fee amounts would be updated.

Consistent with the previous updates of impact fees, this update determined fees for the same three areas as the previous study (Northeast, Eastside, and Westside). Listed below are the designated service areas.

Northeast Area

- 01- Northeast Master Plan
- 05A- Northwest Fort Bliss A
- 05B- Northwest Fort Bliss B
- 05C- Northwest Fort Bliss C

Westside Area

- 02- Westside MP
- 03A- Northwest Vinton A
- 03E- I-10375 MP
- 04A- Northwest Artcraft A
- 04B- Northwest Artcraft B
- 04C- Northwest Artcraft C
- 04D- Northwest Artcraft D
- 04E- Canutillo
- 02B- Other

Eastside Area

- 08B- Eastside
- 12- South Montana
- 12B- South Montana B
- 06- South Fort Bliss
- 08- East Battle
- 10B- South Fort Bliss B

The calculated water and wastewater impact fees may only be charged to the aforementioned service areas. Any development outside of the service areas will not be charged an impact fee. Maps displaying the EPWater service area are attached in Appendix A. Calculations and results in this report are based on numerical analysis using rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places. Therefore, the sums and products generated may not exactly equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to rounding).

Impact Fee Methodology

The water and wastewater impact fee calculations are based on the incremental method. Under this method, new customers pay a fee representing their share of expansion related developmental costs of new facilities. The incremental method uses a 10-year capital improvement plan (CIP) that accounts for projects that will add future capacity. The impact fee is determined for the supply and treatment categories for water and treatment and collection categories for wastewater.

Each CIP project is allocated to its respective category: reservoirs to water distribution, force mains to wastewater collection, wastewater lines to wastewater collection, etc. The project's costs and service units are summed by category. The categories' total service units then divide the total categories' costs to arrive at a per unit cost. For example, the total costs of the distribution pumping equipment category are divided by the total capacity added by the distribution pumping equipment to arrive at per unit amount. This amount is added to the water distribution portion of the impact fee. A service unit represents the water and wastewater flows in gallons per day (gpd) for a single family residential unit.

Land Use Assumptions and Service Unit Characteristics

Impact fees in Texas must meet the requirements set by the Texas Statutes, Local Government Code, Chapter 395. In compliance with Chapter 395 land use assumptions, see Attachment B, are used to arrive at the residential service units (SUs) and population per residential service as shown in Table 1. The average persons per service unit used is 2.94 persons per household based on the County average as shown in the *2024 Land Use Assumptions Technical Report*. The Land Use Assumption Update uses data from master plans prepared by or on behalf of the City of El Paso, and from other sources used in projecting water and wastewater service demands.

Table 1 - Land Use Assumptions

Service Area	Total Residential Service Units (Build-Out)	Average Household Size Persons/SU	Population per Service Area
Northeast			
01	16,440	2.94	48,334
05A	7,145	2.94	21,006
05B	13,989	2.94	41,128
05C	1,364	2.94	4,010
Westside			
02	0	2.94	0
03A	356	2.94	1,047
03E	3,515	2.94	10,334
04A	5,634	2.94	16,564
04B	3,123	2.94	9,182
04C	381	2.94	1,120
04D	752	2.94	2,211
04E	2,102	2.94	6,180
02B	4,248	2.94	12,489
Eastside			
08B	15,197	2.94	44,679
12	8,580	2.94	25,225
12B	2,627	2.94	7,723
06	419	2.94	1,232
08	7,416	2.94	21,803
10B	3,035	2.94	8,923

Table 1 shows the land use and demographic assumptions used to determine the residential service units and future capacity requirements. These assumptions go into calculating the water and wastewater flow rates that will be used throughout the analysis/model.

Using Table 1 data and assumptions regarding commercial and industrial use, the water and wastewater flow rates are calculated in Table 2. In this study we use 3.29 persons per Service Unit to define the flow rates, this rate is higher than the 2.94 persons per Service Unit in Table 1 due to the additional commercial and industrial usage. The Persons Per Service Unit was updated from 3.50 as reflected within the 2019 Impact Fee Study analysis to 3.29 for this update as referenced in Table 2 below.

Table 2 - Equivalent Service Unit Flows

Description	Water	Wastewater
Average Usage Per Capita (gallons per day-gpd)	115	70
Ratio of Maximum Day Demand to Average Day Demand	<u>1.71¹</u>	<u>1.39</u>
Maximum Day Demand per Capita (gpd)	209	98
Persons per Service Unit	<u>3.29</u>	<u>3.29</u>
Flows per Equivalent Service Unit (gpd)²	688	341

1. Elevated water storage capacity is calculated based on 50% of Maximum Day Demand.

2. Equivalent service unit flows represent flow to a residential, commercial, or industrial user with a water meter size less than 1-inch.

The flows per service unit are 688 gpd for water and 341 gpd for wastewater. These flow rates are used to calculate the number of facility service units in Attachments E and F.

10-Year Population and Service Unit Projections

It is difficult to forecast population growth and developmental growth accurately. The growth directly influences the timeline for when exactly the additional capacity must be realized. This assumption must be made when calculating an impact fee. Table 3 displays the population and development units for the water and wastewater impact fee areas under consideration as of 2033. The values includes 2023 developed acres, population, and residential, non-residential, and total service units plus projected growth over the 10-year period of 2023 through 2033.

Table 3 - 2033 Population and Service Units

Service Area	Developable Acres	Population	Residential Service Units	Non-Residential Service Unit Equivalents	Total Service Units
Northeast	5,363	77,981	26,524	23,944	50,468
Westside	3,309	37,400	12,721	9,378	22,099
Eastside	<u>5,441</u>	<u>56,530</u>	<u>19,228</u>	<u>8,611</u>	<u>27,839</u>
Total	14,314	171,911	58,473	41,933	100,406

Proposed Capital Improvement Facilities

In compliance with the State Impact Fee Statues, proposed capital improvements were prepared by Adriana Castillo, P.E., with EPWater. The capital projects include facilities required by new development in the next ten years. Descriptions of the proposed capital improvement projects are included as Attachment C to this report. The list of CIP projects with estimated costs for each, are included in Attachment D. Attachment E to this report shows the CIP capital, financing costs, capacity, facility service units, unit cost of capacity, and weighted average cost of capacity for each service area used in the impact fee calculation.

Maximum Impact Fee Calculation

The capital projects noted in the CIP plan add capacity for the 10-year period and beyond. To account for this growth Raftelis allocates the costs of the growth-related CIP to the projected development and to the total number of new service units that may be served by the new capacity additions. The 10-year CIP is adding significant capacity, but this capacity will still not be sufficient to serve the projected ultimate built out capacity of the indicated service areas.

Raftelis used the capacities provided by EPWater to estimate capacity added by each capital project. This assumes that all units will be served by the additional capacity regardless of when the growth occurs.

The LUA Update projects new service units for the next ten years (Table 4) to be served by EPWater planned capacity additions as reported in the 10-year CIP. In compliance with the State Impact Fee Statutes, the maximum impact fee per service unit is calculated by dividing the costs of the portion of the CIP required by and attributable to projected new service units by the total projected new service units served by the CIP.

Attachment F provides a summary of the capital costs, capital service units, financing costs, percentage of CIP needed through 2033, and the maximum impact fee for each service area. The model assumes a 35% debt funding rate with a 5% interest rate and a 20-year repayment period for water-related capital projects. For wastewater-related capital projects, it assumes a 63% debt funding rate with the same 5% interest rate and 20-year repayment period. The impact fee calculations include the net present value of the interest and transaction costs of the loans to arrive at a per unit impact fee value. Table 4 summarizes the maximum impact fee by service area.

Table 4 - Maximum Impact Fee by Service Area

Service Area	Projected New Service Units (through 2033)	Maximum Impact Fee per Service Unit
<u>Northeast</u>		
Water	37,660	\$10,023
Wastewater	37,660	<u>1,345</u>
Total		\$11,368
<u>Westside</u>		
Water	5,989	\$3,136
Wastewater	5,989	<u>3,379</u>
Total		\$6,515
<u>Eastside</u>		
Water	11,421	\$14,954
Wastewater	11,421	<u>21,008</u>
Total		\$35,962

Maximum Calculation

The State Impact Fee Statutes require the determination of an “impact fee credit” for the portion of utility service revenues or ad valorem taxes generated by the new service units during the 10-year period. There are two ways to calculate this credit:

- A credit against the impact fee for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of capital improvements, including the payment of debt, that are included in the capital improvements plan; or
- A credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

The City of El Paso does not use ad valorem taxes to assist in paying for utility projects, so the ad valorem language does not apply. A credit recognizing the utility service revenues generated by new service units during the capital program period that is used for the payment of capital improvements, including the payment of debt, that are included in the capital improvements plan is warranted and is what has been used since EPWater first adopted impact fees and is what has been used again in this update.

The calculated credit represents the approximation of the utility service revenue projected to be provided by the new service units that may be used to retire debt issued to fund the CIP upon which the impact fee is based. This rate credit to the impact fee prevents new service units from the potential of double counting or paying twice for utility capital improvements and related debt.

Raftelis conducted an analysis involving two scenarios to comprehend the ramifications of a net impact fee following the application of a credit to the maximum impact fee. Tables 5 through 12 illustrate the impact fee considering a maximum credit of 50 percent. Attachment H presents a schedule displaying the net impact fee under two scenarios: (1) Net Impact Fee after Revenue Credit (8.1% for Water and 20.1% for Wastewater) and (2) Net Impact Fee after Maximum Credit (50% for Water and Wastewater). The option displaying the Net Impact Fee after Maximum Credit, as depicted in Tables 5 through 12, results in lower fees.

Table 5 - Impact Fee Credits per Service Unit Equivalent

	Water			Wastewater			Total
Service Area	Max Impact Fee	Max Credit (50%)	Net Impact Fee	Max Impact Fee	Max Credit (50%)	Net Impact Fee	Net Impact Fee
Northeast	\$10,023	(\$5,012)	\$5,012	\$1,345	(\$672)	\$672	\$5,684
Westside	\$3,136	(\$1,568)	\$1,568	\$3,379	(\$1,689)	\$1,689	\$3,257
Eastside	\$14,954	(\$7,477)	\$7,477	\$21,008	(\$10,504)	\$10,504	\$17,981

Impact Fee Assessment Schedule

The impact fee assessment schedule follows established guidelines in “scaling up” or assessing the impact fee to recognize the greater demands placed on the system from larger connections. As stated above, the incremental method is used to calculate the impact fee for a $\frac{3}{4}$ inch meter or for an equivalent residential unit. For meters $\frac{3}{4}$ inch and larger the American Water Works Association (AWWA) standard ratios are used. These guidelines define the $\frac{3}{4}$ inch meter as one unit, and all other meters as a multiple of the $\frac{3}{4}$ inch meter. These ratios are based on the maximum flow capacities for the various meters. Table 6 displays the Northeast service area impact fees calculated according to AWWA standards; the resulting “Meter Capacity Ratio”.

Table 6 - Northeast Water and Wastewater Impact Fee Assessment Schedule (Net Fee after Credit)

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-Inch	1.00	\$5,012	\$672	\$5,684
1-Inch	1.67	8,370	1,122	9,492
1 1/2-Inch	3.33	16,690	2,238	18,928
2-Inch	5.33	26,714	3,582	30,296
3-Inch	10.00	50,120	6,720	56,840
4-Inch	16.67	83,550	11,202	94,752
6-Inch	33.33	167,050	22,398	189,448
8-Inch	53.33	\$267,290	\$35,838	\$303,128

Attachment H provides a schedule for all impact fee service areas. Tables 7 through 9 compare the current and calculated water, wastewater, and total impact fees for each service area. It should be noted that the current fees are those adopted in 2009 by the El Paso City Council and is a material factor in the increase in the calculated fees. The Eastside Service Area has the greatest impact, which is attributed to the portion of water projects associated with an Advanced Water Purification Facility and wastewater projects associated with Bustamante Wastewater Treatment Plant.

Table 7 - Northeast Impact Fee Comparison (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$1,178	\$5,012	\$291	\$672	\$1,469	\$5,684	\$4,215	287%
1-Inch	1,967	8,370	486	1,122	2,453	9,492	\$7,039	287%
1 1/2-Inch	3,921	16,690	969	2,238	4,890	18,928	14,038	287%
2-Inch	6,276	26,714	1,551	3,582	7,827	30,296	22,469	287%
3-Inch	11,775	50,120	2,910	6,720	14,685	56,840	42,155	287%
4-Inch	19,629	83,550	4,851	11,202	24,480	94,752	70,272	287%
6-Inch	39,246	167,050	9,699	22,398	48,945	189,448	140,503	287%
8-Inch	62,796	\$267,290	15,519	\$35,838	78,315	\$303,128	224,813	287%

Table 8 - Westside Impact Fee Comparison Schedule (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$659	\$1,568	\$927	\$1,689	\$1,586	\$3,257	\$1,671	105%
1-Inch	1,101	2,619	1,548	2,821	2,649	5,439	2,790	105%
1 1/2-Inch	2,195	5,221	3,087	5,624	5,282	10,846	5,564	105%
2-Inch	3,514	8,357	4,941	9,002	8,455	17,360	8,905	105%
3-Inch	6,593	15,680	9,270	16,890	15,863	32,570	16,707	105%
4-Inch	10,990	26,139	15,453	28,156	26,443	54,294	27,851	105%
6-Inch	21,973	52,261	30,897	56,294	52,870	108,556	55,686	105%
8-Inch	35,158	83,621	49,437	90,074	84,595	173,696	\$89,101	105%

Table 9 - East Impact Fee Comparison Schedule (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$697	\$7,477	\$920	\$10,504	\$1,617	\$17,981	\$16,364	1012%
1-Inch	1,163	12,847	1,537	17,542	2,700	30,028	27,328	1012%
1½-Inch	2,321	24,898	3,065	34,978	5,386	59,877	54,491	1012%
2-Inch	3,714	39,852	4,905	55,986	8,619	95,839	87,220	1012%
3-Inch	6,968	74,770	9,203	105,040	16,171	179,810	163,639	1012%
4-Inch	11,615	124,642	15,341	175,102	26,956	299,743	272,787	1012%
6-Inch	23,223	249,208	30,672	350,098	53,895	599,307	545,412	1012%
8-Inch	37,158	398,748	49,077	560,178	86,235	958,927	872,692	1012%

Tables 10 through 12 provide a comparison of the current impact fees adopted in 2019 and the calculated Net Impact Fee after reducing by the Max Credit. This comparison is acutely relevant due to the dramatic increase in costs since 2019.

Table 10 - Northeast Current versus Calculated

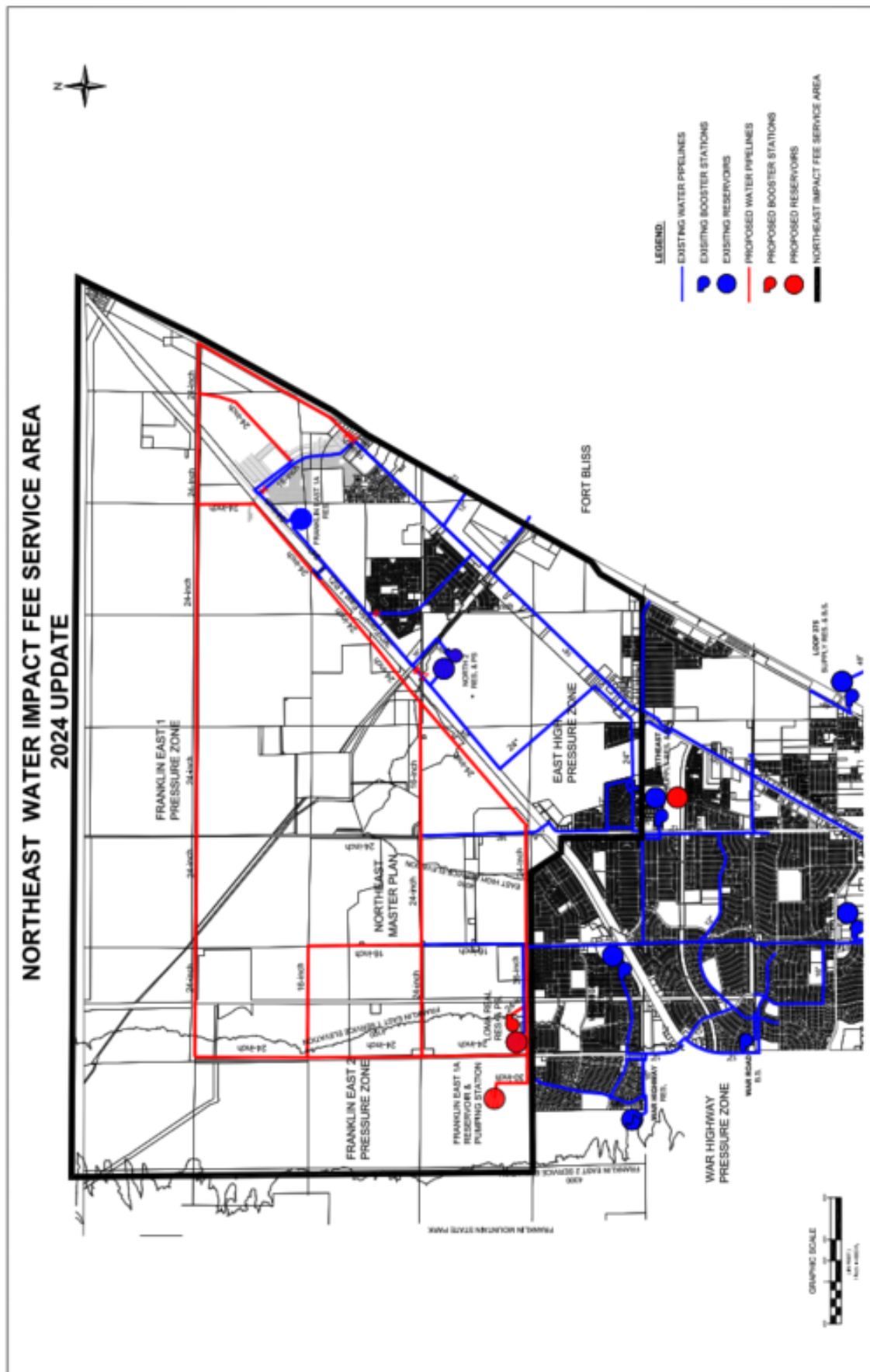
Meter Size	Current	Calculated
Less than 1-Inch	\$1,469	\$5,684
1-Inch	2,453	9,492
1½-Inch	4,890	18,928
2-Inch	7,827	30,296
3-Inch	14,685	56,840
4-Inch	24,480	94,752
6-Inch	48,945	189,448
8-Inch	78,315	\$303,128

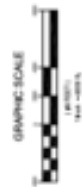
Table 11 - West Current versus Calculated

Meter Size	Current	Calculated
Less than 1-Inch	\$1,586	\$3,257
1-Inch	2,649	5,439
1½-Inch	5,282	10,846
2-Inch	8,455	17,360
3-Inch	15,863	32,570
4-Inch	26,443	54,294
6-Inch	52,870	108,556
8-Inch	84,595	173,696

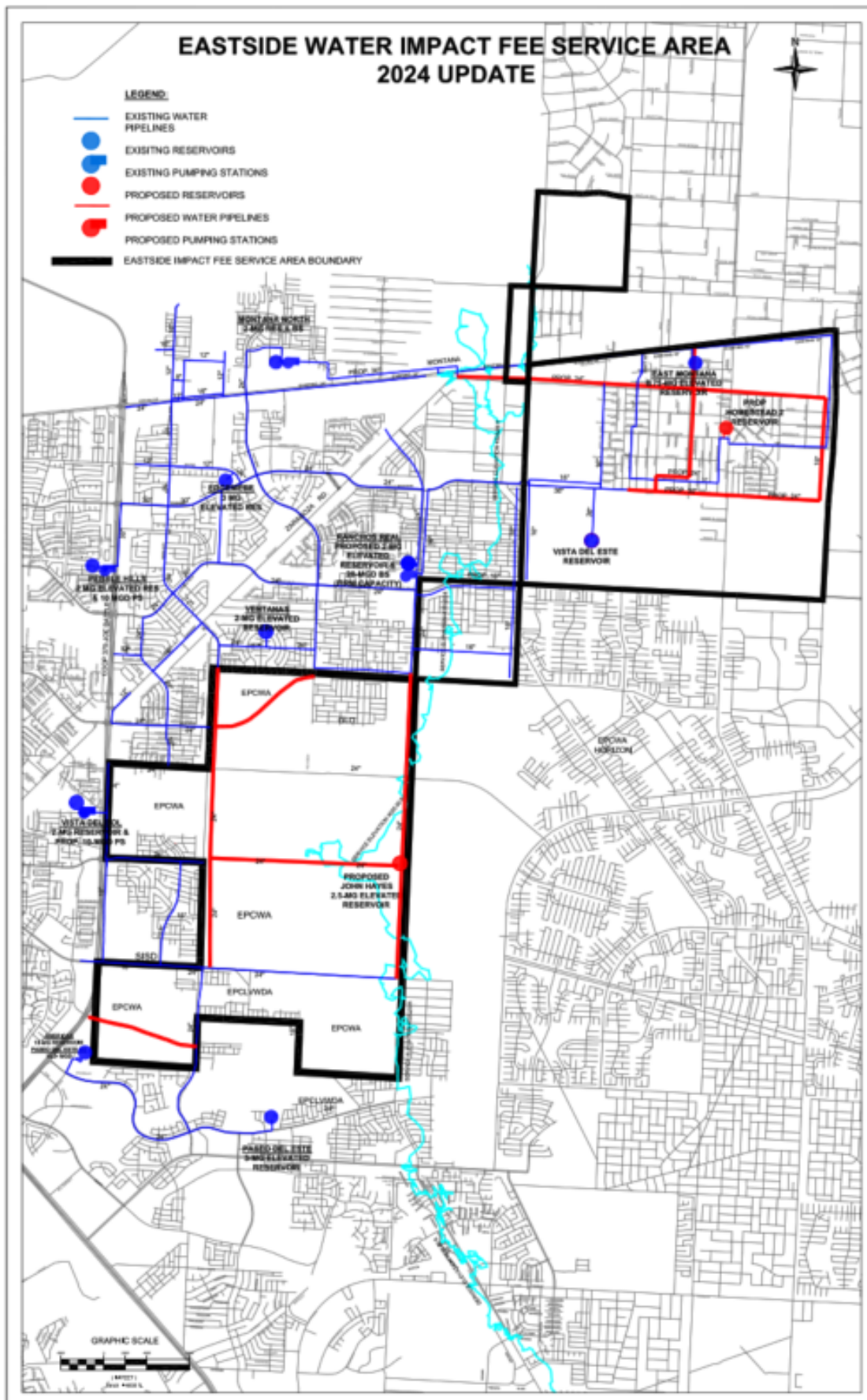
Table 12 - Eastside Current versus Calculated

Meter Size	Current	Calculated
Less than 1-Inch	\$1,617	\$17,981
1-Inch	2,700	30,028
1½-Inch	5,386	59,877
2-Inch	8,619	95,839
3-Inch	16,171	179,810
4-Inch	26,956	299,743
6-Inch	53,895	599,307
8-Inch	86,235	958,927





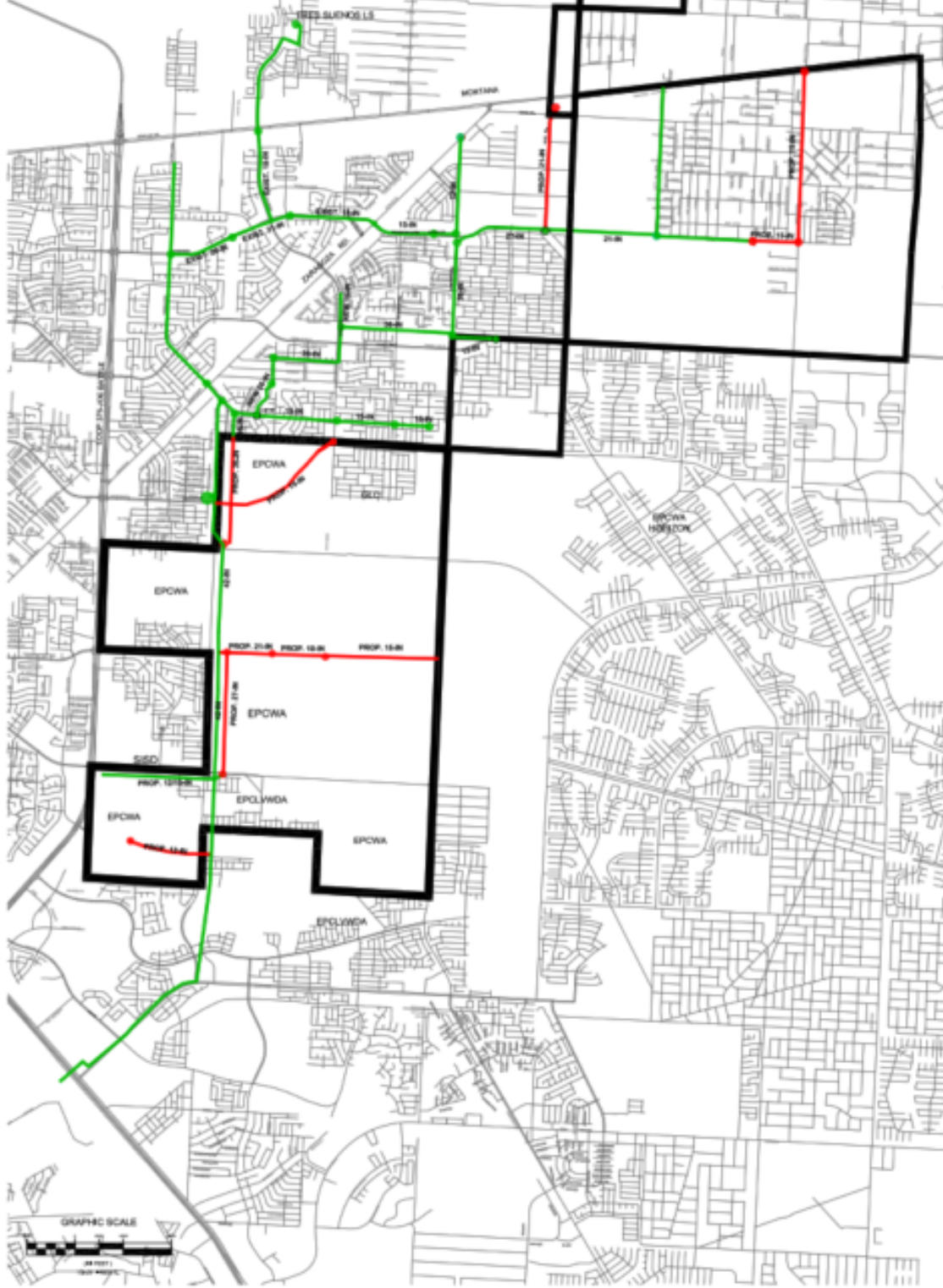




EASTSIDE SEWER IMPACT FEE SERVICE AREA 2024 UPDATE

LEGEND:

- EXISTING SEWER PIPELINES
- EXISTING LIFT STATIONS
- EXISTING TREATMENT PLANT
- PROPOSED SEWER PIPELINES
- PROPOSED LIFT STATIONS
- EASTSIDE IMPACT FEE SERVICE AREA



Attachment B: Land Use Assumptions

Service Area	2033 Share of Development	Total Acreage	Non-Residential								Conventional Residential					Mixed Use
			Transportation	Commercial	Industrial	Parkland	Floodplain	Open Space	Undeveloped	Institutional/Utilities	Low	Medium	Medium-High	High	Total	
Northeast																
01 Northeast MP	80%	4,835	99	300		255		968	20	453					0	2,740
05A Northwest Fort Bliss A	25%	4,812	260	5	2,098	38		229		823		775	229	51	1,055	304
05B Northwest Fort Bliss B	50%	4,929	446	304	1,371	9		348		95		172	1,649	37	1,858	498
05C Northwest Fort Bliss C	10%	4,520	154		2,201	23		51		1,788		303			303	
Northeast Subtotal		19,096	959	609	5,670	325	0	1,596	20	3,159	0	1,250	1,878	88	3,216	3,542
Westside																
02 Westside MP	7%	1,589	91					1,483		15					0	
03A Northwest Vinton A	20%	294	58	105						52		79			79	
03E I-10375 MP	60%	1,132	71	220	20	34	57	50		30		581		9	590	60
04A Northwest Artcraft A	20%	1,639	75	52		4		106	150			1,252			1,252	
04B Northwest Artcraft B	30%	807	38	36		6		17		16		694			694	
04C Northwest Artcraft C	50%	159	15	5	26				16	3	17	77			94	
04D Northwest Artcraft D	90%	218	25	11			3		22			147		10	157	
04E Canutillo	95%	801	133	141	42				10	49		371	21	34	426	
02B (Other)	80%	2,348	315	622	318					200		826	24	43	893	
Westside Subtotal		8,987	821	1,192	406	44	60	1,656	198	365	17	4,027	45	96	4,185	60
Eastside																
08B Eastside	40%	4,826	509	471	802	186		23	228	39		167	2,388	13	2,568	
12 South Montana	80%	2,919	347	247	138				242	121		1,716	38	70	1,824	
12B South Montana B	90%	785	98	77	99	20				47		25	419		444	
06 South Fort Bliss	70%	118	3		22							93			93	
08 East Battle	60%	2,826	440	166	308	40			370	81		740	681		1,421	
10B South Fort Bliss B	70%	538	21									45	472		517	
Eastside Subtotal		12,012	1,418	961	1,369	246	0	23	840	288	0	2,786	3,998	83	6,867	0
Total		40,095	3,198	2,762	7,445	615	60	3,275	1,058	3,812	17	8,063	5,921	267	14,268	3,602

Attachment B: Land Use Cont.

Service Area	Build-Out Non-Residential Service Units			Build-Out Conventional Service Units					Mixed Use	Build-Out	Build-Out Non-
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High	Total	Mixed Use	Residential	Residential
Northeast								0			
01 Northeast MP	2,175		-	-	-	-	-	0	16,440	16,440	2,175
05A Northwest Fort Bliss A	36		15,211	-	3,488	1,374	459	5,321	1,824	7,145	15,247
05B Northwest Fort Bliss B	2,204		9,940	-	774	9,894	333	11,001	2,988	13,989	12,144
05C Northwest Fort Bliss C	-		15,957	-	1,364	-	-	1,364	0	1,364	15,957
Northeast Subtotal	4,415	0	41,108	0	5,625	11,268	792	17,685	21,252	38,937	45,523
Westside											
02 Westside MP	-		-	-	-	-	-	-	-	-	-
03A Northwest Vinton A	761		-	-	356	-	-	356	-	356	761
03E I-10375 MP	1,595		145	-	2,615	-	540	3,155	360	3,515	1,740
04A Northwest Artcraft A	377		-	-	5,634	-	-	5,634	-	5,634	377
04B Northwest Artcraft B	261		-	-	3,123	-	-	3,123	-	3,123	261
04C Northwest Artcraft C	36		189	34	347	-	-	381	-	381	225
04D Northwest Artcraft D	80		-	-	662	-	90	752	-	752	80
04E Canutillo	935		305	-	1,670	126	306	2,102	-	2,102	1,240
02B Other	4,510		2,306	-	3,717	144	387	4,248	-	4,248	6,815
Westside Subtotal	8,555	-	2,944	34	18,122	270	1,323	19,749	360	20,109	11,498
Eastside											
08B Eastside	3,415		5,815	-	752	14,328	117	15,197	-	15,197	9,229
12 South Montana	1,791		1,001	-	7,722	228	630	8,580	-	8,580	2,791
12B South Montana B	558		718	-	113	2,514	-	2,627	-	2,627	1,276
06 South Fort Bliss	-		160	-	419	-	-	419	-	419	160
08 East Battle	1,204		2,233	-	3,330	4,086	-	7,416	-	7,416	3,437
10B South Fort Bliss B	-		-	-	203	2,832	-	3,035	-	3,035	-
Eastside Subtotal	6,967	-	9,925	-	12,537	23,988	747	37,272	-	37,272	16,893
Total	19,937	-	53,976	34	36,284	35,526	2,862	74,706	21,612	96,318	73,914

Attachment B: Land Use Cont.

Residential Land Use Type	Residential Service Units per Acre
Conventional Residential Zones	
Low Density	2.0
Medium Density	4.5
Medium High Density	6.0
High Density	9.0
SmartCode Zone¹	
T-3 Sub-Urban Zone	6.0
T-4 General Urban Zone	15.0
T-40 General Urban Zone - Open	20.0
T-5 Urban Center Zone	24.0
Northeast Retirement General Mixed Use Zone²	
Context Zone 3	3.6
Context Zone 4	6.4
Context Zone 5	15.0
Northeast General Mixed Use Zone³	
Low Residential Density	3.5
Low ¹ Residential Density	5.5
Medium Residential Density	7.2
High Residential Density	12.0
Enchanted Hills Residential Mixed Use Zone⁴	
Single Family	4.0
Duplex	6.0
Triplex	8.0
Quadruplex	10.0
Apartments	14.0

¹Applied to Northeast properties zoned SmartCode.

²Applied to the Northeast master planned area intended to house a retirement community.


³Applied to the remaining Northeast master planned area zoned General Mixed Use.

⁴Applied to the privately owned Enchanted Hills development zoned Residential Mixed Use.



Date: December 20, 2023

To: Andrew Rheem
Raftelis Financial Consultants, Inc.

From: Adriana L. Castillo., P.E. 
Utility Engineering Division Manager

Re: Water and Wastewater Capital Improvements Plan– 2024 Impact Fee update

In preparation for the 2024 Impact Fee Update and in accordance with the Texas State Statutes, Local Government Code, Chapter 395, attached please find a description of the proposed Capital Improvements Plan for the El Paso Water Utilities.

Attachment C contains a narrative description of the proposed 10-year capital improvements plan necessitated by and attributed to new development per service area.

Attachment D contains a list of the proposed 10-year capital improvements plan costs necessitated by and attributed to new development per service area.

Maps depicting the proposed water and wastewater capital improvements plan for the three (3) service areas

This information provides the capital improvements plan and costs required to complete the 2024 update and meet the letter and intent of the Texas State Statutes.

Please feel free to contact me with any questions.



12/20/23

A handwritten signature in blue ink that reads "Adriana Castillo".

Associated Capital Improvement Water Facilities

WATER SUPPLY AND TREATMENT SYSTEM

ADVANCED WATER PURIFICATION FACILITY – The efforts by EPWater to continue to diversify the City’s water supply portfolio will allow growth demand in the eastside to be met by the Advanced Water Purification Facility producing 10 MGD. The facility includes the wells and blending lines to comply with adequate water quality standards.

KBH EXPANSION Phase 1—In order to meet growth demand in the eastside and northeast, the KBH desalination facility will be expanded to provide an additional 5.0 MGD. The facility expansion includes a new Reverse Osmosis skid and concentrate pipelines.

RESERVOIRS

LOMA REAL A proposed 5.0 MG ground storage tank to meet demand on the East High Pressure Zone and provide suction for the Loma Real Pump Station that will pump water to the proposed Franklin East 1 B reservoir.

FRANKLIN EAST #1B - A proposed 3.0 MG ground storage tank to serve the Franklin East 1 Pressure Zone. The tank is needed to meet future growth development of the areas east of War Highway and to the State line.

TRANSMOUNTAIN NORTHWEST #1A – A proposed 4.0 MG ground storage tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 1, to meet anticipated growth and provide suction storage for the proposed Transmountain Northwest 1 pump station.

TRANSMOUNTAIN NORTHWEST #2A – A proposed 3.0 MG tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 2, to meet anticipated growth.

TRANSMOUNTAIN NORTHWEST #3 – A proposed 1.0 MG tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 3, to meet anticipated growth.

NORTHEAST STATION WELL SUPPLY TANK – A new 2.0 MG ground storage supply tank in Northeast El Paso, adjacent to the Northeast Booster Station. This tank is needed to augment the existing storage capacity of the Northeast Well production system, and to accommodate future supply from the Sherman Well Field. This storage tank will also allow for additional pumping capacity to be installed at the Northeast Booster Station for pumping into the East High Pressure Zone and upper Franklin East Pressure Zone pumping, related future growth.

HOMESTEAD II – A proposed 2.5 MGD elevated storage tank to provide service on the Eastside south of the Montana Ave. corridor to meet demand for future growth on the East Montana Pressure Zone.

JOHN HAYES/VISTA DEL SOL – A proposed 2.5 MGD elevated storage tank to provide service on the Eastside east of Loop 375 to meet demand for future growth on the Joe Battle Pressure Zone.

DISTRIBUTION PUMPING EQUIPMENT

ARTCRAFT #1 NW – A 20.0 MGD pumping station located at Northwestern and Paseo Del Norte (Artcraft Rd) in Northwest El Paso, was completed in late 2002 and will supply Artcraft #2 Reservoir. An additional 5.0 MGD will be added to meet growth demands.

TRANSMOUNTAIN NORTHWEST #1 PUMP STATION – A proposed 3.0 MGD pump station north of Transmountain on the Westside, to pump from Transmountain #1 tank to Transmountain #2 tank to meet growth demand.

TRANSMOUNTAIN NORTHWEST #2 PUMP STATION – A proposed 1.0 MGD pump station north of Transmountain on the Westside, to pump from Transmountain #2 tank to Transmountain #3 tank to meet growth demand.

LOMA REAL Pump station to be located at the Loma Real tank site with an initial 6.0 MGD capacity which will provide pumping to supply the Franklin East 1 B reservoir.

DISTRIBUTION LINES

CANUTILLO/UV TRANSMISSION MAIN - NORTHWEST PHASE IV – Part of an existing major system of large diameter pipelines that extends and delivers water supply from the Canutillo Well Field and the Upper Valley Treatment Plant to the Westside area.

SUPPLY LINE TO TRANSMOUNTAIN#1 TANK- A proposed 48-inch diameter transmission main on the Westside, from the Canutillo 60" diameter main to the Transmountain Northwest #1A tank, to meet growth.

TRANSMOUNTAIN NW SUPPLY TO TRANSMOUNTAIN #1 - A proposed transmission main on the Westside, from the Transmountain Northwest #1 pump station to the Transmountain Northwest Tank 2 to meet growth demand.

TRANSMOUNTAIN NW SUPPLY TO TRANSMOUNTAIN #2 - from the Transmountain Northwest #2 pump station to the Transmountain Northwest Tank 3 to meet growth demand.

UPPER VALLEY BORDERLAND SYSTEM Part of the Westside upgrades to meet future growth the project consists of the installation of a 36-inch transmission main, part of the system of large diameter pipelines that extends and delivers water supply on the Westside area.

EASTSIDE PLANNED SERVICE AREA (PSA) – Proposed transmission main lines necessary to serve areas east of Loop 375. Extensions of transmission mains associated with the construction of future elevated tanks. This item provides the backbone for the water distribution to meet demand.

CANUTILLO- LA UNION/WESTSIDE SYSTEM – Proposed transmission mains necessary to serve areas generally located north of Borderland Road and West of Strahan Road to provide water distribution to serve future growth.

MONTANA EAST SUPPLY LINES– Water distribution mains that have been conceptually planned to provide service on the Eastside, south of the Montana Ave. corridor. This item considers the mains that create a backbone network of water transmission mains (16-inch to 24-inch) to supply these areas.

DYER / RR WATER LINES – A series of planned water mains to convey water to the far northeast part of the city. The proposed pipeline will tie into the Franklin East Distribution Line near the intersection of Stan Roberts Dr. and US-54.

NE FRANKLIN SYSTEM LINES – A network of water distribution mains, generally 16-inch to 24-inch, to be constructed within the Franklin East #1 Pressure Zone service areas in response to and in step with growth.

FRANKLIN EAST DISTRIBUTION LINES – Water distribution mains, generally 24-inch to be constructed within the Franklin East #1 Pressure Zones service area located in the vicinity of Stan Roberts Drive and US54.

Associated Capital Improvement Wastewater Facilities

COLLECTION LINES

NE DYER/RR INTERCEPTOR - Gravity sewer line extending near Stan Roberts Drive and Dyer St. that convey wastewater flows to the Fred Hervey Reclamation Plant. This system will service future development in the Northeast.

OTHER EAST INTERCEPTORS (Area 8 East) – Gravity sewer interceptors related to development east of Zaragoza and Loop 375 for the area commonly known as Montana Vista and adjacent growth areas.

LOOP 375 EAST INTERCEPTOR SYSTEM - These multi-phase, multi-year gravity sewer interceptors will serve areas east of Loop 375. All interceptors in this program will ultimately transport flow to the Bustamante Wastewater Treatment Plant via the Eastside Interceptor System already constructed.

TRANSMOUNTAIN NORTHWEST INTERCEPTORS – Proposed gravity sewer interceptors necessary to serve areas north of Transmountain Road and east of IH-10 on the Westside to meet growth.

NE INTERCEPTOR SYSTEM – Gravity sanitary sewer interceptors to include relief lines to convey wastewater flows from land in the Northeast area. The sanitary sewer pipeline will extend from north of US-54, and south crossing US-54 to the existing Grouse Street Lift Station or the Dyer Railroad Lift Station. The wastewater will ultimately be treated at the Fred Hervey Water Reclamation Plant. This is a multi-year, multi-phase project.

NE FRANKLIN SYSTEM – Pipeline designed to collect and convey wastewater flows from the proposed Northeast Service Area. Flows will be collected from near the Texas-New Mexico border, to include the Sean Haggerty Interceptor and conveying flows to the existing Grouse Street Lift Station, where the wastewater will ultimately be treated at the Fred Hervey Water Reclamation Plant. This is a multi-year, multi-phase project.

PUMPING STATIONS AND FORCE MAINS

UPPER VALLEY THREE LIFT STATIONS – A series of lift stations (1.5, 2.5, 3.5 MGD) proposed for new developments north of Borderland Rd. along the Strahan Rd. corridor. These stations will ultimately discharge into the Strahan Interceptor that will extend and connect into the Easy Way II Lift Station.

CANUTILLO BOSQUE LIFT STATION – Pro-rated lift station capacity needed for portion of the service area located north of Canutillo – La Union. This station flows will ultimately discharge into the Mowad Interceptor and connect into the Easy Way II Lift Station.

TREATMENT PLANT EXPANSION

BUSTAMANTE WWTP EXPANSION – Multi-approach construction project to expand the capacity of the Bustamante Wastewater Treatment Plant from 39.0 MGD to 51.0 MGD.

Attachment D: Capital Improvement Plan Cost Projection

ATTACHMENT D Water and Wastewater Impact Fee Study Proposed Capital Improvements and Costs

Northeast Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
KBH Expansion Phase 1 (2.5 MG)		\$ 17,000,000
Subtotal:		\$ 17,000,000
<u>Water Distribution System</u>		
Reservoirs		
Loma Real Tank - Ground (5 MG)		\$ 15,000,000
Franklin East 1B - Ground (3 MG)		\$ 9,000,000
NE Station Well Supply Tank (2 MG)		\$ 6,000,000
Subtotal:		\$ 30,000,000
Distribution Pumping Equipment		
Loma Real Pump Station (6 MGD)		\$ 22,000,000
Subtotal:		\$ 22,000,000
Distribution Lines		
Dyer/RR Waterline		\$ 2,300,000
Franklin East Distribution		\$ 6,800,000
NE Franklin System		\$ 37,000,000
Subtotal:		\$ 46,100,000
Total Water CIP		\$ 115,100,000

Northeast Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
No wastewater treatment CIP proposed		\$ -
<u>Collection System</u>		
Lines		
NE Dyer/RR Interceptor		\$ 10,300,000
NE Interceptor System		\$ 26,000,000
NE Franklin		\$ 6,000,000
Subtotal:		\$ 42,300,000
Total Wastewater CIP		\$ 42,300,000

ATTACHMENT D (continued)
Water and Wastewater Impact Fee Study
Proposed Capital Improvements and Costs

Westside Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
No water supply or treatment system CIP proposed	\$	-
<u>Water Distribution System</u>		
Reservoirs		
TransMountain NW #1A (4 MG)	\$	12,000,000
TransMountain NW #2A (3 MG)	\$	9,000,000
TransMountain NW #3 (1 MG)	\$	3,000,000
Subtotal:	\$	24,000,000
Distribution Pumping Equipment		
Artcraft #1-NW-WFMP	\$	7,500,000
TransMountain NW #1 Pump Station (3 MGD)	\$	6,000,000
TransMountain NW#2 Pump Station (1 MGD)	\$	2,000,000
Subtotal:	\$	15,500,000
Distribution Lines		
48" Supply Line to TransMountain #1 Tank	\$	5,000,000
Canutillo/UV Mn NWPH IV (36" Thorn)	\$	18,500,000
36" TransMountain #1 BS to TransMountain #2 Tank	\$	8,000,000
24" TransMountain #2 BS to TransMountain #3 Tank	\$	4,000,000
Upper Valley Borderland 36" Phase 2A	\$	35,500,000
Upper Valley Borderland 36" Phase 4	\$	21,600,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 1	\$	2,000,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$	3,000,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$	3,000,000
Subtotal:	\$	100,600,000
Total Water CIP	\$	140,100,000
Westside Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
No wastewater treatment CIP proposed	\$	-
<u>Collection System</u>		
Lines		
TransMountain NW Interceptors	\$	2,500,000
Subtotal:	\$	2,500,000
Pumping & Force Mains		
Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$	50,000,000
Canutillo/Bosque LS (Schuman & Wester Village)	\$	300,000
Subtotal:	\$	50,300,000
Total Wastewater CIP	\$	52,800,000

ATTACHMENT D (continued)
Water and Wastewater Impact Fee Study
Proposed Capital Improvements and Costs

Eastside Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
KBH Phase 2 (2.5 MG)		\$ 17,000,000
Advanced Water Purification Facility (8 MG)		\$ 173,000,000
Subtotal:		\$ 190,000,000
<u>Water Distribution System</u>		
Reservoirs		
Homestead II Tank (2.5 MG)		\$ 15,000,000
John Hayes (2.5 MG)		\$ 15,000,000
Subtotal:		\$ 30,000,000
Distribution Lines		
Eastside Planned Service Area		\$ 25,500,000
Montana East Supply Line Area (E&W, N&S, Darrington)		\$ 21,000,000
Subtotal:		\$ 46,500,000
Total Water CIP		266,500,000

Eastside Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
Bustamante WWTP (Expansion 39 to 51 MGD)		\$ 605,100,000
<u>Collection System</u>		
Lines		
Other Interceptors (Area 8 East)		\$ 12,700,000
Loop 375 East Interceptor System		\$ 14,300,000
Subtotal:		\$ 27,000,000
Pumping & Force Mains		
No wastewater pumping & force main CIP proposed		-
Total Wastewater CIP		\$ 632,100,000

Attachment E Impact Fee Calculation by Service Area

ATTACHMENT E Water and Wastewater Impact Fee Study Northeast Service Area

Water Service Unit Flows (Max Day) 688 gpd

Line No.	Northeast Service Area - Water	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Water Supply and Treatment System						
1	KBH Expansion Phase 1 (2.5 MG)	\$ 17,000,000	2.50	3,634	\$ 4,678	\$ 4,678
	Subtotal	\$ 17,000,000		3,634		
Debt Issued						
2	KBH Expansion Phase 1 (2.5 MG)	\$ 6,050,000				
	Subtotal	\$ 6,050,000				
NPV of Interest						
3	KBH Expansion Phase 1 (2.5 MG)	\$ 2,564,902	2.50	3,634	706	\$ 706
	Subtotal	\$ 2,564,902		3,634		
Reservoirs						
4	Loma Real Tank - Ground (5 MG)	\$ 15,000,000	5.00	14,535	\$ 1,032	
5	Franklin East 1B - Ground (3 MG)	\$ 9,000,000	3.00	8,721	\$ 1,032	
6	NE Station Well Supply Tank (2 MG)	\$ 6,000,000	2.00	5,814	\$ 1,032	\$ 1,032
	Subtotal	\$ 30,000,000		29,070		
Debt Issued						
7	Loma Real Tank - Ground (5 MG)	\$ 5,335,000				
8	Franklin East 1B - Ground (3 MG)	\$ 3,205,000				
9	NE Station Well Supply Tank (2 MG)	\$ 2,135,000				
	Subtotal	\$ 10,675,000				
NPV of Interest						
10	Loma Real Tank - Ground (5 MG)	\$ 2,261,777	5.00	14,535	\$ 156	
11	Franklin East 1B - Ground (3 MG)	\$ 1,358,762	3.00	8,721	\$ 156	
12	NE Station Well Supply Tank (2 MG)	\$ 905,135	2.00	5,814	\$ 156	\$ 156
	Subtotal	\$ 4,525,674		29,070		
Distribution Pumping Equipment						
13	Loma Real Pump Station (6 MGD)	\$ 22,000,000	6.00	8,721	\$ 2,523	\$ 2,523
	Subtotal	\$ 22,000,000		8,721		
Debt Issued						
14	Loma Real Pump Station (6 MGD)	\$ 7,825,000				
	Subtotal	\$ 7,825,000				
NPV of Interest						
15	Loma Real Pump Station (6 MGD)	\$ 3,317,414	6.00	8,721	\$ 380	\$ 380
	Subtotal	\$ 3,317,414		8,721		
Distribution Lines						
16	Dyer/RR Waterline	\$ 2,300,000	28.00	40,698	\$ 57	
17	Franklin East Distribution	\$ 6,800,000	28.00	40,698	\$ 167	
18	NE Franklin System	\$ 37,000,000	28.00	40,698	\$ 909	\$ 378
	Subtotal	\$ 46,100,000		122,093		
Debt Issued						
20	Dyer/RR Waterline	\$ 820,000				
21	Franklin East Distribution	\$ 2,420,000				
22	NE Franklin System	\$ 13,160,000				
23	0	\$ -				
	Subtotal	\$ 16,400,000				
NPV of Interest						
24	Dyer/RR Waterline	\$ 347,640			\$ 171	
25	Franklin East Distribution	\$ 1,025,961	28.00	40,698	\$ 171	
26	NE Franklin System	\$ 5,579,191			\$ 171	\$ 171
27	0	\$ -			\$ 171	
	Subtotal	\$ 6,952,792		40,698		
28	Maximum Water Impact Fee - Northeast Service Area (Capital and Financing)					\$ 10,023

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Northeast Service Area

Wastewater Service Unit Flows (Max Day)		341		gpd			
Line No.	Northeast Service Area - Wastewater	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average	
Collection System							
Lines							
29	NE Dyer/RR Interceptor	\$ 10,300,000	4.55	13,343	\$ 772		
30	NE Interceptor System	\$ 26,000,000	5.38	15,777	\$ 1,648		
31	NE Franklin	\$ 6,000,000	3.71	10,880	\$ 551	\$	1,058
	Subtotal	\$ 42,300,000		40,000			
Debt Issued							
32	NE Dyer/RR Interceptor	\$ 6,595,000					
33	NE Interceptor System	\$ 1,335,638					
34	NE Franklin	\$ 308,533					
	Subtotal	\$ 8,239,171					
NPV of Interest							
35	NE Dyer/RR Interceptor	\$ 2,795,955	4.55	13,343	\$ 210		
36	NE Interceptor System	\$ 7,056,660	5.38	15,777	\$ 447		
37	NE Franklin	\$ 1,630,091	3.71	10,880	\$ 150	\$	287
	Subtotal	\$ 11,482,705		40,000			
38	Maximum Wastewater Impact Fee - Northeast Service Area (Capital and Financing)					\$	1,345
39	Maximum Northeast Water and Wastewater Impact Fee					\$	11,368

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Westside Service Area

Water Service Unit Flows (Max Day)

688 gpd

Line No.	Westside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Reservoirs						
1	TransMountain NW #1A (4 MG)	\$ 12,000,000	4.00	11,628	\$ 1,032	\$1,032
2	TransMountain NW #2A (3 MG)	\$ 9,000,000	3.00	8,721	\$ 1,032	
3	TransMountain NW #3 (1 MG)	\$ 3,000,000	1.00	2,907	\$ 1,032	
	Subtotal	\$ 24,000,000		23,256		
Debt Issued						
4	TransMountain NW #1A (4 MG)	\$ 4,270,000				
5	TransMountain NW #2A (3 MG)	\$ 3,205,000				
6	TransMountain NW #3 (1 MG)	\$ 1,070,000				
	Subtotal	\$ 8,545,000				
NPV of Interest						
7	TransMountain NW #1A (4 MG)	\$ 1,810,270	4.00	11,628	\$ 156	\$156
8	TransMountain NW #2A (3 MG)	\$ 1,358,762	3.00	8,721	\$ 156	
9	TransMountain NW #3 (1 MG)	\$ 453,627	1.00	2,907	\$ 156	
	Subtotal	\$ 3,622,659		23,256		
Distribution Pumping Equipment						
10	Artcraft #1-NW-WFMP	\$ 7,500,000	5.00	7,267	\$ 1,032	\$1,185
11	TransMountain NW #1 Pump Station (3 MGD)	\$ 6,000,000	3.00	4,360	\$ 1,376	
12	TransMountain NW#2 Pump Station (1 MGD)	\$ 2,000,000	1.00	1,453	\$ 1,376	
	Subtotal	\$ 15,500,000		13,081		
Debt Issued						
13	Artcraft #1-NW-WFMP	\$ 2,670,000				
14	TransMountain NW #1 Pump Station (3 MGD)	\$ 2,135,000				
15	TransMountain NW#2 Pump Station (1 MGD)	\$ 715,000				
	Subtotal	\$ 5,520,000				
NPV of Interest						
16	Artcraft #1-NW-WFMP	\$ 1,131,948	5.00	7,267	\$ 156	\$179
17	TransMountain NW #1 Pump Station (3 MGD)	\$ 905,135	3.00	4,360	\$ 208	
18	TransMountain NW#2 Pump Station (1 MGD)	\$ 303,125	1.00	1,453	\$ 209	
	Subtotal	\$ 2,340,208		13,081		
Distribution Lines						
19	48" Supply Line to TransMountain #1 Tank	\$ 5,000,000	40.00	58,140	\$ 86	\$508
20	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 18,500,000	22.00	31,977	\$ 579	
21	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 8,000,000	22.00	31,977	\$ 250	
22	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 4,000,000	5.00	7,267	\$ 550	
23	Upper Valley Borderland 36" Phase 2A	\$ 35,500,000	22.00	31,977	\$ 1,110	
24	Upper Valley Borderland 36" Phase 4	\$ 21,600,000	6.30	9,157	\$ 2,359	
25	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 2,000,000	6.30	9,157	\$ 218	
26	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 3,000,000	6.30	9,157	\$ 328	
27	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 3,000,000	6.30	9,157	\$ 328	
	Subtotal	\$ 100,600,000		197,965		
Debt Issued						
28	48" Supply Line to TransMountain #1 Tank	\$ 1,780,000				
29	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 6,580,000				
30	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 2,845,000				
31	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 1,425,000				
32	Upper Valley Borderland 36" Phase 2A	\$ 12,625,000				
33	Upper Valley Borderland 36" Phase 4	\$ 7,685,000				
34	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 715,000				
35	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 1,070,000				
36	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 1,070,000				
	Subtotal	\$ 35,795,000				
NPV of Interest						
37	48" Supply Line to TransMountain #1 Tank	\$ 754,632	40.00	58,140	\$ 13	\$77
38	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 2,789,596	22.00	31,977	\$ 87	
39	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 1,206,140	22.00	31,977	\$ 38	
40	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 604,130	5.00	7,267	\$ 83	
41	Upper Valley Borderland 36" Phase 2A	\$ 5,352,378	22.00	31,977	\$ 167	
42	Upper Valley Borderland 36" Phase 4	\$ 3,258,061	6.30	9,157	\$ 356	
43	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 303,125	6.30	9,157	\$ 33	
44	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 453,627	6.30	9,157	\$ 50	
45	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 453,627	6.30	9,157	\$ 50	
	Subtotal	\$ 15,175,316		197,965		
46	Maximum Water Impact Fee - Westside Service Area (Capital and Financing)					\$ 3,136

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Westside Service Area

Wastewater Service Unit Flows (Max Day)

341 gpd

Line No.	Westside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Lines						
47	TransMountain NW Interceptors	\$ 2,500,000	2.04	5,982	\$ 418	
	Subtotal	\$ 2,500,000		5,982		\$ 418
Debt Issued						
48	TransMountain NW Interceptors	\$ 1,605,000				
	Subtotal	\$ 1,605,000				
NPV of Interest						
49	TransMountain NW Interceptors	\$ 680,441	2.04	5,982	\$ 114	
	Subtotal	\$ 680,441		5,982		114
Pumping & Force Mains						
50	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 50,000,000	7.50	21,994	\$ 2,273	
51	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 300,000	0.16	469	\$ 639	2,239
	Subtotal	\$ 50,300,000		22,463		
Debt Issued						
52	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 32,005,000				
53	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 195,000				
	Subtotal	\$ 32,200,000				
NPV of Interest						
54	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 13,568,543	7.50	21,994	\$ 617	
55	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 82,670	0.16	469	\$ 176	608
	Subtotal	\$ 13,651,213		22,463		
56	Maximum Wastewater Impact Fee - Westside Service Area (Capital and Financing)				\$ 3,379	
57	Maximum Water and Wastewater Impact Fee - Westside Area				\$ 6,515	

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Eastside Service Area

Water Service Unit Flows (Max Day)

688

gpd

Line No.	Eastside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Water Supply and Treatment System						
1	KBH Phase 2 (2.5 MG)	\$ 17,000,000	2.50	3,634	\$ 4,678	
2	Advanced Water Purification Facility (10 MG)	\$ 173,000,000	10.00	14,535	\$ 11,902	\$ 10,458
	Subtotal	\$ 190,000,000		18,169		
Debt Issued						
3	KBH Phase 2 (2.5 MG)	\$ 6,050,000				
4	Advanced Water Purification Facility (10 MG)	\$ 61,520,000				
	Subtotal	\$ 67,570,000				
NPV of Interest						
5	KBH Phase 2 (2.5 MG)	\$ 2,564,902	2.50	3,634	\$ 706	
6	Advanced Water Purification Facility (10 MG)	\$ 26,081,448	10.00	14,535	\$ 1,794	\$ 1,577
	Subtotal	\$ 28,646,350		18,169		
Water Distribution System						
Reservoirs						
7	Homestead II Tank (2.5 MG)	\$ 15,000,000	2.50	7,267	\$ 2,064	
8	John Hayes (2.5 MG)	\$ 15,000,000	2.50	7,267	\$ 2,064	
	Subtotal	\$ 30,000,000		14,535		\$ 2,064
Debt Issued						
9	Homestead II Tank (2.5 MG)	\$ 5,335,000				
10	John Hayes (2.5 MG)	\$ 5,335,000				
	Subtotal	\$ 10,670,000				
NPV of Interest						
11	Homestead II Tank (2.5 MG)	\$ 2,261,777	2.50	7,267	\$ 311	
12	John Hayes (2.5 MG)	\$ 2,261,777	2.50	7,267	\$ 311	
	Subtotal	\$ 4,523,554		14,535		\$ 311
Distribution Lines						
1	Eastside Planned Service Area	\$ 25,500,000	32.60	47,384	\$ 538	
2	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 21,000,000	35.00	50,872	\$ 413	
	Subtotal	\$ 46,500,000		98,256		\$ 473
Debt Issued						
3	Eastside Planned Service Area	\$ 9,070,000				
4	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 7,470,000				
	Subtotal	\$ 16,540,000				
NPV of Interest						
5	Eastside Planned Service Area	\$ 3,845,233	32.60	47,384	\$ 81	
6	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 3,166,912	35.00	50,872	\$ 62	
	Subtotal	\$ 7,012,145		98,256		\$ 71
7	Maximum Water Impact Fee - Eastside Service Area (Capital and Financing)					\$ 14,954

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Eastside Service Area

Wastewater Service Unit Flows (Max Day)

341

gpd

Line No.	Eastside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Wastewater Treatment System						
1	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 605,100,000	12.00	35,191	\$ 17,195	\$ 17,195
Debt Issued						
2	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 215,175,000				
NPV of Interest						
3	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 91,223,596	12.00	35,191	\$ 2,592	\$ 2,592
Lines						
1	Other Interceptors (Area 8 East)	12,700,000	3.52	10,323	\$ 1,230	
2	Loop 375 East Interceptor System	14,300,000	5.64	16,540	\$ 865	
	Subtotal	27,000,000		26,862		\$ 1,005
Debt Issued						
3	Other Interceptors (Area 8 East)	4,520,000				
4	Loop 375 East Interceptor System	9,155,000				
	Subtotal	13,675,000				
NPV of Interest						
5	Other Interceptors (Area 8 East)	1,916,257	3.52	10,323	\$ 186	
6	Loop 375 East Interceptor System	3,881,269	5.64	16,540	\$ 235	
	Subtotal	5,797,526		26,862		\$ 216
7	Maximum Wastewater Impact Fee - Eastside Service Area (Capital and Financing)				\$ 21,008	
8	Maximum Eastside Water and Wastewater Impact Fee				\$ 35,962	

Attachment F Maximum Impact Fee Calculation

ATTACHMENT F
Water and Wastewater Impact Fee Study
Maximum Impact Fee Per Service Unit

Service Area and Category of Capital Improvement	Capital Improvement Costs	Amount Financed	Financing Costs (NPV of Interest)	Facility Service Units	Projected New Service Units through 2033	Portion of Capital Improvements and Financing	Maximum Impact Fee per Unit
Northeast							
Water							
Treatment	\$17,000,000	6,050,000	2,564,902	3,634	50,468	271,732,884	5,384
Reservoirs	30,000,000	10,675,000	4,525,674	29,070	50,468	59,939,995	1,188
Pumping	22,000,000	7,825,000	3,317,414	8,721	50,468	146,511,810	2,903
Distribution Lines	46,100,000	16,400,000	6,952,792	122,093	50,468	21,929,740	435
Total Water	115,100,000	40,950,000	17,360,782	N/A	50,468	500,114,428	9,910
Wastewater							
Collection Lines	42,300,000	8,239,171	11,482,705	40,000	50,468	67,857,639	1,345
Total Wastewater	42,300,000	8,239,171	11,482,705	N/A	50,468	67,857,639	1,345
Total Northeast Area	\$157,400,000	\$49,189,171	\$28,843,487	N/A	50,468	\$567,972,068	\$11,254
Westside							
Water							
Reservoirs	24,000,000	8,545,000	3,622,659	23,256	22,099	26,248,625	1,188
Pumping	15,500,000	5,520,000	2,340,208	13,081	22,099	30,138,280	1,364
Distribution Lines	100,600,000	35,795,000	15,175,316	197,965	22,099	12,924,089	585
Total Water	140,100,000	49,860,000	21,138,183	N/A	22,099	69,310,994	3,136
Wastewater							
Collection Lines	2,500,000	1,605,000	680,441	5,982	22,099	11,748,547	532
Pumping	50,300,000	32,200,000	13,651,213	22,463	22,099	62,913,960	2,801
Total Wastewater	52,800,000	33,805,000	14,331,654	N/A	22,099	74,662,507	3,332
Total Westside Area	\$192,900,000	\$83,665,000	\$35,469,837	N/A	22,099	\$143,973,500	\$6,469
Eastside							
Water							
Treatment	\$190,000,000	\$67,570,000	\$28,646,350	18,169	27,839	335,022,742	12,034
Reservoirs	30,000,000	10,670,000	4,523,554	14,535	27,839	66,123,764	2,375
Distribution Lines	46,500,000	16,540,000	7,012,145	98,256	27,839	15,161,694	545
Total Water	266,500,000	94,780,000	40,182,049	N/A	27,839	416,308,200	14,954
Wastewater							
Treatment	605,100,000	215,175,000	91,223,596	35,191	27,839	550,855,736	19,787
Collection Lines	27,000,000	13,675,000	5,797,526	26,862	27,839	33,990,192	1,221
Total Wastewater	632,100,000	228,850,000	97,021,122	N/A	27,839	584,845,929	21,008
Total Eastside Area	\$898,600,000	\$323,630,000	\$137,203,172	N/A	27,839	\$1,001,154,129	\$35,962
Systemwide							
Water	\$521,700,000	\$185,590,000	\$78,681,014	NA	100,406	\$985,733,622	\$9,875
Wastewater	727,200,000	270,894,171	122,835,482	NA	100,406	727,366,075	\$7,244
Systemwide Area	\$1,248,900,000	\$456,484,171	\$201,516,496	NA	100,406	\$1,713,099,697	\$17,119

Attachment G Impact Fee Credit Calculation

ATTACHMENT G Water and Wastewater Impact Fee Study Impact Fee Credit Calculation

Systemwide Water Credit Calculation

Line No.		Total (All Years)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
1	Principal Payments	\$185,590,000	\$5,612,722	\$5,893,358	\$6,188,026	\$6,497,427	\$6,822,298	\$7,163,413	\$7,521,584	\$7,897,663	\$8,292,546	\$8,707,174
2	Annual Interest on Future Debt		9,279,500	8,998,864	8,704,196	8,394,795	8,069,923	7,728,808	7,370,638	6,994,559	6,599,675	6,185,048
3	Total Debt Service		\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222
<u>Present Value</u>												
4	Principal on Future Debt		\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449
2	Interest Payments (present value)	78,681,014	8,837,619	8,162,235	7,519,012	6,906,418	6,322,996	5,767,356	5,238,175	4,734,193	4,254,210	3,797,083
3	Principal and Present Value of Interest	\$264,271,014	\$14,450,341	\$14,055,593	\$13,707,038	\$13,403,845	\$13,145,295	\$12,930,769	\$12,759,759	\$12,631,856	\$12,546,756	\$12,504,257
4	Beginning Year Service Units		252,766	262,807	272,847	282,888	292,928	302,969	313,010	323,050	333,091	343,131
5	Incremental Service Units		10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041
6	Total Service Units		262,807	272,847	282,888	292,928	302,969	313,010	323,050	333,091	343,131	353,172
7	Debt Service Credit per Unit	\$799	\$55	\$52	\$48	\$46	\$43	\$41	\$39	\$38	\$37	\$35

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G Water and Wastewater Impact Fee Study Impact Fee Credit Calculation

Systemwide Water Credit Calculation

Line No.		2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
1	Principal Payments	\$9,142,532	\$9,599,659	\$10,079,642	\$10,583,624	\$11,112,805	\$11,668,445	\$12,251,868	\$12,864,461	\$13,507,684	\$14,183,068
2	Annual Interest on Future Debt	5,749,689	5,292,563	4,812,580	4,308,598	3,779,417	3,223,776	2,640,354	2,027,761	1,384,538	709,153
3	Total Debt Service	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222
<u>Present Value</u>											
4	Principal on Future Debt	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449
2	Interest Payments (present value)	3,361,724	2,947,097	2,552,214	2,176,135	1,817,964	1,476,849	1,151,978	842,576	547,909	267,272
3	Principal and Present Value of Interest	\$12,504,257	\$12,546,756	\$12,631,856	\$12,759,759	\$12,930,769	\$13,145,295	\$13,403,845	\$13,707,038	\$14,055,593	\$14,450,341
4	Beginning Year Service Units	353,172	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213
5	Incremental Service Units	10,041	0	0	0	0	0	0	0	0	0
6	Total Service Units	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213
7	Debt Service Credit per Unit	\$34	\$35	\$35	\$35	\$36	\$36	\$37	\$38	\$39	\$40

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G (continued)
Water and Wastewater Impact Fee Study
Impact Fee Credit Calculation

Systemwide Wastewater Credit Calculation

Line No.		Total (All Years)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
1	Principal Payments	\$289,740,000	\$8,762,487	\$9,200,612	\$9,660,642	\$10,143,674	\$10,650,858	\$11,183,401	\$11,742,571	\$12,329,699	\$12,946,184	\$13,593,494
2	Interest Payments (present value)	\$122,835,482	13,797,143	12,742,744	11,738,555	10,782,185	9,871,356	9,003,899	8,177,751	7,390,942	6,641,601	5,927,942
3	Principal and Present Value of Interest	\$412,575,482	\$22,559,630	\$21,943,356	\$21,399,197	\$20,925,859	\$20,522,214	\$20,187,300	\$19,920,321	\$19,720,642	\$19,587,785	\$19,521,436
4	Beginning Year Service Units		206,116	216,157	226,197	236,238	246,278	256,319	266,360	276,400	286,441	296,481
5	Incremental Service Units		10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041
6	Total Service Units		216,157	226,197	236,238	246,278	256,319	266,360	276,400	286,441	296,481	306,522
7	Debt Service Credit per Unit	\$1,455	\$104	\$97	\$91	\$85	\$80	\$76	\$72	\$69	\$66	\$64

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G (continued)
Water and Wastewater Impact Fee Study
Impact Fee Credit Calculation

Systemwide Wastewater Credit Calculation

Line No.		2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
1	Principal Payments	\$14,273,168	\$14,986,827	\$15,736,168	\$16,522,976	\$17,349,125	\$18,216,582	\$19,127,411	\$20,083,781	\$21,087,970	\$22,142,369
2	Interest Payments (present value)	5,248,268	4,600,959	3,984,474	3,397,345	2,838,175	2,305,632	1,798,448	1,315,416	855,386	417,261
3	Principal and Present Value of Interest	\$19,521,436	\$19,587,785	\$19,720,642	\$19,920,321	\$20,187,300	\$20,522,214	\$20,925,859	\$21,399,197	\$21,943,356	\$22,559,630
4	Beginning Year Service Units	306,522	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563
5	Incremental Service Units	10,041	0	0	0	0	0	0	0	0	0
6	Total Service Units	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563
7	Debt Service Credit per Unit	\$62	\$62	\$62	\$63	\$64	\$65	\$66	\$68	\$69	\$71

Notes:

1. Present value calculations apply a 5 percent discount rate.

Attachment H Impact fee Assessment Schedules

ATTACHMENT H

Water and Wastewater Impact Fee Study Impact Fee Assessment Schedules (Net Fee after Credit)

Northeast - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$5,012	\$672	\$5,684
1-inch	1.67	8,370	1,122	9,492
1½-inch	3.33	16,690	2,238	18,928
2-inch	5.33	26,714	3,582	30,296
3-inch	10.00	50,120	6,720	56,840
4-inch	16.67	83,550	11,202	94,752
6-inch	33.33	167,050	22,398	189,448
8-inch	53.33	\$267,290	\$35,838	\$303,128

Westside - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$1,568	\$1,689	\$3,257
1-inch	1.67	2,619	2,821	5,439
1½-inch	3.33	5,221	5,624	10,846
2-inch	5.33	8,357	9,002	17,360
3-inch	10.00	15,680	16,890	32,570
4-inch	16.67	26,139	28,156	54,294
6-inch	33.33	52,261	56,294	108,556
8-inch	53.33	\$83,621	\$90,074	\$173,696

Eastside - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$7,477	\$10,504	\$17,981
1-inch	1.67	12,487	17,542	30,028
1½-inch	3.33	24,898	34,978	59,877
2-inch	5.33	39,852	55,986	95,839
3-inch	10.00	74,770	105,040	179,810
4-inch	16.67	124,642	175,102	299,743
6-inch	33.33	249,208	350,098	599,307
8-inch	53.33	\$398,748	\$560,178	\$958,927

ATTACHMENT H

Water and Wastewater Impact Fee Study Impact Fee Assessment Schedules (Net Fee after Credit)

Northeast - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$9,213	\$1,074	\$10,287
1-inch	1.67	15,386	1,794	17,179
1½-inch	3.33	30,679	3,576	34,256
2-inch	5.33	49,105	5,724	54,830
3-inch	10.00	92,130	10,740	102,870
4-inch	16.67	153,581	17,904	171,484
6-inch	33.33	307,069	35,796	342,866
8-inch	53.33	\$491,329	\$57,276	\$548,606

Westside - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$2,883	\$2,700	\$5,583
1-inch	1.67	4,815	4,509	9,324
1½-inch	3.33	9,600	8,991	18,591
2-inch	5.33	15,366	14,391	29,757
3-inch	10.00	28,830	27,000	55,830
4-inch	16.67	48,060	45,009	93,069
6-inch	33.33	96,090	89,991	186,081
8-inch	53.33	\$153,750	\$143,991	\$297,741

Eastside - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$13,745	\$16,788	\$30,533
1-inch	1.67	22,954	28,036	50,990
1½-inch	3.33	45,771	55,904	101,675
2-inch	5.33	73,261	89,480	162,741
3-inch	10.00	137,450	167,880	305,330
4-inch	16.67	229,129	279,856	508,985
6-inch	33.33	458,121	559,544	1,017,665
8-inch	53.33	\$733,021	\$895,304	\$1,628,325



Legislation Text

File #: 24-561, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Planning and Inspections, Philip Etiwe, (915) 212-1553

Planning and Inspections, Kevin Smith, (915) 212-1566

El Paso Water, Adriana Castillo, (915) 594-5538

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending the following provisions of the El Paso City Code Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees): Section 15.22.060 (Land Use Assumptions and Service Area) and Section 15.22.070 (Capital Improvement Plan) to update dates; Section 15.22.100 (Maximum Fee and Actual Fee to be Assessed) to update water and wastewater impact fee per service unit; and Appendix B (Impact Fee Assessment Schedules) to update the water and wastewater schedule.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: May 7, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Kevin Smith, (915) 212-1566
Adriana Castillo, El Paso Water, (915) 594-5538

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.1 Provide business friendly permitting and inspection process
3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance amending the following provisions of El Paso City Code Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees): Section 15.22.060 (Land Use Assumptions and Service Area) and Section 15.22.070 (Capital Improvement Plan) to update dates; Section 15.22.100 (Maximum Fee and Actual Fee to be Assessed) to update water and wastewater impact fee per service unit; and Appendix B (Impact Fee Assessment Schedules) to update the water and wastewater schedule.

BACKGROUND / DISCUSSION:

This item is a proposed ordinance amending provisions to El Paso City Code Title 15 for revisions to the impact fee ordinance. The amendments are taking place in accordance with the requirements of Texas Local Government Code 395. The impact fees are assessed in land in three service areas (Northeast, Westside, and Eastside) – within a portion of the City limits and the City's 5-mile extraterritorial jurisdiction.

PRIOR COUNCIL ACTION:

May 12, 2009 – City Council adopted Ordinance 017113 for impact fees for water and wastewater services and ancillary items.

February 26, 2024 – City Council received a briefing on an update on the land use assumptions and capital improvements plan. The draft impact fee calculations were also presented.

March 12, 2024 and April 23, 2024 – public hearings at City Council to discuss and review the update and amendments of the land use assumptions, capital improvements plan, and impact fees.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

Revised 04/09/2021

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FOLLOWING PROVISIONS OF EL PASO CITY CODE TITLE 15 (PUBLIC SERVICES), CHAPTER 15.22 (WATER AND WASTEWATER IMPACT FEES): SECTION 15.22.060 (LAND USE ASSUMPTIONS AND SERVICE AREA) AND SECTION 15.22.070 (CAPITAL IMPROVEMENT PLAN) TO UPDATE DATES; SECTION 15.22.100 (MAXIMUM FEE AND ACTUAL FEE TO BE ASSESSED) TO UPDATE WATER AND WASTEWATER IMPACT FEE PER SERVICE UNIT; AND APPENDIX B (IMPACT FEE ASSESSMENT SCHEDULES) TO UPDATE THE WATER AND WASTEWATER SCHEDULE.

WHEREAS, Chapter 395 (Impact Fee Statute) of the Texas Local Government Code provides for the establishment and collection of impact fees by Texas municipalities and mandates the specific process Texas municipalities must take in order to adopt impact fees; and,

WHEREAS, on May 12, 2009, the City of El Paso adopted impact fees for water and wastewater in accordance with the provisions of the Impact Fee Statute; and,

WHEREAS, the City of El Paso last updated the Land Use Assumption Service Area, Capital Improvements Plan, and related provisions of El Paso City Code Title 15 Chapter 22 on March 4, 2014; and

WHEREAS, after following the required process of Chapter 395 for Required Periodic Updates of Land Use Assumptions and Capital Improvement Plan, the City Council desires to amend various provisions of El Paso City Code Title 15 to reflect updated land use assumptions, capital improvements plan, and impact fees; and,

WHEREAS, provisions of Title 15 are being amended by City Council to reflect the updated land use assumptions, capital improvements plan, and impact fees;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. The proposed land use assumptions, capital improvements plan, and impact fees have been reviewed and evaluated, and the City Council finds that the amendments as set forth in this Ordinance and Title 15 are hereby adopted, replacing and superseding any other land use assumptions, capital improvements plan, or impact fees previously approved and adopted by the City of El Paso. The adopted land use assumptions and capital improvements plan are hereby referenced in this Ordinance and found on the attached Exhibit "A".

SECTION 2. That Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees), Section 15.22.060 (Land use assumptions and service area) be amended as follows:

The land use assumptions (LUA) and service areas are those adopted by the El Paso City Council on May 7, 2024.

SECTION 3. That Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees), Section 15.22.070 (Capital improvements plan) be amended as follows:

The capital improvements plan (CIP) is the plan adopted by the El Paso City Council on May 7, 2024.

SECTION 4. That Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees), Section 15.22.100 (Maximum fee and actual fee to be assessed) be amended as follows:

The maximum allowable impact fee per service unit was calculated in accordance with V.T.C.A. Local Government Code § 395.015. In accordance with V.T.C.A. Local Government Code § 395.014(7), the city has awarded a credit based on the portion of the utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan. Ad valorem taxes will not be used for the payment of improvements contained in the capital improvements plan.

The impact fee to be assessed is the impact fee adopted by the city council.

WATER IMPACT FEE PER SERVICE UNIT

	Impact Fee (Before Credit)	Maximum Allowable Impact Fee	Impact Fee to be Assessed
Service Area			
Northeast	\$10,023	\$5,012	\$5,012
Westside	\$3,136	\$1,568	\$1,568
Eastside	\$14,954	\$7,477	\$7,477

WASTEWATER IMPACT FEE PER SERVICE UNIT

	Impact Fee (Before Credit)	Maximum Allowable Impact Fee	Impact Fee to be Assessed
Service Area			
Northeast	\$1,345	\$672	\$672
Westside	\$3,379	\$1,689	\$1,689
Eastside	\$21,008	\$10,504	\$10,504

SECTION 5. That Title 15 (Public Services), Chapter 15.22 (Water and Wastewater Impact Fees), Appendix B (Impact Fee Assessment Schedules) be amended as follows:

**APPENDIX B
IMPACT FEE ASSESSMENT SCHEDULES**

Northeast Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	\$ 5,012	\$ 672
1 inch	1.67	\$ 8,370	\$ 1,122
1½ inch	3.33	\$ 16,690	\$ 2,238
2 inch	5.33	\$ 26,714	\$ 3,582
3 inch	10.00	\$ 50,120	\$ 6,720
4 inch	16.67	\$ 83,550	\$ 11,202
6 inch	33.33	\$ 167,050	\$ 22,398
8 inch	53.33	\$ 267,290	\$35,838
10 inch	76.67	\$384,270	\$51,522
12 inch	143.33	\$718,370	\$96,318

** Fees do not apply to water meter or connections made for standby fire protection service.*

Westside Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	\$ 1,568	\$ 1,689
1 inch	1.67	\$ 2,619	\$ 2,821
1½ inch	3.33	\$ 5,221	\$ 5,624
2 inch	5.33	\$ 8,357	\$ 9,002
3 inch	10.00	\$ 15,680	\$ 16,890
4 inch	16.67	\$ 26,139	\$ 28,156
6 inch	33.33	\$ 52,261	\$ 56,294
8 inch	53.33	\$ 83,621	\$ 90,074
10 inch	76.67	\$ 120,219	\$ 129,496
12 inch	143.33	\$ 224,741	\$ 242,084

** Fees do not apply to water meter or connections made for standby fire protection service.*

Eastside Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	\$ 7,477	\$ 10,504
1 inch	1.67	\$ 12,487	\$ 17,542
1½ inch	3.33	\$ 24,898	\$ 34,978
2 inch	5.33	\$ 39,852	\$ 55,986
3 inch	10.00	\$ 74,770	\$ 105,040

4 inch	16.67	\$ 124,642	\$ 175,102
6 inch	33.33	\$ 249,208	\$ 350,098
8 inch	53.33	\$ 398,748	\$ 560,178
10 inch	76.67	\$ 573,262	\$ 805,342
12 inch	143.33	\$ 1,071,678	\$ 1,505,538

* *Fees do not apply to water meter or connections made for standby fire protection service.*

SECTION 6. Except as herein amended Title 15 (Public Services) of the El Paso City Code shall remain in full force and effect.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:

Russel T. Abeln

Russell Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe

Philip F. Etiwe, Director
Planning & Inspections Department

2024 UPDATE

LAND USE ASSUMPTIONS TECHNICAL REPORT

The review, evaluation, and update of underlying land use assumptions is required by Chapter 395 of the Texas Local Government Code to ensure reasonable future growth and acts as the basis of the City of El Paso's water and wastewater capital improvement plans, thus resulting in impact fee calculations. This report updates the land use assumptions adopted by the El Paso City Council on February 18, 2014, which serve as the foundation for the current water and wastewater impact fees levied on new development in each of the three identified service areas.

Introduction

Texas Local Government Code Chapter 395 permits the use of impact fees to finance capital improvement and facility expansion costs attributable to projected new development within identified service areas located in the corporate boundaries or extraterritorial jurisdiction of a political subdivision. To determine the costs of providing such infrastructure accurately, a planning study known as a Land Use Assumptions (LUA) report is assembled to include a description of changes in land uses, densities, intensities, and population projected within each of these service areas over a 10-year period, as well as at full build-out. The LUA report is referenced in the development of a Capital Improvements Plan (CIP) and the adoption of an impact fee ordinance.

To ensure reasonable future growth estimates serve as the basis for expected capital improvements and facility expansions necessitated by new development and the resulting impact fee calculations, the review, evaluation and update of the underlying LUA and CIP is required at least every five years. Following preparation of this update, the political subdivision's governing body (City Council) is required to hold a public hearing for the purpose of reviewing and determining whether amendments to the LUA, CIP, or the adopted impact fees are necessary.

This report, prepared by the City of El Paso's Planning and Inspections Department (P&I), in partnership with El Paso Water (EPW), is intended to fulfill the requirements of Chapter 395 of the Local Government Code with respect to the periodic review and update of the LUA report. Specifically, this report reassesses the land use assumptions adopted by the El Paso City Council on February 18, 2014. The assumptions adopted on that date comprise the first update of the original assumptions, adopted on March 24, 2009; this report comprises the second update.

In addition to providing information about projected land use characteristics within the three established service areas (Eastside, Northeast, and Westside Water and Sewer Impact Fee Service Areas), this report estimates the total number of projected service units, or standardized measurement of consumption, necessitated by new development, and also provides a snapshot forecast of demand for water and wastewater system improvements or expansion by the year 2033. While a number of unforeseeable future events may affect these predictions, the estimates in this report are based on the best information that is currently available.

Elements of the Land Use Assumptions Report Update

The body of this report is divided into five sections:

Impact Fee Service Areas: An explanation and description of the water and wastewater impact fee service areas.

Methodology: An explanation of the general methodology used to prepare and update the land use assumptions.

Full Build-Out Projection: Population and service unit holding capacity of land located within the impact fee service areas.

Ten-Year Growth Projection: Population and service unit growth assumptions for the period between 2024 and 2033.

Summary: A brief summation of the land use assumptions report 2024 update.

Impact Fee Service Areas

Per state law, one or more service areas must be identified and used in all impact fee analyses to ensure that planned capital improvements and facility expansions, as well as the resulting fee structure, are commensurate with projected proximate demand. A service area may include all or part of the land located within the corporate boundaries of the political subdivision or its extraterritorial jurisdiction (ETJ). Currently, City of El Paso water and wastewater impact fees are levied on three specific service areas within the City's corporate boundary and the ETJ; these areas are referred to as the Northeast, Westside, and Eastside Water and Sewer Impact Fee Service Areas. See Figure 1 for a map delineating the location of the three service areas.

Each service area includes portions or all of the sub-service areas defined in the City of El Paso's Final Annexation Assessment and Strategy Report, completed in the fall of 2008, as well as other areas identified within the Water and Wastewater Impact Fees – Report Addendum, completed in March 2009. See Table 1 for an overview of size and existing intensity characteristics within the three impact fee service areas and the nineteen (19) sub-service areas included in this edition of the report.

In total, the three service areas currently encompass 40,095 acres of land, with nearly two-thirds of the total acreage within the El Paso city limits, while the remaining portion lies within the City's ETJ. The Northeast Service Area is the largest of the three, comprising approximately 47 percent (19,096 acres) of the composite acreage, while the Eastside Service Area currently constitutes nearly 30 percent (12,012 acres) and the Westside Service Area approximately 23 percent (8,987 acres). Each of these areas is likely to be developed, at least partially, within the next ten years.

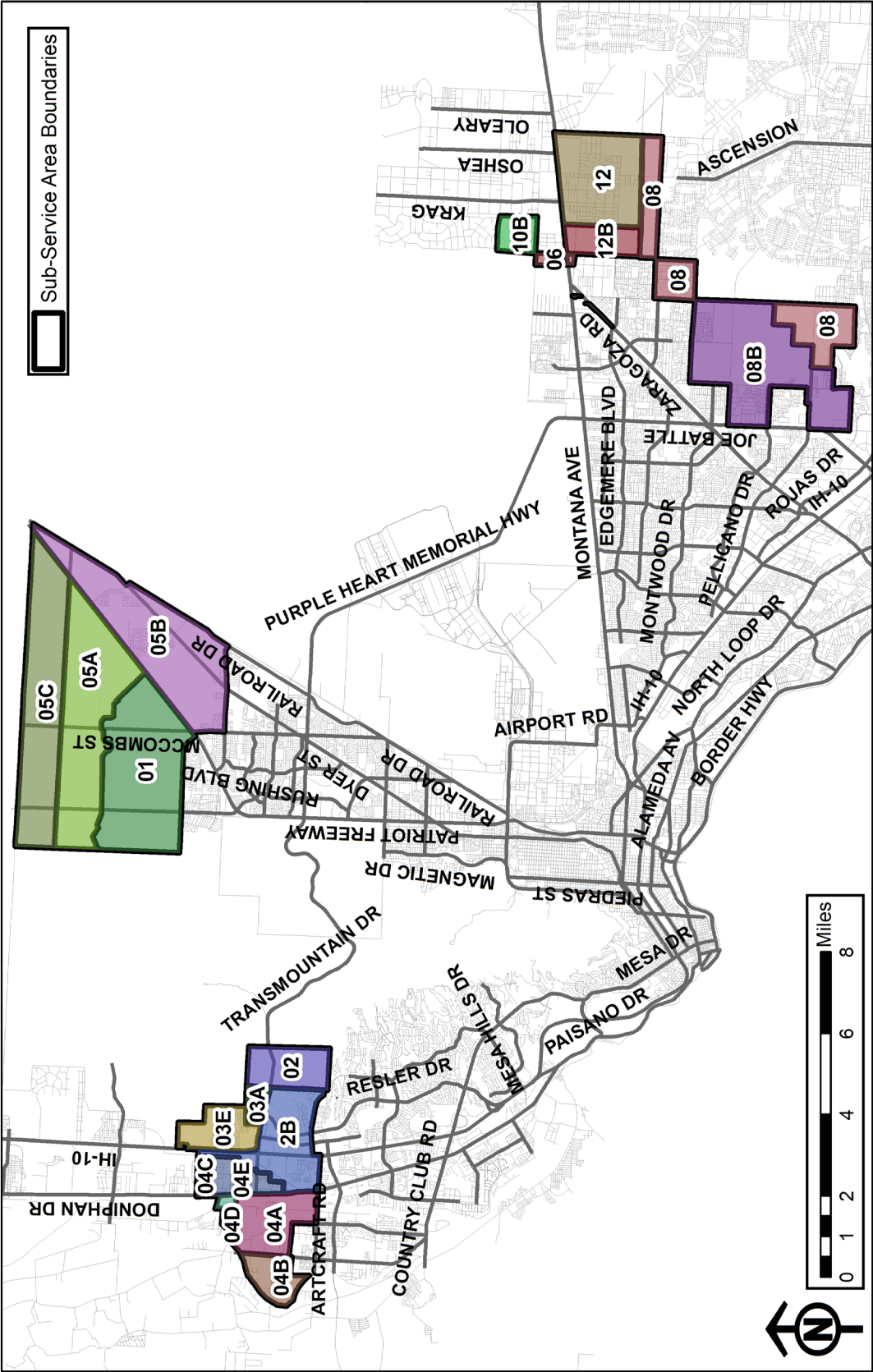


Figure 1. City of El Paso Water and Sewer Impact Fee Service Area

Table 1 provides a snapshot of existing development intensity within the impact fee service areas and sub-service areas. For the purposes of this report, development intensity is defined as the proportion of acreage within each impact fee service area built upon and zoned to a residential, commercial or industrial district. With respect to current development intensity, approximately 33% of the impact fee composite area is presently developed, representing approximately 13,128 acres.

Service Area	Total Acreage	Developed Acreage	% Acreage Developed
Northeast Impact Fee Service Area			
01 Northeast MP	4,835	610.1	13%
05A Northwest Fort Bliss A	4,812	574.4	12%
05B Northwest Fort Bliss B	4,929	2,153.8	44%
05C Northwest Fort Bliss C	4,520	965.9	21%
Northeast Subtotal	19,096	4,304	23%
Westside Impact Fee Service Area			
02 Westside MP	1,589	91.0	6%
03A Northwest Vinton A	294	38.7	13%
03E I-10375 MP	1,132	668.4	59%
04A Northwest Artcraft A	1,639	314.5	19%
04B Northwest Artcraft B	807	221.7	27%
04C Northwest Artcraft C	159	130.0	82%
04D Northwest Artcraft D	218	157.0	72%
04E Canutillo	801	705.0	88%
2B (Other)	2,348	1,845.4	79%
Westside Subtotal	8,987	4,172	46%
Eastside Impact Fee Service Area			
08B Eastside	4,826	1,165.6	24%
12 South Montana	2,919	1,695.9	58%
12B South Montana B	785	357.4	46%
06 South Fort Bliss	118	1.9	2%
08 East Battle	2,826	1,409.7	50%
10B South Fort Bliss B	538	21.2	4%
Eastside Subtotal	12,012	4,652	39%
Total	40,095	13,128	33%

Table 1. Impact Fee Service Area 2023 Existing Characteristics

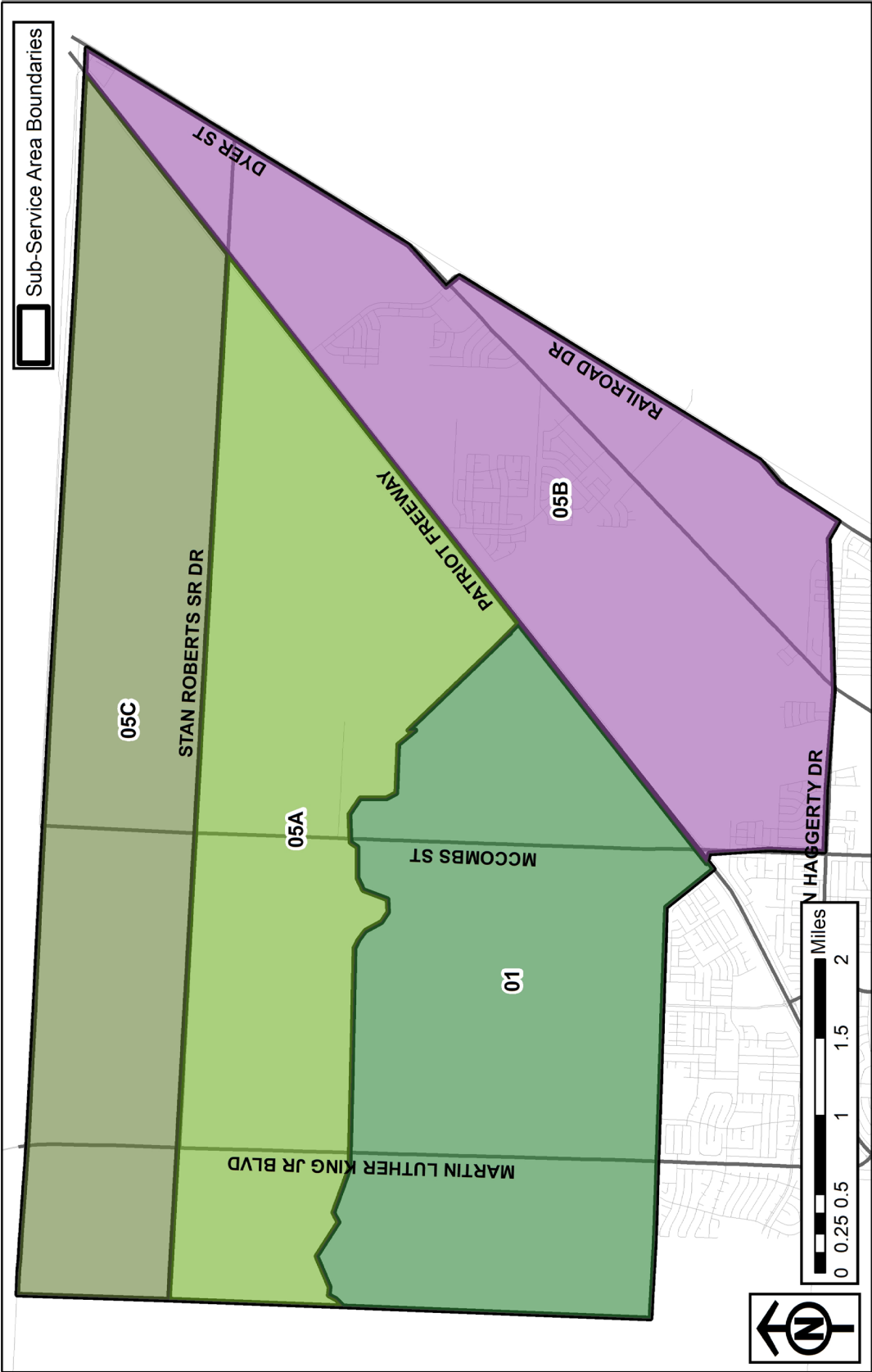


Figure 2. Northeast Water and Sewer Impact Fee Service Area

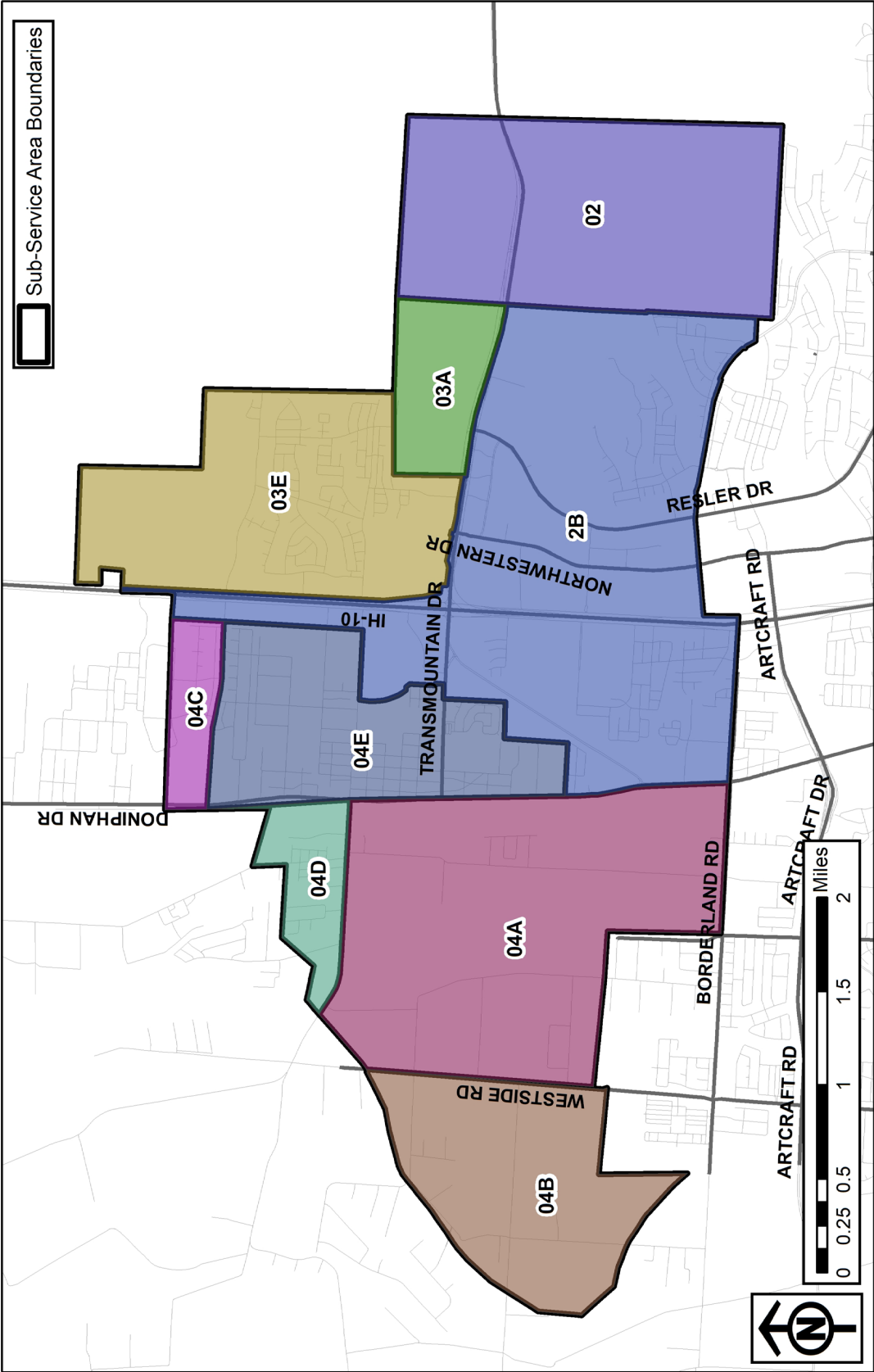


Figure 3. Westside Water and Sewer Impact Fee Service Area

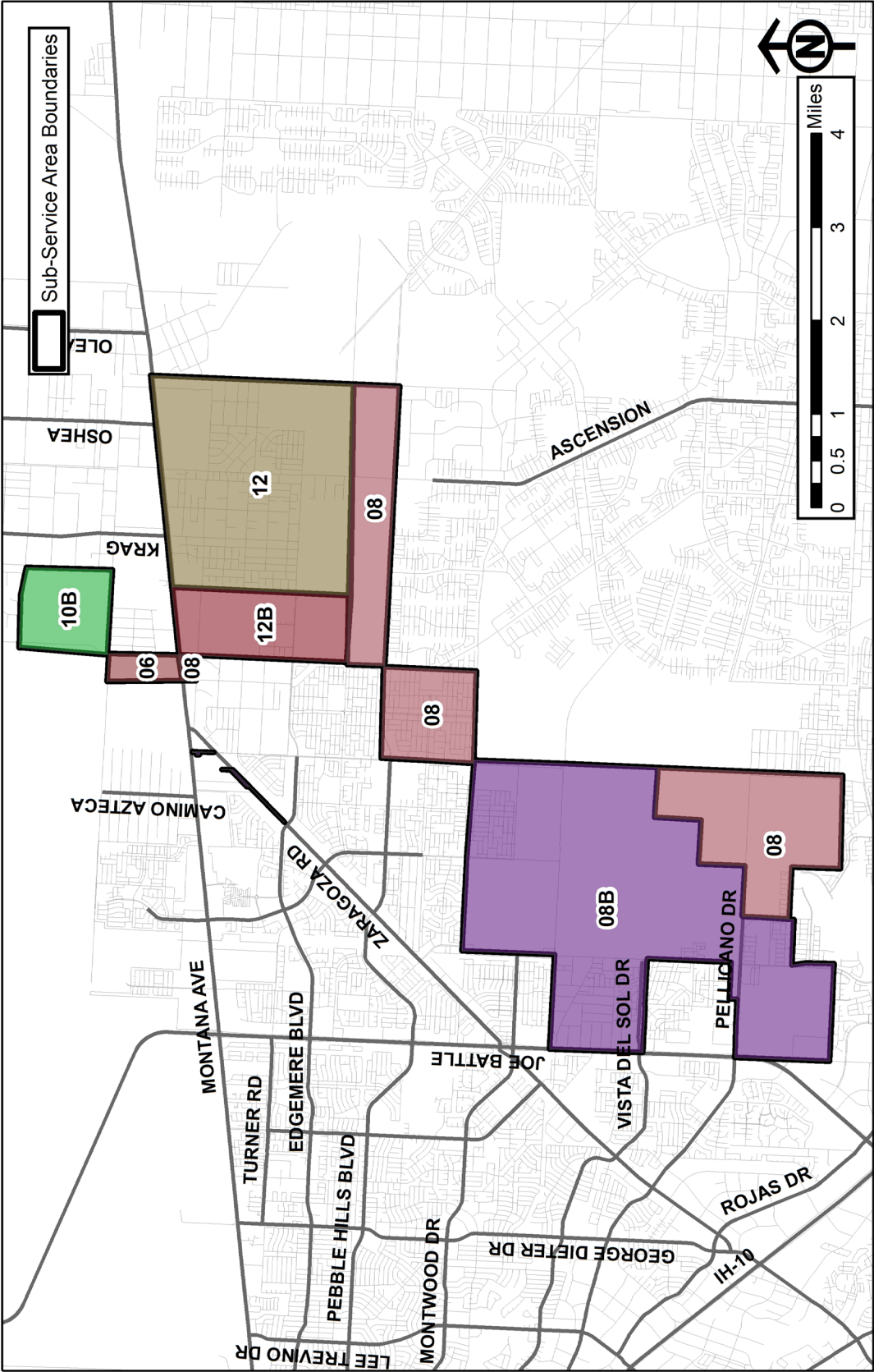


Figure 4. Eastside Water and Sewer Impact Fee Service Area

Methodology

The City of El Paso's existing water and wastewater fee structure is based on a series of growth assumptions which have in turn been used to inform expected capital improvement and facility expansion needs. The updated land use assumptions and associated population and service unit projections contained in this report are formulated based on consideration and incorporation of the following development patterns:

- Current development trends and characteristics;
- Zoning patterns in place and in process;
- Known or anticipated subdivision of land;
- Historic and anticipated growth trends;
- Expected future land use envisioned by *Plan El Paso*;
- Existing master plans

Land Use Assumption Update

Update of the 2014 growth projections began with the development of a database summarizing expected land use acreage at full build-out within each of the nineteen sub-service areas. Assembly of the database included analysis of the City's current zoning map and aerial photography. Zoning cases and subdivision plats in progress provided further information about near future development trends, as did surrounding development densities and types. Additionally, several approved master plans, including land studies and master zoning plans were used in determining the allocation of land use types. Developments were analyzed in each of the three impact fee service areas, including the Northeast (Campo Del Sol and Vista Del Norte Estates), Westside (Cimarron and Enchanted Hills developments), and in the Eastside (Gateway Estates and Tierra Del Este Phases IV, V, and VI).

Consistent with previous analyses, acreage within the impact fee service areas was allocated to either a non-residential or residential land use. Non-residential land use categories include: commercial, industrial, floodplain, institutional/utilities, open space, transportation, parkland or undeveloped land. Residential land use categories are defined by residential type (i.e. conventional or mixed-use) and associated density. Here, development density refers to the number of service units (either residential or residential equivalents) per acre. The level of density will differ by land use; for example, a high-density residential zone is assumed to accommodate relatively more service units per acre when compared to a low-density residential use. Appendix A provides a series of maps delineating previously adopted land use assumptions, as well as updated land use assumptions within each of the three impact fee areas.

Full Build-Out and Ten-Year Growth Projections Update

This expected land use acreage database was then used to update growth assumptions for two time horizons: a ten-year projection, and a full build-out projection. Development of these scenarios involved the estimation of population and service unit figures, two variables intended to provide information regarding demand for water and wastewater services in the impact fee service areas. A service unit is defined as a standardized measure of consumption attributable to an individual unit of development, while population is defined as the number of residents located within an impact fee service area.

Full Build-Out Projection:

The full build-out scenario is intended to provide information about the maximum realistic holding capacity for land within each of the impact fee service areas. It is therefore not tied to a specific time period as a number of external factors, such as economic growth and political events, will ultimately influence development.

Estimation of the full build-out scenario involves the following assumptions:

- For residential land uses, service units per acre are assigned according to the densities provided in Table 2 below. These densities are estimated based on current zoning restrictions, historic trends, and, where applicable, information provided in each of the approved master plans.
- Population per residential service unit is assumed to follow a household size of 2.94 persons per housing unit in El Paso County, as per the Census Quickfacts 2017-2021 estimates. Note that one housing unit is the equivalent of one residential service unit.
- For non-residential land uses, only lands categorized as a commercial or industrial land use type are expected to require water and wastewater services. Based on information provided by the El Paso Water, it is assumed that such land uses will require 7.25 residential equivalent service units per acre.

Land Use Type	Service Units per Acre
Conventional Residential Development	
Low Density	2
Medium Density	4.5
Medium High Density	6
High Density	9
Mixed-Use Development	
Mixed-Use	6
Non-Residential	
Commercial	7.25
Industrial	7.25

Table 2. Land Use Density Assumptions

Using the assumptions outlined in Table 2, the holding capacity within each impact fee service area is projected by first applying the non-residential and residential service unit density per acre to total commercial, industrial, and residential land use acreage figures as identified in the land use assumptions database (detailed in Appendices B-C). Land capacity for population is then derived by applying a factor of 2.94 to total residential service units at full build-out in each of the impact fee service areas.

Ten-Year Growth Projection

Following the development of the full build-out scenario, service unit and population growth projections for the time period corresponding to 2024-2033 were developed. In accordance with state law, the ten-year projections are intended to provide reasonable estimates of demand for water and wastewater services within the established impact fee service area boundaries over a practical planning period. These estimates are then used to inform potential modifications to the associated ten-year capital improvements plan and, if necessary, revisions to the existing impact fee structure.

In an effort to provide the most practical demand projections possible, growth rate assumptions vary by sub-service area. Estimating growth rates at the sub-service area level allows for the incorporation of several influencing factors, such as proximity to existing development and infrastructure, anticipated development projects, and expected phasing of master planned areas.

In the ten-year growth projections, the previously adopted projections were used as a starting point. Specifically, the 2014-2024 sub-service area projections were compared to existing development and adjusted to factor in the influencing factors outlined above, as well as revisions to land use assumptions summarized in Appendices A-C.

The remainder of this report provides service unit and population projections under the full build-out and ten-year scenarios. Each section includes projections by impact fee service area and by impact fee sub-service area. Refer to Appendices B-C for greater detail regarding land use assumptions, associated acreage, and projected service unit and population densities under the full build-out and ten-year scenarios.

Full Build-Out Projection

Table 3 on the following page summarizes total service unit and population projections by impact fee service area and sub-service area under the full build-out scenario. Given the land use assumptions summarized in this report, the three impact fee service areas are expected to hold 169,528 total service units and 281,107 residents at full capacity.

Service Area	Population at Build-Out	Service Units at Full-Build-Out		
		Residential	Non-Residential	Total
Northeast				
01 Northeast MP	48,334	16,440	2,175	18,615
05A Northwest Fort Bliss A	21,005	7,145	15,247	22,391
05B Northwest Fort Bliss B	41,128	13,989	12,144	26,133
05C Northwest Fort Bliss C	4,009	1,364	15,957	17,321
Northeast Subtotal	114,475	38,937	45,523	84,460
Westside				
02 Westside MP	0	0	0	0
03A Northwest Vinton A	209	71	761	832
03E I-10375 MP	10,333	3,515	1,740	5,255
04A Northwest Artcraft A	16,564	5,634	377	6,011
04B Northwest Artcraft B	9,182	3,123	261	3,384
04C Northwest Artcraft C	1,119	381	225	605
04D Northwest Artcraft D	2,209	752	80	831
04E Canutillo	6,178	2,102	1,240	3,341
02B Other	12,489	4,248	6,815	11,063
Westside Subtotal	58,283	19,824	11,498	31,322
Eastside				
08B Eastside	44,678	15,197	9,229	24,426
12 South Montana	25,225	8,580	2,791	11,371
12B South Montana B	7,722	2,627	1,276	3,903
06 South Fort Bliss	0	0	160	160
08 East Battle	21,803	7,416	3,437	10,853
10B South Fort Bliss B	8,921	3,035	0	3,035
Eastside Subtotal	108,349	36,854	16,893	53,746
Total	281,107	95,615	73,914	169,528

Table 3. Full Build-Out Projections

Ten-Year Growth Projection

Table 4 summarizes expected demand in 2033. Census data for 2000, 2010, and 2020 are provided as points of reference. By 2033 development within the composite impact fee service areas is anticipated to reach approximately 59% of total service unit holding capacity.

Service Area	Census			2033 Proj. Population	2033 Projected Service Units		
	2000	2010	2020		Residential	Non-Residential	Total
Northeast							
01 Northeast MP	0	0	13	39,193	13,331	1,740	15,071
05A Northwest Fort Bliss A	0	0	0	9,626	3,274	7,946	11,220
05B Northwest Fort Bliss B	2,199	4,799	10,735	29,162	9,919	6,537	16,456
05C Northwest Fort Bliss C	10	28	37	0	0	7,721	7,721
Northeast Subtotal	2,209	4,827	10,785	77,981	26,524	23,944	50,468
Westside							
02 Westside MP	0	0	0	0	0	0	0
03A Northwest Vinton A	0	0	0	209	71	207	278
03E I-10375 MP	0	0	2,142	9,202	3,130	653	3,783
04A Northwest Aircraft A	299	312	312	2,764	940	68	1,008
04B Northwest Aircraft B	289	251	289	3,014	1,025	81	1,106
04C Northwest Aircraft C	0	0	316	994	338	233	571
04D Northwest Aircraft D	836	1,001	635	2,020	687	80	767
04E Canutillo	3,633	4,760	4,615	8,258	2,809	1,091	3,900
02B Other	1,167	2,149	4,732	10,940	3,721	6,965	10,686
Westside Subtotal	6,224	8,473	13,041	37,400	12,721	9,378	22,099
Eastside							
08B Eastside	13	682	5,736	19,874	6,760	2,684	9,444
12 South Montana	6,766	7,625	7,483	11,457	3,897	2,198	6,095
12B South Montana B	0	7	12	4,933	1,678	809	2,487
06 South Fort Bliss	0	0	0	861	293	0	293
08 East Battle	0	0	1,460	16,420	5,585	2,920	8,505
10B South Fort Bliss B	0	0	0	2,984	1,015	0	1,015
Eastside Subtotal	6,779	8,335	14,691	56,530	19,228	8,611	27,839
Total	15,212	21,635	38,517	171,911	58,473	41,933	100,406

Table 4. Ten-Year Growth Projections

Summary

Table 5 provides a comparative analysis of the previously approved and updated residential service unit and population estimates under the full build-out scenario. Overall, total projected holding capacity for residential service units and population has remained relatively constant. While there is anticipated to be growth within these service areas, the effects of the COVID-19 pandemic, disruptions in the building supply chain, and current interest rates are impacting and anticipated to continue impacting the building growth over the next few years.

Service Area	Existing Build-Out Estimates		Updated Build-Out Estimates	
	Residential Service Units	Population	Residential Service Units	Population
Northeast	54,923	168,065	38,937	114,475
Westside	23,659	72,398	19,824	58,283
Eastside	37,753	115,524	36,854	108,349
Total	116,335	355,987	95,615	281,107

Table 5. Full Build-Out Projections Comparison

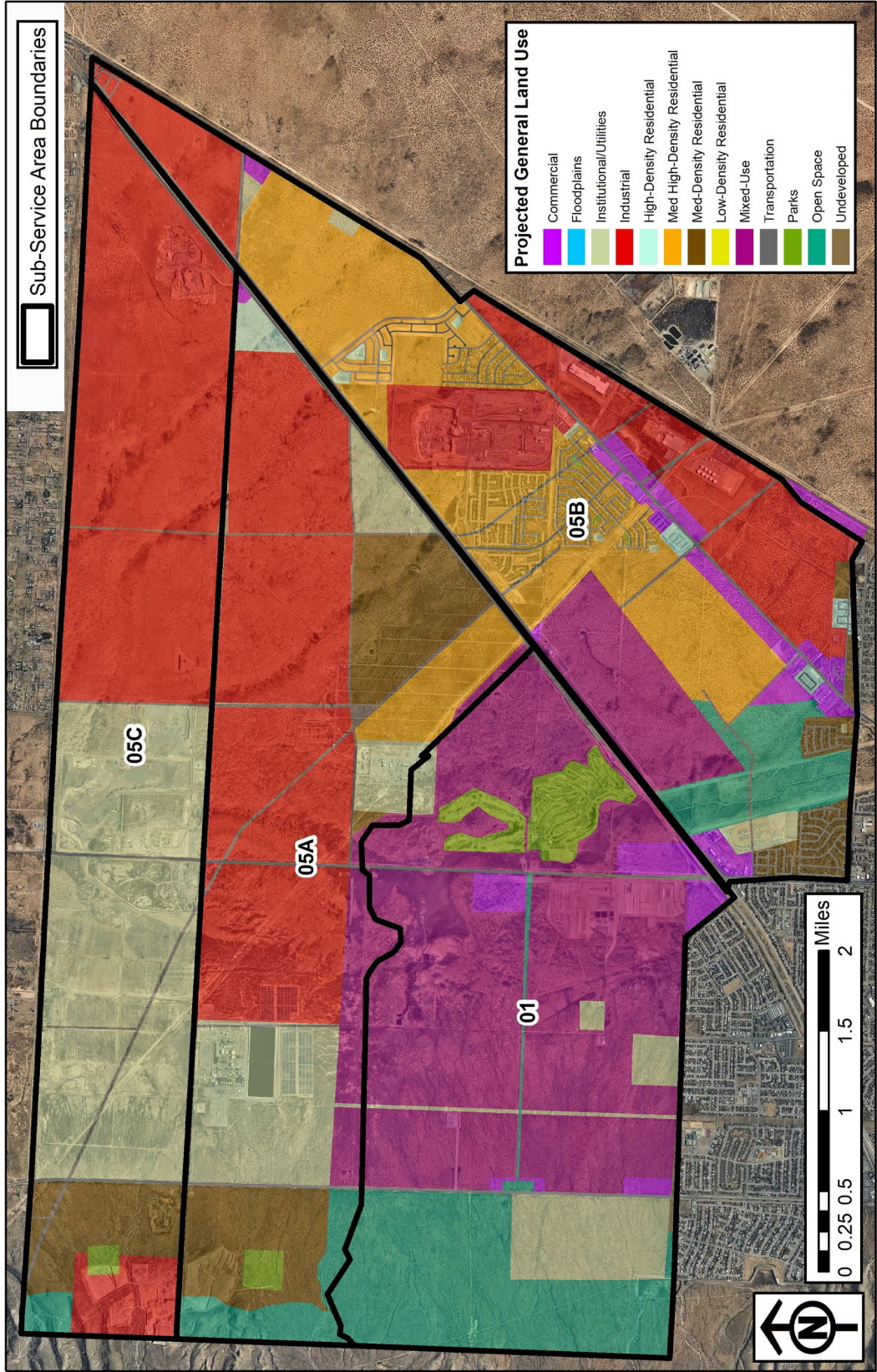
Table 6 provides a summary of the total service unit and population projections for both scenarios by impact fee service area. Given the updated land use assumptions, 170,232 total service units are projected at full build-out, while development demand will reach approximately 59% of the total holding capacity by 2033.

Service Area	Full Build-Out Scenario		2033 (Ten-Year) Scenario	
	Total Service Units	Population	Total Service Units	Population
Northeast	84,460	114,475	50,468	77,981
Westside	31,607	58,283	22,099	37,400
Eastside	54,165	108,349	27,839	56,530
Total	170,232	281,107	100,406	171,911

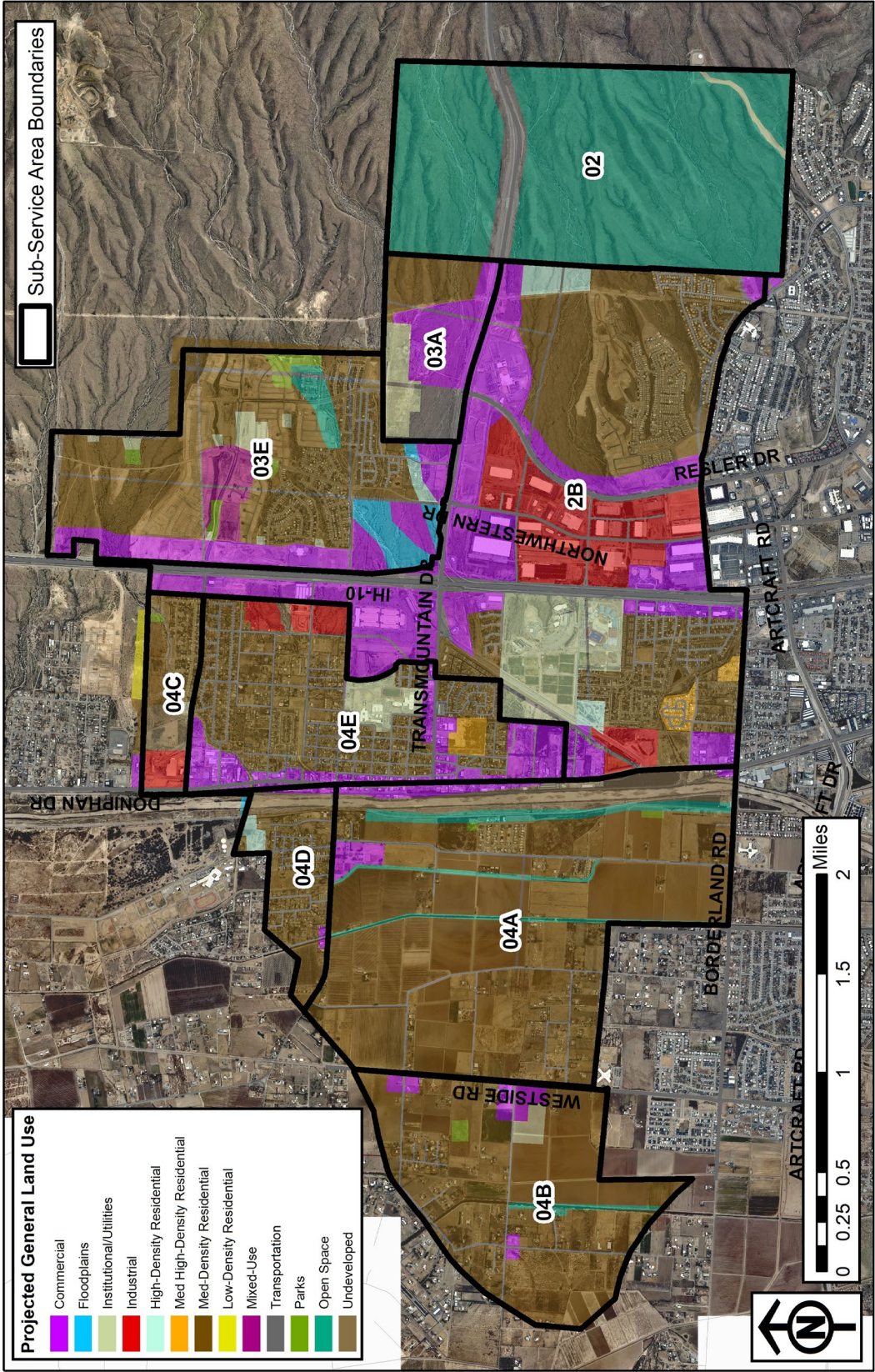
Table 6. Updated Projections Summary Table

Appendix A

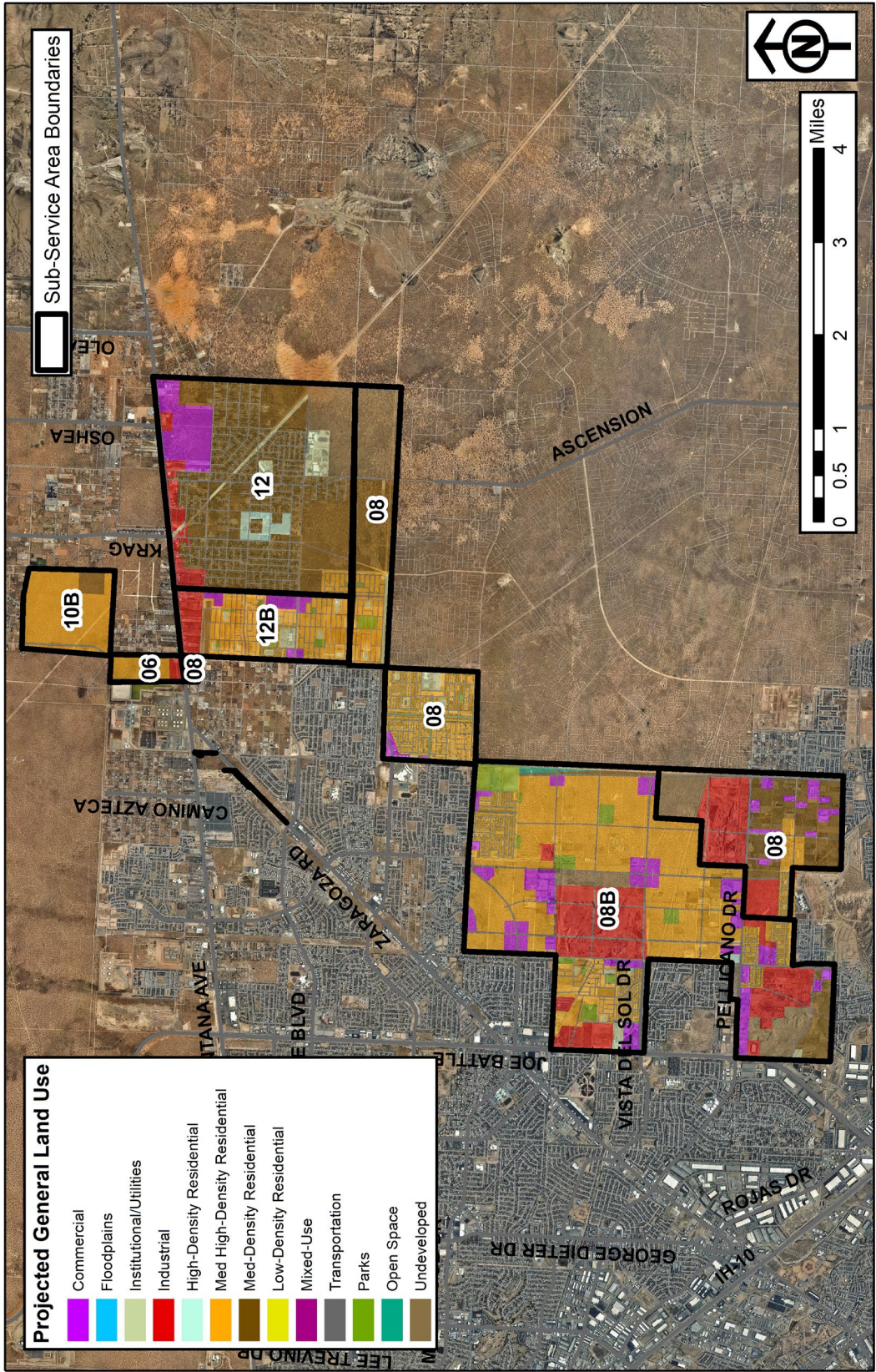
Land Use Assumptions Maps



Northeast Projected General Land Use



Westside Projected General Land Use



Eastside Projected General Land Use

Appendix B

Full Build-Out Projections

Service Area	Total Acreage		Non-Residential					Conventional Residential				Mixed Use Mixed Use			
	Transportation	Commercial	Industrial	Parkland	Floodplain	Open Space	Undeveloped	Institutional/Utilities	Low	Medium	Medium-High		High	Total	
Northeast															
01 Northeast MP	4,835	99	300		255		968	20	453					0	2,740
05A Northwest Fort Bliss A	4,812	260	5	2,098	38		229		823		775	229	51	1,055	304
05B Northwest Fort Bliss B	4,929	446	304	1,371	9		348		95		172	1,649	37	1,858	498
05C Northwest Fort Bliss C	4,520	154		2,201	23		51		1,788		303			303	
Northeast Subtotal	19,096	959	609	5,670	325	0	1,596	20	3,159	0	1,250	1,878	88	3,216	3,542
Westside															
02 Westside MP	1,589	91					1,483		15					0	
03A Northwest Vinton A	294	58	105						52		79			79	
03E I-10375 MP	1,132	71	220	20	34	57	50		30		581		9	590	60
04A Northwest Artcraft A	1,639	75	52		4		106	150			1,252			1,252	
04B Northwest Artcraft B	807	38	36		6		17		16		694			694	
04C Northwest Artcraft C	159	15	5	26				16	3		77			94	
04D Northwest Artcraft D	218	25	11			3		22			147		10	157	
04E Canutillo	801	133	141	42				10	49		371	21	34	426	
02B (Other)	2,348	315	622	318					200		826	24	43	893	
Westside Subtotal	8,987	821	1,192	406	44	60	1,656	198	365	17	4,027	45	96	4,185	60
Eastside															
08B Eastside	4,826	509	471	802	186		23	228	39		167	2,388	13	2,568	
12 South Montana	2,919	347	247	138	121			242	121		1,716	38	70	1,824	
12B South Montana B	785	98	77	99	20				47		25	419		444	
06 South Fort Bliss	118	3		22							93			93	
08 East Battle	2,826	440	166	308	40			370	81		740	681		1,421	
10B South Fort Bliss B	538	21									45	472		517	
Eastside Subtotal	12,012	1,418	961	1,369	246	0	23	840	288	0	2,786	3,998	83	6,867	0
Total	40,095	3,198	2,762	7,445	615	60	3,275	1,058	3,812	17	8,063	5,921	267	14,268	3,602

Full Build-Out Projections

Service Area	Build-Out Non-Residential Service Units			Build-Out Conventional Service Units				Mixed Use Mixed Use	Build-Out Residential	Build-Out Non- Residential
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High			
Northeast										
01 Northeast MP	2,175		-	-	-	-	-	16,440	16,440	2,175
05A Northwest Fort Bliss A	36		15,211	-	3,488	1,374	459	1,824	7,145	15,247
05B Northwest Fort Bliss B	2,204		9,940	-	774	9,894	333	2,988	13,989	12,144
05C Northwest Fort Bliss C	-		15,957	-	1,364	-	-	0	1,364	15,957
Northeast Subtotal	4,415	0	41,108	0	5,625	11,268	792	21,252	38,937	45,523
Westside										
02 Westside MP	-		-	-	-	-	-	-	-	-
03A Northwest Vinton A	761		-	-	356	-	-	-	356	761
03E I-10375 MP	1,595		145	-	2,615	-	540	360	3,515	1,740
04A Northwest Artcraft A	377		-	-	5,634	-	-	-	5,634	377
04B Northwest Artcraft B	261		-	-	3,123	-	-	-	3,123	261
04C Northwest Artcraft C	36		189	34	347	-	-	-	381	225
04D Northwest Artcraft D	80		-	-	662	-	90	-	752	80
04E Canutillo	935		305	-	1,670	126	306	-	2,102	1,240
02B Other	4,510		2,306	-	3,717	144	387	-	4,248	6,815
Westside Subtotal	8,555	0	2,944	34	18,122	270	1,323	360	20,109	11,498
Eastside										
08B Eastside	3,415		5,815	-	752	14,328	117	-	15,197	9,229
12 South Montana	1,791		1,001	-	7,722	228	630	-	8,580	2,791
12B South Montana B	558		718	-	113	2,514	-	-	2,627	1,276
06 South Fort Bliss	-		160	-	419	-	-	-	419	160
08 East Battle	1,204		2,233	-	3,330	4,086	-	-	7,416	3,437
10B South Fort Bliss B	-		-	-	203	2,832	-	-	3,035	-
Eastside Subtotal	6,967	0	9,925	-	12,537	23,988	747	-	37,272	16,893
Total	19,937	0	53,976	34	36,284	35,526	2,862	21,612	96,318	73,914

Service Units Full Build-Out Projections

Service Area	Population at Build-Out	Service Units at Full-Build-Out		
		Residential	Non-Residential	Total
Northeast				
01 Northeast MP	48,334	16,440	2,175	18,615
05A Northwest Fort Bliss A	21,005	7,145	15,247	22,391
05B Northwest Fort Bliss B	41,128	13,989	12,144	26,133
05C Northwest Fort Bliss C	4,009	1,364	15,957	17,321
Northeast Subtotal	114,475	38,937	45,523	84,460
Westside				
02 Westside MP	0	0	0	0
03A Northwest Vinton A	209	71	761	832
03E I-10375 MP	10,333	3,515	1,740	5,255
04A Northwest Artcraft A	16,564	5,634	377	6,011
04B Northwest Artcraft B	9,182	3,123	261	3,384
04C Northwest Artcraft C	1,119	381	225	605
04D Northwest Artcraft D	2,209	752	80	831
04E Canutillo	6,178	2,102	1,240	3,341
02B Other	12,489	4,248	6,815	11,063
Westside Subtotal	58,283	19,824	11,498	31,322
Eastside				
08B Eastside	44,678	15,197	9,229	24,426
12 South Montana	25,225	8,580	2,791	11,371
12B South Montana B	7,722	2,627	1,276	3,903
06 South Fort Bliss	0	0	160	160
08 East Battle	21,803	7,416	3,437	10,853
10B South Fort Bliss B	8,921	3,035	0	3,035
Eastside Subtotal	108,349	36,854	16,893	53,746
Total	281,107	95,615	73,914	169,528

Full Build-Out Projections – Population and Service Unit Summary

Appendix C

Ten-Year Growth Projections

Service Area	2033 Non-Residential Service Units			2033 Conventional Service Units				Mixed Use Mixed Use	2033 Residential	2033 Non- Residential
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High			
Northeast										
01 Northeast MP	1,740		-	0	0	0	0	13,331	13,331	1,740
05A Northwest Fort Bliss A	-		7,946	0	1,697	334	331	912	3,274	7,946
05B Northwest Fort Bliss B	1,317		5,220	0	774	7,746	403	996	9,919	6,537
05C Northwest Fort Bliss C	-		7,721	0	0	0	0	0	-	7,721
Northeast Subtotal	3,057	0	20,887	0	2,471	8,080	734	15,239	26,524	23,944
Westside										
02 Westside MP	0		0	0	0	0	0	0	-	-
03A Northwest Vinton A	207		0	0	71	0	0	0	71	207
03E I-10375 MP	653		0	0	2,500	0	270	360	3,130	653
04A Northwest Artcraft A	68		0	0	940	0	0	0	940	68
04B Northwest Artcraft B	81		0	0	1,025	0	0	0	1,025	81
04C Northwest Artcraft C	37		196	17	321	0	0	0	338	233
04D Northwest Artcraft D	80		0	0	597	0	90	0	687	80
04E Canutillo	935		156	0	2,372	126	311	0	2,809	1,091
02B Other	4652		2313	0	3,352	144	225	0	3,721	6,965
Westside Subtotal	6,713	0	2,665	17	11,178	270	896	360	12,721	9,378
Eastside										
08B Eastside	833		1851	0	450	6,264	46	0	6,760	2,684
12 South Montana	1197		1001	2,842	664	0	391	0	3,897	2,198
12B South Montana B	91		718	0	112	1,566	0	0	1,678	809
06 South Fort Bliss	0		0	0	293	0	0	0	293	-
08 East Battle	907		2013	0	2,213	3,372	0	0	5,585	2,920
10B South Fort Bliss B	0		0	0	63	952	0	0	1,015	-
Eastside Subtotal	3,028	0	5,583	2,842	3,795	12,154	437	0	19,228	8,611
Total	12,798	0	29,135	2,859	17,444	20,504	2,067	15,599	58,473	41,933

2033 Service Unit Projections

Service Area	Census			2033 Proj. Population	2033 Projected Service Units		
	2000	2010	2020		Residential	Non-Residential	Total
Northeast							
01 Northeast MP	0	0	13	39,193	13,331	1,740	15,071
05A Northwest Fort Bliss A	0	0	0	9,626	3,274	7,946	11,220
05B Northwest Fort Bliss B	2,199	4,799	10,735	29,162	9,919	6,537	16,456
05C Northwest Fort Bliss C	10	28	37	0	0	7,721	7,721
Northeast Subtotal	2,209	4,827	10,785	77,981	26,524	23,944	50,468
Westside							
02 Westside MP	0	0	0	0	0	0	0
03A Northwest Vinton A	0	0	0	209	71	207	278
03E I-10375 MP	0	0	2,142	9,202	3,130	653	3,783
04A Northwest Artcraft A	299	312	312	2,764	940	68	1,008
04B Northwest Artcraft B	289	251	289	3,014	1,025	81	1,106
04C Northwest Artcraft C	0	0	316	994	338	233	571
04D Northwest Artcraft D	836	1,001	635	2,020	687	80	767
04E Canutillo	3,633	4,760	4,615	8,258	2,809	1,091	3,900
02B Other	1,167	2,149	4,732	10,940	3,721	6,965	10,686
Westside Subtotal	6,224	8,473	13,041	37,400	12,721	9,378	22,099
Eastside							
08B Eastside	13	682	5,736	19,874	6,760	2,684	9,444
12 South Montana	6,766	7,625	7,483	11,457	3,897	2,198	6,095
12B South Montana B	0	7	12	4,933	1,678	809	2,487
06 South Fort Bliss	0	0	0	861	293	0	293
08 East Battle	0	21	1,460	16,420	5,585	2,920	8,505
10B South Fort Bliss B	0	0	0	2,984	1,015	0	1,015
Eastside Subtotal	6,779	8,335	14,691	56,530	19,228	8,611	27,839
Total	15,212	21,635	38,517	171,911	58,473	41,933	100,406

2033 Population and Service Unit Summary

Water and Wastewater Impact Fees Fiscal Year 2023-24 Update

Draft Water and Wastewater Impact Fee Study

January 3, 2024

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Project Overview

Background of the Study

EPWater engaged Raftelis to update the existing Water and Wastewater Impact Fees in compliance with State law-Texas Statutes, Local Government Code, Chapter 395 (State Impact Fee Statutes). This report documents the 2024 update of the water and wastewater impact fees and replaces the previous Water and Wastewater Impact Fees-2019 Update. During the last impact fee update process, it was determined that the approved 2019 impact fee amounts would be updated.

Consistent with the previous updates of impact fees, this update determined fees for the same three areas as the previous study (Northeast, Eastside, and Westside). Listed below are the designated service areas.

Northeast Area

- 01- Northeast Master Plan
- 05A- Northwest Fort Bliss A
- 05B- Northwest Fort Bliss B
- 05C- Northwest Fort Bliss C

Westside Area

- 02- Westside MP
- 03A- Northwest Vinton A
- 03E- I-10375 MP
- 04A- Northwest Artcraft A
- 04B- Northwest Artcraft B
- 04C- Northwest Artcraft C
- 04D- Northwest Artcraft D
- 04E- Canutillo
- 02B- Other

Eastside Area

- 08B- Eastside
- 12- South Montana
- 12B- South Montana B
- 06- South Fort Bliss
- 08- East Battle
- 10B- South Fort Bliss B

The calculated water and wastewater impact fees may only be charged to the aforementioned service areas. Any development outside of the service areas will not be charged an impact fee. Maps displaying the EPWater service area are attached in Appendix A. Calculations and results in this report are based on numerical analysis using rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places. Therefore, the sums and products generated may not exactly equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to rounding).

Impact Fee Methodology

The water and wastewater impact fee calculations are based on the incremental method. Under this method, new customers pay a fee representing their share of expansion related developmental costs of new facilities. The incremental method uses a 10-year capital improvement plan (CIP) that accounts for projects that will add future capacity. The impact fee is determined for the supply and treatment categories for water and treatment and collection categories for wastewater.

Each CIP project is allocated to its respective category: reservoirs to water distribution, force mains to wastewater collection, wastewater lines to wastewater collection, etc. The project's costs and service units are summed by category. The categories' total service units then divide the total categories' costs to arrive at a per unit cost. For example, the total costs of the distribution pumping equipment category are divided by the total capacity added by the distribution pumping equipment to arrive at per unit amount. This amount is added to the water distribution portion of the impact fee. A service unit represents the water and wastewater flows in gallons per day (gpd) for a single family residential unit.

Land Use Assumptions and Service Unit Characteristics

Impact fees in Texas must meet the requirements set by the Texas Statutes, Local Government Code, Chapter 395. In compliance with Chapter 395 land use assumptions, see Attachment B, are used to arrive at the residential service units (SUs) and population per residential service as shown in Table 1. The average persons per service unit used is 2.94 persons per household based on the County average as shown in the *2024 Land Use Assumptions Technical Report*. The Land Use Assumption Update uses data from master plans prepared by or on behalf of the City of El Paso, and from other sources used in projecting water and wastewater service demands.

Table 1 - Land Use Assumptions

Service Area	Total Residential Service Units (Build-Out)	Average Household Size Persons/SU	Population per Service Area
Northeast			
01	16,440	2.94	48,334
05A	7,145	2.94	21,006
05B	13,989	2.94	41,128
05C	1,364	2.94	4,010
Westside			
02	0	2.94	0
03A	356	2.94	1,047
03E	3,515	2.94	10,334
04A	5,634	2.94	16,564
04B	3,123	2.94	9,182
04C	381	2.94	1,120
04D	752	2.94	2,211
04E	2,102	2.94	6,180
02B	4,248	2.94	12,489
Eastside			
08B	15,197	2.94	44,679
12	8,580	2.94	25,225
12B	2,627	2.94	7,723
06	419	2.94	1,232
08	7,416	2.94	21,803
10B	3,035	2.94	8,923

Table 1 shows the land use and demographic assumptions used to determine the residential service units and future capacity requirements. These assumptions go into calculating the water and wastewater flow rates that will be used throughout the analysis/model.

Using Table 1 data and assumptions regarding commercial and industrial use, the water and wastewater flow rates are calculated in Table 2. In this study we use 3.29 persons per Service Unit to define the flow rates, this rate is higher than the 2.94 persons per Service Unit in Table 1 due to the additional commercial and industrial usage. The Persons Per Service Unit was updated from 3.50 as reflected within the 2019 Impact Fee Study analysis to 3.29 for this update as referenced in Table 2 below.

Table 2 - Equivalent Service Unit Flows

Description	Water	Wastewater
Average Usage Per Capita (gallons per day-gpd)	115	70
Ratio of Maximum Day Demand to Average Day Demand	<u>1.71¹</u>	<u>1.39</u>
Maximum Day Demand per Capita (gpd)	209	98
Persons per Service Unit	<u>3.29</u>	<u>3.29</u>
Flows per Equivalent Service Unit (gpd)²	688	341

1. Elevated water storage capacity is calculated based on 50% of Maximum Day Demand.
2. Equivalent service unit flows represent flow to a residential, commercial, or industrial user with a water meter size less than 1-inch.

The flows per service unit are 688 gpd for water and 341 gpd for wastewater. These flow rates are used to calculate the number of facility service units in Attachments E and F.

10-Year Population and Service Unit Projections

It is difficult to forecast population growth and developmental growth accurately. The growth directly influences the timeline for when exactly the additional capacity must be realized. This assumption must be made when calculating an impact fee. Table 3 displays the population and development units for the water and wastewater impact fee areas under consideration as of 2033. The values includes 2023 developed acres, population, and residential, non-residential, and total service units plus projected growth over the 10-year period of 2023 through 2033.

Table 3 - 2033 Population and Service Units

Service Area	Developable Acres	Population	Residential Service Units	Non-Residential Service Unit Equivalents	Total Service Units
Northeast	5,363	77,981	26,524	23,944	50,468
Westside	3,309	37,400	12,721	9,378	22,099
Eastside	<u>5,441</u>	<u>56,530</u>	<u>19,228</u>	<u>8,611</u>	<u>27,839</u>
Total	14,314	171,911	58,473	41,933	100,406

Proposed Capital Improvement Facilities

In compliance with the State Impact Fee Statues, proposed capital improvements were prepared by Adriana Castillo, P.E., with EPWater. The capital projects include facilities required by new development in the next ten years. Descriptions of the proposed capital improvement projects are included as Attachment C to this report. The list of CIP projects with estimated costs for each, are included in Attachment D. Attachment E to this report shows the CIP capital, financing costs, capacity, facility service units, unit cost of capacity, and weighted average cost of capacity for each service area used in the impact fee calculation.

Maximum Impact Fee Calculation

The capital projects noted in the CIP plan add capacity for the 10-year period and beyond. To account for this growth Raftelis allocates the costs of the growth-related CIP to the projected development and to the total number of new service units that may be served by the new capacity additions. The 10-year CIP is adding significant capacity, but this capacity will still not be sufficient to serve the projected ultimate built out capacity of the indicated service areas.

Raftelis used the capacities provided by EPWater to estimate capacity added by each capital project. This assumes that all units will be served by the additional capacity regardless of when the growth occurs.

The LUA Update projects new service units for the next ten years (Table 4) to be served by EPWater planned capacity additions as reported in the 10-year CIP. In compliance with the State Impact Fee Statutes, the maximum impact fee per service unit is calculated by dividing the costs of the portion of the CIP required by and attributable to projected new service units by the total projected new service units served by the CIP.

Attachment F provides a summary of the capital costs, capital service units, financing costs, percentage of CIP needed through 2033, and the maximum impact fee for each service area. The model assumes a 35% debt funding rate with a 5% interest rate and a 20-year repayment period for water-related capital projects. For wastewater-related capital projects, it assumes a 63% debt funding rate with the same 5% interest rate and 20-year repayment period. The impact fee calculations include the net present value of the interest and transaction costs of the loans to arrive at a per unit impact fee value. Table 4 summarizes the maximum impact fee by service area.

Table 4 - Maximum Impact Fee by Service Area

Service Area	Projected New Service Units (through 2033)	Maximum Impact Fee per Service Unit
<u>Northeast</u>		
Water	37,660	\$10,023
Wastewater	37,660	<u>1,345</u>
Total		\$11,368
<u>Westside</u>		
Water	5,989	\$3,136
Wastewater	5,989	<u>3,379</u>
Total		\$6,515
<u>Eastside</u>		
Water	11,421	\$14,954
Wastewater	11,421	<u>21,008</u>
Total		\$35,962

Maximum Calculation

The State Impact Fee Statutes require the determination of an “impact fee credit” for the portion of utility service revenues or ad valorem taxes generated by the new service units during the 10-year period. There are two ways to calculate this credit:

- A credit against the impact fee for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of capital improvements, including the payment of debt, that are included in the capital improvements plan; or
- A credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

The City of El Paso does not use ad valorem taxes to assist in paying for utility projects, so the ad valorem language does not apply. A credit recognizing the utility service revenues generated by new service units during the capital program period that is used for the payment of capital improvements, including the payment of debt, that are included in the capital improvements plan is warranted and is what has been used since EPWater first adopted impact fees and is what has been used again in this update.

The calculated credit represents the approximation of the utility service revenue projected to be provided by the new service units that may be used to retire debt issued to fund the CIP upon which the impact fee is based. This rate credit to the impact fee prevents new service units from the potential of double counting or paying twice for utility capital improvements and related debt.

Raftelis conducted an analysis involving two scenarios to comprehend the ramifications of a net impact fee following the application of a credit to the maximum impact fee. Tables 5 through 12 illustrate the impact fee considering a maximum credit of 50 percent. Attachment H presents a schedule displaying the net impact fee under two scenarios: (1) Net Impact Fee after Revenue Credit (8.1% for Water and 20.1% for Wastewater) and (2) Net Impact Fee after Maximum Credit (50% for Water and Wastewater). The option displaying the Net Impact Fee after Maximum Credit, as depicted in Tables 5 through 12, results in lower fees.

Table 5 - Impact Fee Credits per Service Unit Equivalent

	Water			Wastewater			Total
Service Area	Max Impact Fee	Max Credit (50%)	Net Impact Fee	Max Impact Fee	Max Credit (50%)	Net Impact Fee	Net Impact Fee
Northeast	\$10,023	(\$5,012)	\$5,012	\$1,345	(\$672)	\$672	\$5,684
Westside	\$3,136	(\$1,568)	\$1,568	\$3,379	(\$1,689)	\$1,689	\$3,257
Eastside	\$14,954	(\$7,477)	\$7,477	\$21,008	(\$10,504)	\$10,504	\$17,981

Impact Fee Assessment Schedule

The impact fee assessment schedule follows established guidelines in “scaling up” or assessing the impact fee to recognize the greater demands placed on the system from larger connections. As stated above, the incremental method is used to calculate the impact fee for a $\frac{3}{4}$ inch meter or for an equivalent residential unit. For meters $\frac{3}{4}$ inch and larger the American Water Works Association (AWWA) standard ratios are used. These guidelines define the $\frac{3}{4}$ inch meter as one unit, and all other meters as a multiple of the $\frac{3}{4}$ inch meter. These ratios are based on the maximum flow capacities for the various meters. Table 6 displays the Northeast service area impact fees calculated according to AWWA standards; the resulting “Meter Capacity Ratio”.

Table 6 - Northeast Water and Wastewater Impact Fee Assessment Schedule (Net Fee after Credit)

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-Inch	1.00	\$5,012	\$672	\$5,684
1-Inch	1.67	8,370	1,122	9,492
1 1/2-Inch	3.33	16,690	2,238	18,928
2-Inch	5.33	26,714	3,582	30,296
3-Inch	10.00	50,120	6,720	56,840
4-Inch	16.67	83,550	11,202	94,752
6-Inch	33.33	167,050	22,398	189,448
8-Inch	53.33	\$267,290	\$35,838	\$303,128

Attachment H provides a schedule for all impact fee service areas. Tables 7 through 9 compare the current and calculated water, wastewater, and total impact fees for each service area. It should be noted that the current fees are those adopted in 2009 by the El Paso City Council and is a material factor in the increase in the calculated fees. The Eastside Service Area has the greatest impact, which is attributed to the portion of water projects associated with an Advanced Water Purification Facility and wastewater projects associated with Bustamante Wastewater Treatment Plant.

Table 7 - Northeast Impact Fee Comparison (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$1,178	\$5,012	\$291	\$672	\$1,469	\$5,684	\$4,215	287%
1-Inch	1,967	8,370	486	1,122	2,453	9,492	\$7,039	287%
1 1/2-Inch	3,921	16,690	969	2,238	4,890	18,928	14,038	287%
2-Inch	6,276	26,714	1,551	3,582	7,827	30,296	22,469	287%
3-Inch	11,775	50,120	2,910	6,720	14,685	56,840	42,155	287%
4-Inch	19,629	83,550	4,851	11,202	24,480	94,752	70,272	287%
6-Inch	39,246	167,050	9,699	22,398	48,945	189,448	140,503	287%
8-Inch	62,796	\$267,290	15,519	\$35,838	78,315	\$303,128	224,813	287%

Table 8 - Westside Impact Fee Comparison Schedule (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$659	\$1,568	\$927	\$1,689	\$1,586	\$3,257	\$1,671	105%
1-Inch	1,101	2,619	1,548	2,821	2,649	5,439	2,790	105%
1 1/2-Inch	2,195	5,221	3,087	5,624	5,282	10,846	5,564	105%
2-Inch	3,514	8,357	4,941	9,002	8,455	17,360	8,905	105%
3-Inch	6,593	15,680	9,270	16,890	15,863	32,570	16,707	105%
4-Inch	10,990	26,139	15,453	28,156	26,443	54,294	27,851	105%
6-Inch	21,973	52,261	30,897	56,294	52,870	108,556	55,686	105%
8-Inch	35,158	83,621	49,437	90,074	84,595	173,696	\$89,101	105%

Table 9 - East Impact Fee Comparison Schedule (Net Fee after 50% Credit)

Meter Size	Water		Wastewater		Total		Change in Total Fee	
	Current	Calculated	Current	Calculated	Current	Calculated	\$	%
Less than 1-Inch	\$697	\$7,477	\$920	\$10,504	\$1,617	\$17,981	\$16,364	1012%
1-Inch	1,163	12,847	1,537	17,542	2,700	30,028	27,328	1012%
1½-Inch	2,321	24,898	3,065	34,978	5,386	59,877	54,491	1012%
2-Inch	3,714	39,852	4,905	55,986	8,619	95,839	87,220	1012%
3-Inch	6,968	74,770	9,203	105,040	16,171	179,810	163,639	1012%
4-Inch	11,615	124,642	15,341	175,102	26,956	299,743	272,787	1012%
6-Inch	23,223	249,208	30,672	350,098	53,895	599,307	545,412	1012%
8-Inch	37,158	398,748	49,077	560,178	86,235	958,927	872,692	1012%

Tables 10 through 12 provide a comparison of the current impact fees adopted in 2019 and the calculated Net Impact Fee after reducing by the Max Credit. This comparison is acutely relevant due to the dramatic increase in costs since 2019.

Table 10 - Northeast Current versus Calculated

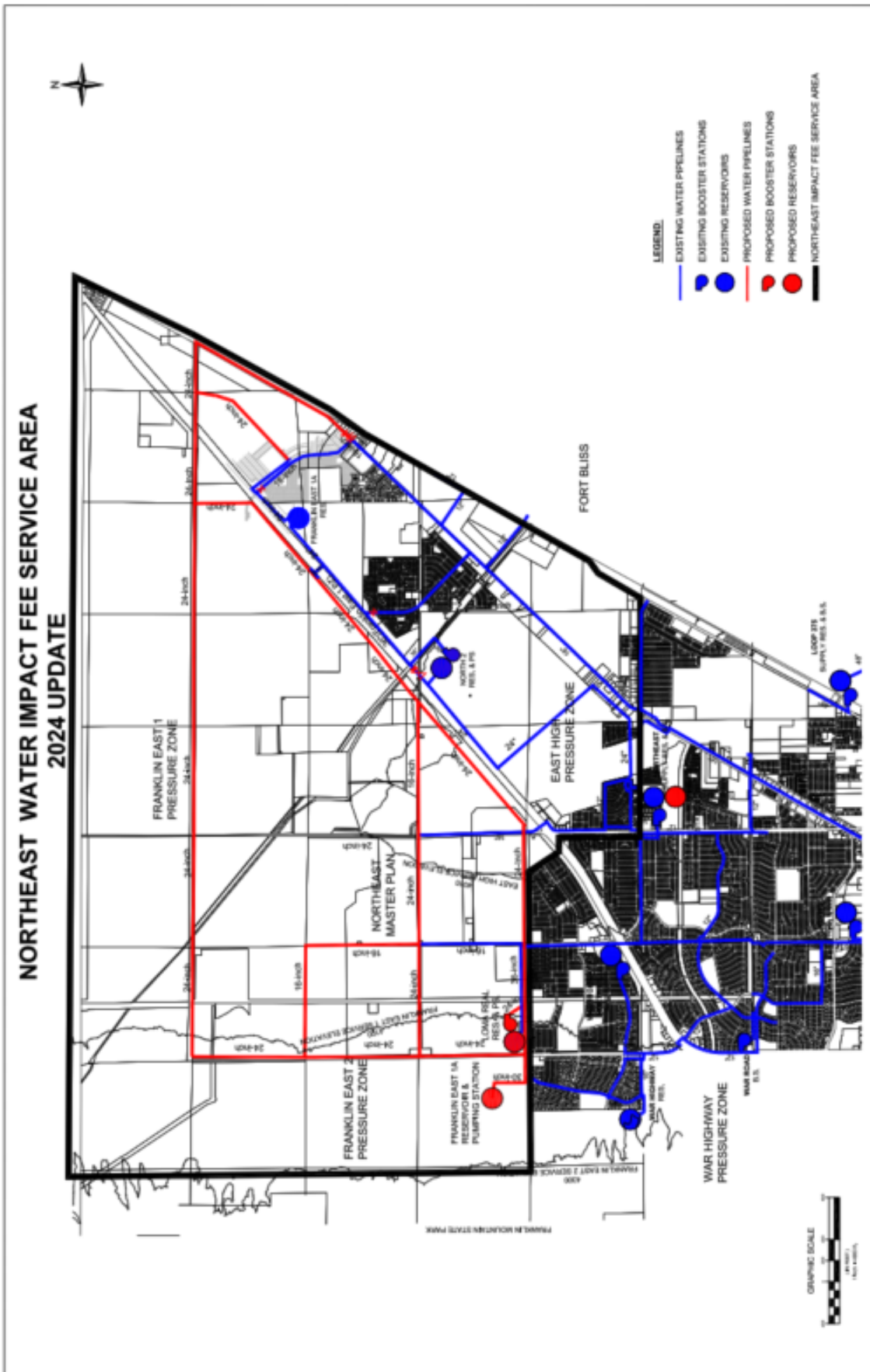
Meter Size	Current	Calculated
Less than 1-Inch	\$1,469	\$5,684
1-Inch	2,453	9,492
1½-Inch	4,890	18,928
2-Inch	7,827	30,296
3-Inch	14,685	56,840
4-Inch	24,480	94,752
6-Inch	48,945	189,448
8-Inch	78,315	\$303,128

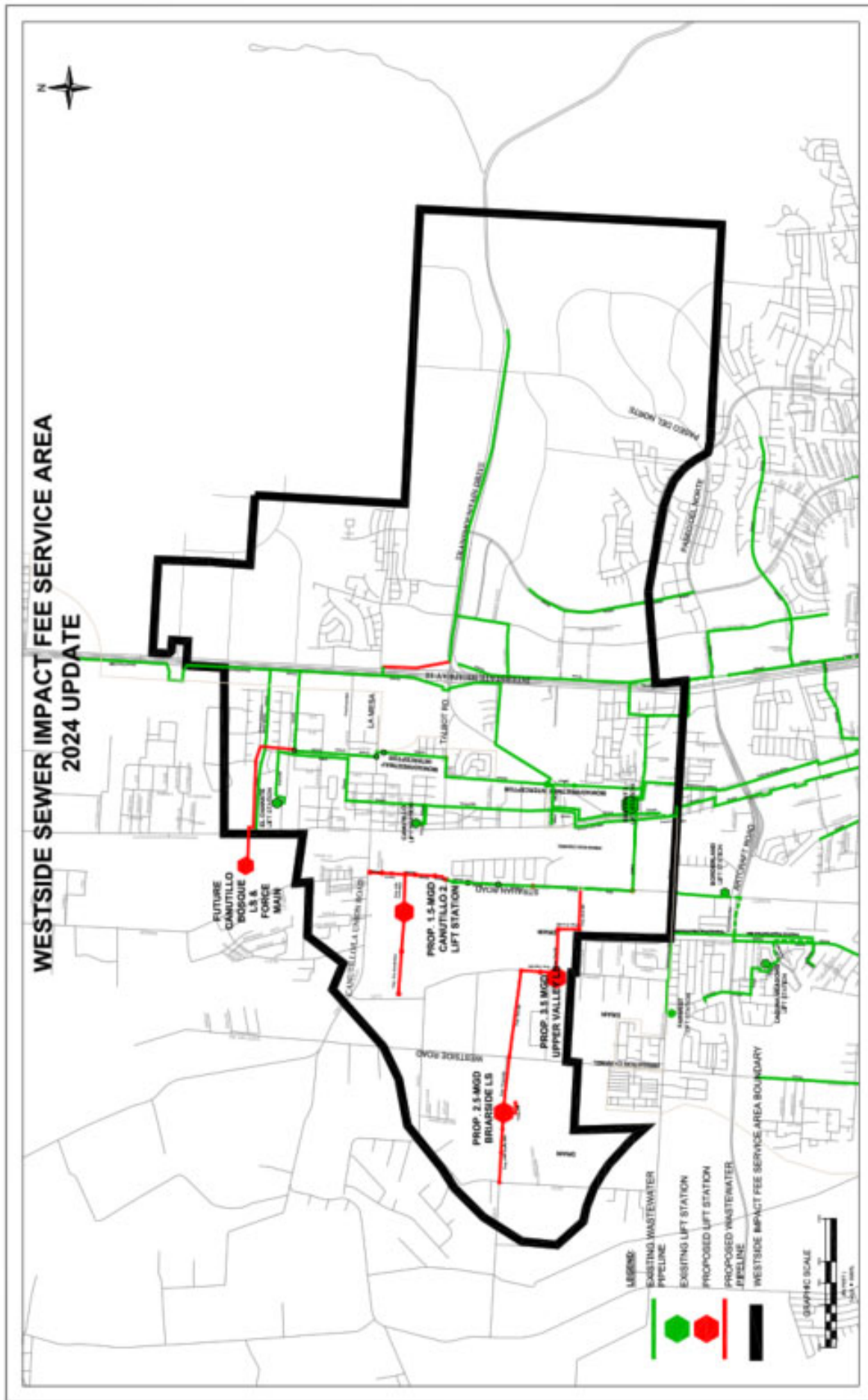
Table 11 - West Current versus Calculated

Meter Size	Current	Calculated
Less than 1-Inch	\$1,586	\$3,257
1-Inch	2,649	5,439
1½-Inch	5,282	10,846
2-Inch	8,455	17,360
3-Inch	15,863	32,570
4-Inch	26,443	54,294
6-Inch	52,870	108,556
8-Inch	84,595	173,696

Table 12 - Eastside Current versus Calculated

Meter Size	Current	Calculated
Less than 1-Inch	\$1,617	\$17,981
1-Inch	2,700	30,028
1½-Inch	5,386	59,877
2-Inch	8,619	95,839
3-Inch	16,171	179,810
4-Inch	26,956	299,743
6-Inch	53,895	599,307
8-Inch	86,235	958,927







EASTSIDE IMPACT FEE SERVICE AREA



Attachment B: Land Use Assumptions

Service Area	2033 Share of Development	Total Acreage	Non-Residential								Conventional Residential					Mixed Use
			Transportation	Commercial	Industrial	Parkland	Floodplain	Open Space	Undeveloped	Institutional/Utilities	Low	Medium	Medium-High	High	Total	
Northeast																
01 Northeast MP	80%	4,835	99	300		255		968	20	453					0	2,740
05A Northwest Fort Bliss A	25%	4,812	260	5	2,098	38		229		823		775	229	51	1,055	304
05B Northwest Fort Bliss B	50%	4,929	446	304	1,371	9		348		95		172	1,649	37	1,858	498
05C Northwest Fort Bliss C	10%	4,520	154		2,201	23		51		1,788		303			303	
Northeast Subtotal		19,096	959	609	5,670	325	0	1,596	20	3,159	0	1,250	1,878	88	3,216	3,542
Westside																
02 Westside MP	7%	1,589	91					1,483		15					0	
03A Northwest Vinton A	20%	294	58	105						52		79			79	
03E I-10375 MP	60%	1,132	71	220	20	34	57	50		30		581		9	590	60
04A Northwest Artcraft A	20%	1,639	75	52		4		106	150			1,252			1,252	
04B Northwest Artcraft B	30%	807	38	36		6		17		16		694			694	
04C Northwest Artcraft C	50%	159	15	5	26				16	3	17	77			94	
04D Northwest Artcraft D	90%	218	25	11			3		22			147		10	157	
04E Canutillo	95%	801	133	141	42				10	49		371	21	34	426	
02B (Other)	80%	2,348	315	622	318					200		826	24	43	893	
Westside Subtotal		8,987	821	1,192	406	44	60	1,656	198	365	17	4,027	45	96	4,185	60
Eastside																
08B Eastside	40%	4,826	509	471	802	186		23	228	39		167	2,388	13	2,568	
12 South Montana	80%	2,919	347	247	138				242	121		1,716	38	70	1,824	
12B South Montana B	90%	785	98	77	99	20				47		25	419		444	
06 South Fort Bliss	70%	118	3		22							93			93	
08 East Battle	60%	2,826	440	166	308	40			370	81		740	681		1,421	
10B South Fort Bliss B	70%	538	21									45	472		517	
Eastside Subtotal		12,012	1,418	961	1,369	246	0	23	840	288	0	2,786	3,998	83	6,867	0
Total		40,095	3,198	2,762	7,445	615	60	3,275	1,058	3,812	17	8,063	5,921	267	14,268	3,602

Attachment B: Land Use Cont.

Service Area	Build-Out Non-Residential Service Units			Build-Out Conventional Service Units					Mixed Use	Mixed Use	Build-Out	Build-Out Non-
	Commercial	Institutional	Industrial	Low	Medium	Medium-High	High	Total	Residential		Residential	
Northeast								0				
01 Northeast MP	2,175		-	-	-	-	-	0	16,440		16,440	2,175
05A Northwest Fort Bliss A	36		15,211	-	3,488	1,374	459	5,321	1,824		7,145	15,247
05B Northwest Fort Bliss B	2,204		9,940	-	774	9,894	333	11,001	2,988		13,989	12,144
05C Northwest Fort Bliss C	-		15,957	-	1,364	-	-	1,364	0		1,364	15,957
Northeast Subtotal	4,415	0	41,108	0	5,625	11,268	792	17,685	21,252		38,937	45,523
Westside												
02 Westside MP	-		-	-	-	-	-	-	-		-	-
03A Northwest Vinton A	761		-	-	356	-	-	356	-		356	761
03E I-10375 MP	1,595		145	-	2,615	-	540	3,155	360		3,515	1,740
04A Northwest Artcraft A	377		-	-	5,634	-	-	5,634	-		5,634	377
04B Northwest Artcraft B	261		-	-	3,123	-	-	3,123	-		3,123	261
04C Northwest Artcraft C	36		189	34	347	-	-	381	-		381	225
04D Northwest Artcraft D	80		-	-	662	-	90	752	-		752	80
04E Canutillo	935		305	-	1,670	126	306	2,102	-		2,102	1,240
02B Other	4,510		2,306	-	3,717	144	387	4,248	-		4,248	6,815
Westside Subtotal	8,555	-	2,944	34	18,122	270	1,323	19,749	360		20,109	11,498
Eastside												
08B Eastside	3,415		5,815	-	752	14,328	117	15,197	-		15,197	9,229
12 South Montana	1,791		1,001	-	7,722	228	630	8,580	-		8,580	2,791
12B South Montana B	558		718	-	113	2,514	-	2,627	-		2,627	1,276
06 South Fort Bliss	-		160	-	419	-	-	419	-		419	160
08 East Battle	1,204		2,233	-	3,330	4,086	-	7,416	-		7,416	3,437
10B South Fort Bliss B	-		-	-	203	2,832	-	3,035	-		3,035	-
Eastside Subtotal	6,967	-	9,925	-	12,537	23,988	747	37,272	-		37,272	16,893
Total	19,937	-	53,976	34	36,284	35,526	2,862	74,706	21,612		96,318	73,914

Attachment B: Land Use Cont.

Residential Land Use Type	Residential Service Units per Acre
Conventional Residential Zones	
Low Density	2.0
Medium Density	4.5
Medium High Density	6.0
High Density	9.0
SmartCode Zone¹	
T-3 Sub-Urban Zone	6.0
T-4 General Urban Zone	15.0
T-40 General Urban Zone - Open	20.0
T-5 Urban Center Zone	24.0
Northeast Retirement General Mixed Use Zone²	
Context Zone 3	3.6
Context Zone 4	6.4
Context Zone 5	15.0
Northeast General Mixed Use Zone³	
Low Residential Density	3.5
Low ¹ Residential Density	5.5
Medium Residential Density	7.2
High Residential Density	12.0
Enchanted Hills Residential Mixed Use Zone⁴	
Single Family	4.0
Duplex	6.0
Triplex	8.0
Quadruplex	10.0
Apartments	14.0

¹Applied to Northeast properties zoned SmartCode.

²Applied to the Northeast master planned area intended to house a retirement community.


³Applied to the remaining Northeast master planned area zoned General Mixed Use.

⁴Applied to the privately owned Enchanted Hills development zoned Residential Mixed Use.



Date: December 20, 2023

To: Andrew Rheem
Raftelis Financial Consultants, Inc.

From: Adriana L. Castillo, P.E. 
Utility Engineering Division Manager

Re: Water and Wastewater Capital Improvements Plan– 2024 Impact Fee update

In preparation for the 2024 Impact Fee Update and in accordance with the Texas State Statutes, Local Government Code, Chapter 395, attached please find a description of the proposed Capital Improvements Plan for the El Paso Water Utilities.

Attachment C contains a narrative description of the proposed 10-year capital improvements plan necessitated by and attributed to new development per service area.

Attachment D contains a list of the proposed 10-year capital improvements plan costs necessitated by and attributed to new development per service area.

Maps depicting the proposed water and wastewater capital improvements plan for the three (3) service areas

This information provides the capital improvements plan and costs required to complete the 2024 update and meet the letter and intent of the Texas State Statutes.

Please feel free to contact me with any questions.



12/20/23

A handwritten signature in blue ink that reads "Adriana Castillo".

Associated Capital Improvement Water Facilities

WATER SUPPLY AND TREATMENT SYSTEM

ADVANCED WATER PURIFICATION FACILITY – The efforts by EPWater to continue to diversify the City’s water supply portfolio will allow growth demand in the eastside to be met by the Advanced Water Purification Facility producing 10 MGD. The facility includes the wells and blending lines to comply with adequate water quality standards.

KBH EXPANSION Phase 1–In order to meet growth demand in the eastside and northeast, the KBH desalination facility will be expanded to provide an additional 5.0 MGD. The facility expansion includes a new Reverse Osmosis skid and concentrate pipelines.

RESERVOIRS

LOMA REAL A proposed 5.0 MG ground storage tank to meet demand on the East High Pressure Zone and provide suction for the Loma Real Pump Station that will pump water to the proposed Franklin East 1 B reservoir.

FRANKLIN EAST #1B - A proposed 3.0 MG ground storage tank to serve the Franklin East 1 Pressure Zone. The tank is needed to meet future growth development of the areas east of War Highway and to the State line.

TRANSMOUNTAIN NORTHWEST #1A – A proposed 4.0 MG ground storage tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 1, to meet anticipated growth and provide suction storage for the proposed Transmountain Northwest 1 pump station.

TRANSMOUNTAIN NORTHWEST #2A – A proposed 3.0 MG tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 2, to meet anticipated growth.

TRANSMOUNTAIN NORTHWEST #3 – A proposed 1.0 MG tank north of Transmountain on the Westside, at the same overflow elevation of Artcraft No. 3, to meet anticipated growth.

NORTHEAST STATION WELL SUPPLY TANK – A new 2.0 MG ground storage supply tank in Northeast El Paso, adjacent to the Northeast Booster Station. This tank is needed to augment the existing storage capacity of the Northeast Well production system, and to accommodate future supply from the Sherman Well Field. This storage tank will also allow for additional pumping capacity to be installed at the Northeast Booster Station for pumping into the East High Pressure Zone and upper Franklin East Pressure Zone pumping, related future growth.

HOMESTEAD II – A proposed 2.5 MGD elevated storage tank to provide service on the Eastside south of the Montana Ave. corridor to meet demand for future growth on the East Montana Pressure Zone.

JOHN HAYES/VISTA DEL SOL – A proposed 2.5 MGD elevated storage tank to provide service on the Eastside east of Loop 375 to meet demand for future growth on the Joe Battle Pressure Zone.

DISTRIBUTION PUMPING EQUIPMENT

ARTCRAFT #1 NW – A 20.0 MGD pumping station located at Northwestern and Paseo Del Norte (Artcraft Rd) in Northwest El Paso, was completed in late 2002 and will supply Artcraft #2 Reservoir. An additional 5.0 MGD will be added to meet growth demands.

TRANSMOUNTAIN NORTHWEST #1 PUMP STATION – A proposed 3.0 MGD pump station north of Transmountain on the Westside, to pump from Transmountain #1 tank to Transmountain #2 tank to meet growth demand.

TRANSMOUNTAIN NORTHWEST #2 PUMP STATION – A proposed 1.0 MGD pump station north of Transmountain on the Westside, to pump from Transmountain #2 tank to Transmountain #3 tank to meet growth demand.

LOMA REAL Pump station to be located at the Loma Real tank site with an initial 6.0 MGD capacity which will provide pumping to supply the Franklin East 1 B reservoir.

DISTRIBUTION LINES

CANUTILLO/UV TRANSMISSION MAIN - NORTHWEST PHASE IV – Part of an existing major system of large diameter pipelines that extends and delivers water supply from the Canutillo Well Field and the Upper Valley Treatment Plant to the Westside area.

SUPPLY LINE TO TRANSMOUNTAIN#1 TANK- A proposed 48-inch diameter transmission main on the Westside, from the Canutillo 60" diameter main to the Transmountain Northwest #1A tank, to meet growth.

TRANSMOUNTAIN NW SUPPLY TO TRANSMOUNTAIN #1 - A proposed transmission main on the Westside, from the Transmountain Northwest #1 pump station to the Transmountain Northwest Tank 2 to meet growth demand.

TRANSMOUNTAIN NW SUPPLY TO TRANSMOUNTAIN #2 - from the Transmountain Northwest #2 pump station to the Transmountain Northwest Tank 3 to meet growth demand.

UPPER VALLEY BORDERLAND SYSTEM Part of the Westside upgrades to meet future growth the project consists of the installation of a 36-inch transmission main, part of the system of large diameter pipelines that extends and delivers water supply on the Westside area.

EASTSIDE PLANNED SERVICE AREA (PSA) – Proposed transmission main lines necessary to serve areas east of Loop 375. Extensions of transmission mains associated with the construction of future elevated tanks. This item provides the backbone for the water distribution to meet demand.

CANUTILLO- LA UNION/WESTSIDE SYSTEM – Proposed transmission mains necessary to serve areas generally located north of Borderland Road and West of Strahan Road to provide water distribution to serve future growth.

MONTANA EAST SUPPLY LINES– Water distribution mains that have been conceptually planned to provide service on the Eastside, south of the Montana Ave. corridor. This item considers the mains that create a backbone network of water transmission mains (16-inch to 24-inch) to supply these areas.

DYER / RR WATER LINES – A series of planned water mains to convey water to the far northeast part of the city. The proposed pipeline will tie into the Franklin East Distribution Line near the intersection of Stan Roberts Dr. and US-54.

NE FRANKLIN SYSTEM LINES – A network of water distribution mains, generally 16-inch to 24-inch, to be constructed within the Franklin East #1 Pressure Zone service areas in response to and in step with growth.

FRANKLIN EAST DISTRIBUTION LINES – Water distribution mains, generally 24-inch to be constructed within the Franklin East #1 Pressure Zones service area located in the vicinity of Stan Roberts Drive and US54.

Associated Capital Improvement Wastewater Facilities

COLLECTION LINES

NE DYER/RR INTERCEPTOR - Gravity sewer line extending near Stan Roberts Drive and Dyer St. that convey wastewater flows to the Fred Hervey Reclamation Plant. This system will service future development in the Northeast.

OTHER EAST INTERCEPTORS (Area 8 East) – Gravity sewer interceptors related to development east of Zaragoza and Loop 375 for the area commonly known as Montana Vista and adjacent growth areas.

LOOP 375 EAST INTERCEPTOR SYSTEM - These multi-phase, multi-year gravity sewer interceptors will serve areas east of Loop 375. All interceptors in this program will ultimately transport flow to the Bustamante Wastewater Treatment Plant via the Eastside Interceptor System already constructed.

TRANSMOUNTAIN NORTHWEST INTERCEPTORS – Proposed gravity sewer interceptors necessary to serve areas north of Transmountain Road and east of IH-10 on the Westside to meet growth.

NE INTERCEPTOR SYSTEM – Gravity sanitary sewer interceptors to include relief lines to convey wastewater flows from land in the Northeast area. The sanitary sewer pipeline will extend from north of US-54, and south crossing US-54 to the existing Grouse Street Lift Station or the Dyer Railroad Lift Station. The wastewater will ultimately be treated at the Fred Hervey Water Reclamation Plant. This is a multi-year, multi-phase project.

NE FRANKLIN SYSTEM – Pipeline designed to collect and convey wastewater flows from the proposed Northeast Service Area. Flows will be collected from near the Texas-New Mexico border, to include the Sean Haggerty Interceptor and conveying flows to the existing Grouse Street Lift Station, where the wastewater will ultimately be treated at the Fred Hervey Water Reclamation Plant. This is a multi-year, multi-phase project.

PUMPING STATIONS AND FORCE MAINS

UPPER VALLEY THREE LIFT STATIONS – A series of lift stations (1.5, 2.5, 3.5 MGD) proposed for new developments north of Borderland Rd. along the Strahan Rd. corridor. These stations will ultimately discharge into the Strahan Interceptor that will extend and connect into the Easy Way II Lift Station.

CANUTILLO BOSQUE LIFT STATION – Pro-rated lift station capacity needed for portion of the service area located north of Canutillo – La Union. This station flows will ultimately discharge into the Mowad Interceptor and connect into the Easy Way II Lift Station.

TREATMENT PLANT EXPANSION

BUSTAMANTE WWTP EXPANSION – Multi-approach construction project to expand the capacity of the Bustamante Wastewater Treatment Plant from 39.0 MGD to 51.0 MGD.

Attachment D: Capital Improvement Plan Cost Projection

ATTACHMENT D Water and Wastewater Impact Fee Study Proposed Capital Improvements and Costs

Northeast Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
KBH Expansion Phase 1 (2.5 MG)		\$ 17,000,000
Subtotal:		\$ 17,000,000
<u>Water Distribution System</u>		
Reservoirs		
Loma Real Tank - Ground (5 MG)		\$ 15,000,000
Franklin East 1B - Ground (3 MG)		\$ 9,000,000
NE Station Well Supply Tank (2 MG)		\$ 6,000,000
Subtotal:		\$ 30,000,000
Distribution Pumping Equipment		
Loma Real Pump Station (6 MGD)		\$ 22,000,000
Subtotal:		\$ 22,000,000
Distribution Lines		
Dyer/RR Waterline		\$ 2,300,000
Franklin East Distribution		\$ 6,800,000
NE Franklin System		\$ 37,000,000
Subtotal:		\$ 46,100,000
Total Water CIP		\$ 115,100,000

Northeast Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
No wastewater treatment CIP proposed		\$ -
<u>Collection System</u>		
Lines		
NE Dyer/RR Interceptor		\$ 10,300,000
NE Interceptor System		\$ 26,000,000
NE Franklin		\$ 6,000,000
Subtotal:		\$ 42,300,000
Total Wastewater CIP		\$ 42,300,000

ATTACHMENT D (continued)
Water and Wastewater Impact Fee Study
Proposed Capital Improvements and Costs

Westside Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
No water supply or treatment system CIP proposed	\$	-
<u>Water Distribution System</u>		
Reservoirs		
TransMountain NW #1A (4 MG)	\$	12,000,000
TransMountain NW #2A (3 MG)	\$	9,000,000
TransMountain NW #3 (1 MG)	\$	3,000,000
Subtotal:	\$	24,000,000
Distribution Pumping Equipment		
Artcraft #1-NW-WFMP	\$	7,500,000
TransMountain NW #1 Pump Station (3 MGD)	\$	6,000,000
TransMountain NW#2 Pump Station (1 MGD)	\$	2,000,000
Subtotal:	\$	15,500,000
Distribution Lines		
48" Supply Line to TransMountain #1 Tank	\$	5,000,000
Canutillo/UV Mn NWPH IV (36" Thorn)	\$	18,500,000
36" TransMountain #1 BS to TransMountain #2 Tank	\$	8,000,000
24" TransMountain #2 BS to TransMountain #3 Tank	\$	4,000,000
Upper Valley Borderland 36" Phase 2A	\$	35,500,000
Upper Valley Borderland 36" Phase 4	\$	21,600,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 1	\$	2,000,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$	3,000,000
16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$	3,000,000
Subtotal:	\$	100,600,000
Total Water CIP	\$	140,100,000
Westside Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
No wastewater treatment CIP proposed	\$	-
<u>Collection System</u>		
Lines		
TransMountain NW Interceptors	\$	2,500,000
Subtotal:	\$	2,500,000
Pumping & Force Mains		
Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$	50,000,000
Canutillo/Bosque LS (Schuman & Wester Village)	\$	300,000
Subtotal:	\$	50,300,000
Total Wastewater CIP	\$	52,800,000

ATTACHMENT D (continued)
Water and Wastewater Impact Fee Study
Proposed Capital Improvements and Costs

Eastside Service Area - Water		Capital Cost
<u>Water Supply and Treatment System</u>		
KBH Phase 2 (2.5 MG)		\$ 17,000,000
Advanced Water Purification Facility (8 MG)		\$ 173,000,000
Subtotal:		\$ 190,000,000
<u>Water Distribution System</u>		
Reservoirs		
Homestead II Tank (2.5 MG)		\$ 15,000,000
John Hayes (2.5 MG)		\$ 15,000,000
Subtotal:		\$ 30,000,000
Distribution Lines		
Eastside Planned Service Area		\$ 25,500,000
Montana East Supply Line Area (E&W, N&S, Darrington)		\$ 21,000,000
Subtotal:		\$ 46,500,000
Total Water CIP		266,500,000

Eastside Service Area - Wastewater		Capital Cost
<u>Wastewater Treatment System</u>		
Bustamante WWTP (Expansion 39 to 51 MGD)		\$ 605,100,000
<u>Collection System</u>		
Lines		
Other Interceptors (Area 8 East)		\$ 12,700,000
Loop 375 East Interceptor System		\$ 14,300,000
Subtotal:		\$ 27,000,000
Pumping & Force Mains		
No wastewater pumping & force main CIP proposed		-
Total Wastewater CIP		\$ 632,100,000

Attachment E Impact Fee Calculation by Service Area

ATTACHMENT E Water and Wastewater Impact Fee Study Northeast Service Area

Water Service Unit Flows (Max Day) 688 gpd

Line No.	Northeast Service Area - Water	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Water Supply and Treatment System						
1	KBH Expansion Phase 1 (2.5 MG)	\$ 17,000,000	2.50	3,634	\$ 4,678	\$ 4,678
	Subtotal	\$ 17,000,000		3,634		
Debt Issued						
2	KBH Expansion Phase 1 (2.5 MG)	\$ 6,050,000				
	Subtotal	\$ 6,050,000				
NPV of Interest						
3	KBH Expansion Phase 1 (2.5 MG)	\$ 2,564,902	2.50	3,634	706	\$ 706
	Subtotal	\$ 2,564,902		3,634		
Reservoirs						
4	Loma Real Tank - Ground (5 MG)	\$ 15,000,000	5.00	14,535	\$ 1,032	
5	Franklin East 1B - Ground (3 MG)	\$ 9,000,000	3.00	8,721	\$ 1,032	
6	NE Station Well Supply Tank (2 MG)	\$ 6,000,000	2.00	5,814	\$ 1,032	\$ 1,032
	Subtotal	\$ 30,000,000		29,070		
Debt Issued						
7	Loma Real Tank - Ground (5 MG)	\$ 5,335,000				
8	Franklin East 1B - Ground (3 MG)	\$ 3,205,000				
9	NE Station Well Supply Tank (2 MG)	\$ 2,135,000				
	Subtotal	\$ 10,675,000				
NPV of Interest						
10	Loma Real Tank - Ground (5 MG)	\$ 2,261,777	5.00	14,535	\$ 156	
11	Franklin East 1B - Ground (3 MG)	\$ 1,358,762	3.00	8,721	\$ 156	
12	NE Station Well Supply Tank (2 MG)	\$ 905,135	2.00	5,814	\$ 156	\$ 156
	Subtotal	\$ 4,525,674		29,070		
Distribution Pumping Equipment						
13	Loma Real Pump Station (6 MGD)	\$ 22,000,000	6.00	8,721	\$ 2,523	\$ 2,523
	Subtotal	\$ 22,000,000		8,721		
Debt Issued						
14	Loma Real Pump Station (6 MGD)	\$ 7,825,000				
	Subtotal	\$ 7,825,000				
NPV of Interest						
15	Loma Real Pump Station (6 MGD)	\$ 3,317,414	6.00	8,721	\$ 380	\$ 380
	Subtotal	\$ 3,317,414		8,721		
Distribution Lines						
16	Dyer/RR Waterline	\$ 2,300,000	28.00	40,698	\$ 57	
17	Franklin East Distribution	\$ 6,800,000	28.00	40,698	\$ 167	
18	NE Franklin System	\$ 37,000,000	28.00	40,698	\$ 909	\$ 378
	Subtotal	\$ 46,100,000		122,093		
Debt Issued						
20	Dyer/RR Waterline	\$ 820,000				
21	Franklin East Distribution	\$ 2,420,000				
22	NE Franklin System	\$ 13,160,000				
23	0	\$ -				
	Subtotal	\$ 16,400,000				
NPV of Interest						
24	Dyer/RR Waterline	\$ 347,640			\$ 171	
25	Franklin East Distribution	\$ 1,025,961	28.00	40,698	\$ 171	
26	NE Franklin System	\$ 5,579,191			\$ 171	\$ 171
27	0	\$ -			\$ 171	
	Subtotal	\$ 6,952,792		40,698		
28	Maximum Water Impact Fee - Northeast Service Area (Capital and Financing)					\$ 10,023

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Northeast Service Area

Wastewater Service Unit Flows (Max Day)		341		gpd			
Line No.	Northeast Service Area - Wastewater	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average	
Collection System							
Lines							
29	NE Dyer/RR Interceptor	\$ 10,300,000	4.55	13,343	\$ 772		
30	NE Interceptor System	\$ 26,000,000	5.38	15,777	\$ 1,648		
31	NE Franklin	\$ 6,000,000	3.71	10,880	\$ 551	\$	1,058
	Subtotal	\$ 42,300,000		40,000			
Debt Issued							
32	NE Dyer/RR Interceptor	\$ 6,595,000					
33	NE Interceptor System	\$ 1,335,638					
34	NE Franklin	\$ 308,533					
	Subtotal	\$ 8,239,171					
NPV of Interest							
35	NE Dyer/RR Interceptor	\$ 2,795,955	4.55	13,343	\$ 210		
36	NE Interceptor System	\$ 7,056,660	5.38	15,777	\$ 447		
37	NE Franklin	\$ 1,630,091	3.71	10,880	\$ 150	\$	287
	Subtotal	\$ 11,482,705		40,000			
38	Maximum Wastewater Impact Fee - Northeast Service Area (Capital and Financing)					\$	1,345
39	Maximum Northeast Water and Wastewater Impact Fee					\$	11,368

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Westside Service Area

Water Service Unit Flows (Max Day)

688 gpd

Line No.	Westside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Reservoirs						
1	TransMountain NW #1A (4 MG)	\$ 12,000,000	4.00	11,628	\$ 1,032	\$1,032
2	TransMountain NW #2A (3 MG)	\$ 9,000,000	3.00	8,721	\$ 1,032	
3	TransMountain NW #3 (1 MG)	\$ 3,000,000	1.00	2,907	\$ 1,032	
	Subtotal	\$ 24,000,000		23,256		
Debt Issued						
4	TransMountain NW #1A (4 MG)	\$ 4,270,000				
5	TransMountain NW #2A (3 MG)	\$ 3,205,000				
6	TransMountain NW #3 (1 MG)	\$ 1,070,000				
	Subtotal	\$ 8,545,000				
NPV of Interest						
7	TransMountain NW #1A (4 MG)	\$ 1,810,270	4.00	11,628	\$ 156	\$156
8	TransMountain NW #2A (3 MG)	\$ 1,358,762	3.00	8,721	\$ 156	
9	TransMountain NW #3 (1 MG)	\$ 453,627	1.00	2,907	\$ 156	
	Subtotal	\$ 3,622,659		23,256		
Distribution Pumping Equipment						
10	Artcraft #1-NW-WFMP	\$ 7,500,000	5.00	7,267	\$ 1,032	\$1,185
11	TransMountain NW #1 Pump Station (3 MGD)	\$ 6,000,000	3.00	4,360	\$ 1,376	
12	TransMountain NW#2 Pump Station (1 MGD)	\$ 2,000,000	1.00	1,453	\$ 1,376	
	Subtotal	\$ 15,500,000		13,081		
Debt Issued						
13	Artcraft #1-NW-WFMP	\$ 2,670,000				
14	TransMountain NW #1 Pump Station (3 MGD)	\$ 2,135,000				
15	TransMountain NW#2 Pump Station (1 MGD)	\$ 715,000				
	Subtotal	\$ 5,520,000				
NPV of Interest						
16	Artcraft #1-NW-WFMP	\$ 1,131,948	5.00	7,267	\$ 156	\$179
17	TransMountain NW #1 Pump Station (3 MGD)	\$ 905,135	3.00	4,360	\$ 208	
18	TransMountain NW#2 Pump Station (1 MGD)	\$ 303,125	1.00	1,453	\$ 209	
	Subtotal	\$ 2,340,208		13,081		
Distribution Lines						
19	48" Supply Line to TransMountain #1 Tank	\$ 5,000,000	40.00	58,140	\$ 86	\$508
20	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 18,500,000	22.00	31,977	\$ 579	
21	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 8,000,000	22.00	31,977	\$ 250	
22	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 4,000,000	5.00	7,267	\$ 550	
23	Upper Valley Borderland 36" Phase 2A	\$ 35,500,000	22.00	31,977	\$ 1,110	
24	Upper Valley Borderland 36" Phase 4	\$ 21,600,000	6.30	9,157	\$ 2,359	
25	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 2,000,000	6.30	9,157	\$ 218	
26	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 3,000,000	6.30	9,157	\$ 328	
27	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 3,000,000	6.30	9,157	\$ 328	
	Subtotal	\$ 100,600,000		197,965		
Debt Issued						
28	48" Supply Line to TransMountain #1 Tank	\$ 1,780,000				
29	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 6,580,000				
30	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 2,845,000				
31	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 1,425,000				
32	Upper Valley Borderland 36" Phase 2A	\$ 12,625,000				
33	Upper Valley Borderland 36" Phase 4	\$ 7,685,000				
34	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 715,000				
35	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 1,070,000				
36	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 1,070,000				
	Subtotal	\$ 35,795,000				
NPV of Interest						
37	48" Supply Line to TransMountain #1 Tank	\$ 754,632	40.00	58,140	\$ 13	\$77
38	Canutillo/UV Mn NWPH IV (36" Thorn)	\$ 2,789,596	22.00	31,977	\$ 87	
39	36" TransMountain #1 BS to TransMountain #2 Tank	\$ 1,206,140	22.00	31,977	\$ 38	
40	24" TransMountain #2 BS to TransMountain #3 Tank	\$ 604,130	5.00	7,267	\$ 83	
41	Upper Valley Borderland 36" Phase 2A	\$ 5,352,378	22.00	31,977	\$ 167	
42	Upper Valley Borderland 36" Phase 4	\$ 3,258,061	6.30	9,157	\$ 356	
43	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 2	\$ 303,125	6.30	9,157	\$ 33	
44	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 3	\$ 453,627	6.30	9,157	\$ 50	
45	16" Canutillo La Union/Westside Dr (Gato to Borderland) Phase 4	\$ 453,627	6.30	9,157	\$ 50	
	Subtotal	\$ 15,175,316		197,965		
46	Maximum Water Impact Fee - Westside Service Area (Capital and Financing)					\$ 3,136

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Westside Service Area

Wastewater Service Unit Flows (Max Day)

341 gpd

Line No.	Westside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Lines						
47	TransMountain NW Interceptors	\$ 2,500,000	2.04	5,982	\$ 418	
	Subtotal	\$ 2,500,000		5,982		\$ 418
Debt Issued						
48	TransMountain NW Interceptors	\$ 1,605,000				
	Subtotal	\$ 1,605,000				
NPV of Interest						
49	TransMountain NW Interceptors	\$ 680,441	2.04	5,982	\$ 114	
	Subtotal	\$ 680,441		5,982		114
Pumping & Force Mains						
50	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 50,000,000	7.50	21,994	\$ 2,273	
51	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 300,000	0.16	469	\$ 639	2,239
	Subtotal	\$ 50,300,000		22,463		
Debt Issued						
52	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 32,005,000				
53	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 195,000				
	Subtotal	\$ 32,200,000				
NPV of Interest						
54	Upper Valley 3 LS (1.5+3.5+2.5 MGD) and Force Mains	\$ 13,568,543	7.50	21,994	\$ 617	
55	Canutillo/Bosque LS (Schuman & Wester Village)	\$ 82,670	0.16	469	\$ 176	608
	Subtotal	\$ 13,651,213		22,463		
56	Maximum Wastewater Impact Fee - Westside Service Area (Capital and Financing)				\$ 3,379	
57	Maximum Water and Wastewater Impact Fee - Westside Area				\$ 6,515	

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Eastside Service Area

Water Service Unit Flows (Max Day)

688

gpd

Line No.	Eastside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Water Supply and Treatment System						
1	KBH Phase 2 (2.5 MG)	\$ 17,000,000	2.50	3,634	\$ 4,678	
2	Advanced Water Purification Facility (10 MG)	\$ 173,000,000	10.00	14,535	\$ 11,902	\$ 10,458
	Subtotal	\$ 190,000,000		18,169		
Debt Issued						
3	KBH Phase 2 (2.5 MG)	\$ 6,050,000				
4	Advanced Water Purification Facility (10 MG)	\$ 61,520,000				
	Subtotal	\$ 67,570,000				
NPV of Interest						
5	KBH Phase 2 (2.5 MG)	\$ 2,564,902	2.50	3,634	\$ 706	
6	Advanced Water Purification Facility (10 MG)	\$ 26,081,448	10.00	14,535	\$ 1,794	\$ 1,577
	Subtotal	\$ 28,646,350		18,169		
Water Distribution System						
Reservoirs						
7	Homestead II Tank (2.5 MG)	\$ 15,000,000	2.50	7,267	\$ 2,064	
8	John Hayes (2.5 MG)	\$ 15,000,000	2.50	7,267	\$ 2,064	
	Subtotal	\$ 30,000,000		14,535		\$ 2,064
Debt Issued						
9	Homestead II Tank (2.5 MG)	\$ 5,335,000				
10	John Hayes (2.5 MG)	\$ 5,335,000				
	Subtotal	\$ 10,670,000				
NPV of Interest						
11	Homestead II Tank (2.5 MG)	\$ 2,261,777	2.50	7,267	\$ 311	
12	John Hayes (2.5 MG)	\$ 2,261,777	2.50	7,267	\$ 311	
	Subtotal	\$ 4,523,554		14,535		\$ 311
Distribution Lines						
1	Eastside Planned Service Area	\$ 25,500,000	32.60	47,384	\$ 538	
2	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 21,000,000	35.00	50,872	\$ 413	
	Subtotal	\$ 46,500,000		98,256		\$ 473
Debt Issued						
3	Eastside Planned Service Area	\$ 9,070,000				
4	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 7,470,000				
	Subtotal	\$ 16,540,000				
NPV of Interest						
5	Eastside Planned Service Area	\$ 3,845,233	32.60	47,384	\$ 81	
6	Montana East Supply Line Area (E&W, N&S, Darrington)	\$ 3,166,912	35.00	50,872	\$ 62	
	Subtotal	\$ 7,012,145		98,256		\$ 71
7	Maximum Water Impact Fee - Eastside Service Area (Capital and Financing)					\$ 14,954

ATTACHMENT E (continued)
Water and Wastewater Impact Fee Study
Eastside Service Area

Wastewater Service Unit Flows (Max Day) 341 gpd

Line No.	Eastside Service Area	Capital Cost	Capacity (MGD)	Total Service Units	Unit Cost of Capacity	Weighted Average
Wastewater Treatment System						
1	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 605,100,000	12.00	35,191	\$ 17,195	\$ 17,195
Debt Issued						
2	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 215,175,000				
NPV of Interest						
3	Bustamante WWTP (Expansion 39 to 51 MGD)	\$ 91,223,596	12.00	35,191	\$ 2,592	\$ 2,592
Lines						
1	Other Interceptors (Area 8 East)	12,700,000	3.52	10,323	\$ 1,230	
2	Loop 375 East Interceptor System	14,300,000	5.64	16,540	\$ 865	
	Subtotal	27,000,000		26,862		\$ 1,005
Debt Issued						
3	Other Interceptors (Area 8 East)	4,520,000				
4	Loop 375 East Interceptor System	9,155,000				
	Subtotal	13,675,000				
NPV of Interest						
5	Other Interceptors (Area 8 East)	1,916,257	3.52	10,323	\$ 186	
6	Loop 375 East Interceptor System	3,881,269	5.64	16,540	\$ 235	
	Subtotal	5,797,526		26,862		\$ 216
7	Maximum Wastewater Impact Fee - Eastside Service Area (Capital and Financing)				\$ 21,008	
8	Maximum Eastside Water and Wastewater Impact Fee				\$ 35,962	

Attachment F Maximum Impact Fee Calculation

ATTACHMENT F
Water and Wastewater Impact Fee Study
Maximum Impact Fee Per Service Unit

Service Area and Category of Capital Improvement	Capital Improvement Costs	Amount Financed	Financing Costs (NPV of Interest)	Facility Service Units	Projected New Service Units through 2033	Portion of Capital Improvements and Financing	Maximum Impact Fee per Unit
Northeast							
Water							
Treatment	\$17,000,000	6,050,000	2,564,902	3,634	50,468	271,732,884	5,384
Reservoirs	30,000,000	10,675,000	4,525,674	29,070	50,468	59,939,995	1,188
Pumping	22,000,000	7,825,000	3,317,414	8,721	50,468	146,511,810	2,903
Distribution Lines	46,100,000	16,400,000	6,952,792	122,093	50,468	21,929,740	435
Total Water	115,100,000	40,950,000	17,360,782	N/A	50,468	500,114,428	9,910
Wastewater							
Collection Lines	42,300,000	8,239,171	11,482,705	40,000	50,468	67,857,639	1,345
Total Wastewater	42,300,000	8,239,171	11,482,705	N/A	50,468	67,857,639	1,345
Total Northeast Area	\$157,400,000	\$49,189,171	\$28,843,487	N/A	50,468	\$567,972,068	\$11,254
Westside							
Water							
Reservoirs	24,000,000	8,545,000	3,622,659	23,256	22,099	26,248,625	1,188
Pumping	15,500,000	5,520,000	2,340,208	13,081	22,099	30,138,280	1,364
Distribution Lines	100,600,000	35,795,000	15,175,316	197,965	22,099	12,924,089	585
Total Water	140,100,000	49,860,000	21,138,183	N/A	22,099	69,310,994	3,136
Wastewater							
Collection Lines	2,500,000	1,605,000	680,441	5,982	22,099	11,748,547	532
Pumping	50,300,000	32,200,000	13,651,213	22,463	22,099	62,913,960	2,801
Total Wastewater	52,800,000	33,805,000	14,331,654	N/A	22,099	74,662,507	3,332
Total Westside Area	\$192,900,000	\$83,665,000	\$35,469,837	N/A	22,099	\$143,973,500	\$6,469
Eastside							
Water							
Treatment	\$190,000,000	\$67,570,000	\$28,646,350	18,169	27,839	335,022,742	12,034
Reservoirs	30,000,000	10,670,000	4,523,554	14,535	27,839	66,123,764	2,375
Distribution Lines	46,500,000	16,540,000	7,012,145	98,256	27,839	15,161,694	545
Total Water	266,500,000	94,780,000	40,182,049	N/A	27,839	416,308,200	14,954
Wastewater							
Treatment	605,100,000	215,175,000	91,223,596	35,191	27,839	550,855,736	19,787
Collection Lines	27,000,000	13,675,000	5,797,526	26,862	27,839	33,990,192	1,221
Total Wastewater	632,100,000	228,850,000	97,021,122	N/A	27,839	584,845,929	21,008
Total Eastside Area	\$898,600,000	\$323,630,000	\$137,203,172	N/A	27,839	\$1,001,154,129	\$35,962
Systemwide							
Water	\$521,700,000	\$185,590,000	\$78,681,014	NA	100,406	\$985,733,622	\$9,875
Wastewater	727,200,000	270,894,171	122,835,482	NA	100,406	727,366,075	\$7,244
Systemwide Area	\$1,248,900,000	\$456,484,171	\$201,516,496	NA	100,406	\$1,713,099,697	\$17,119

Attachment G Impact Fee Credit Calculation

ATTACHMENT G Water and Wastewater Impact Fee Study Impact Fee Credit Calculation

Systemwide Water Credit Calculation

Line No.		Total (All Years)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
1	Principal Payments	\$185,590,000	\$5,612,722	\$5,893,358	\$6,188,026	\$6,497,427	\$6,822,298	\$7,163,413	\$7,521,584	\$7,897,663	\$8,292,546	\$8,707,174
2	Annual Interest on Future Debt		9,279,500	8,998,864	8,704,196	8,394,795	8,069,923	7,728,808	7,370,638	6,994,559	6,599,675	6,185,048
3	Total Debt Service		\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222
<u>Present Value</u>												
4	Principal on Future Debt		\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449
2	Interest Payments (present value)	78,681,014	8,837,619	8,162,235	7,519,012	6,906,418	6,322,996	5,767,356	5,238,175	4,734,193	4,254,210	3,797,083
3	Principal and Present Value of Interest	\$264,271,014	\$14,450,341	\$14,055,593	\$13,707,038	\$13,403,845	\$13,145,295	\$12,930,769	\$12,759,759	\$12,631,856	\$12,546,756	\$12,504,257
4	Beginning Year Service Units		252,766	262,807	272,847	282,888	292,928	302,969	313,010	323,050	333,091	343,131
5	Incremental Service Units		10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041
6	Total Service Units		262,807	272,847	282,888	292,928	302,969	313,010	323,050	333,091	343,131	353,172
7	Debt Service Credit per Unit	\$799	\$55	\$52	\$48	\$46	\$43	\$41	\$39	\$38	\$37	\$35

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G Water and Wastewater Impact Fee Study Impact Fee Credit Calculation

Systemwide Water Credit Calculation

Line No.		2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
1	Principal Payments	\$9,142,532	\$9,599,659	\$10,079,642	\$10,583,624	\$11,112,805	\$11,668,445	\$12,251,868	\$12,864,461	\$13,507,684	\$14,183,068
2	Annual Interest on Future Debt	5,749,689	5,292,563	4,812,580	4,308,598	3,779,417	3,223,776	2,640,354	2,027,761	1,384,538	709,153
3	Total Debt Service	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222	\$14,892,222
<u>Present Value</u>											
4	Principal on Future Debt	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449	\$5,345,449
2	Interest Payments (present value)	3,361,724	2,947,097	2,552,214	2,176,135	1,817,964	1,476,849	1,151,978	842,576	547,909	267,272
3	Principal and Present Value of Interest	\$12,504,257	\$12,546,756	\$12,631,856	\$12,759,759	\$12,930,769	\$13,145,295	\$13,403,845	\$13,707,038	\$14,055,593	\$14,450,341
4	Beginning Year Service Units	353,172	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213
5	Incremental Service Units	10,041	0	0	0	0	0	0	0	0	0
6	Total Service Units	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213	363,213
7	Debt Service Credit per Unit	\$34	\$35	\$35	\$35	\$36	\$36	\$37	\$38	\$39	\$40

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G (continued)
Water and Wastewater Impact Fee Study
Impact Fee Credit Calculation

Systemwide Wastewater Credit Calculation

Line No.		Total (All Years)	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
1	Principal Payments	\$289,740,000	\$8,762,487	\$9,200,612	\$9,660,642	\$10,143,674	\$10,650,858	\$11,183,401	\$11,742,571	\$12,329,699	\$12,946,184	\$13,593,494
2	Interest Payments (present value)	\$122,835,482	13,797,143	12,742,744	11,738,555	10,782,185	9,871,356	9,003,899	8,177,751	7,390,942	6,641,601	5,927,942
3	Principal and Present Value of Interest	\$412,575,482	\$22,559,630	\$21,943,356	\$21,399,197	\$20,925,859	\$20,522,214	\$20,187,300	\$19,920,321	\$19,720,642	\$19,587,785	\$19,521,436
4	Beginning Year Service Units		206,116	216,157	226,197	236,238	246,278	256,319	266,360	276,400	286,441	296,481
5	Incremental Service Units		10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041	10,041
6	Total Service Units		216,157	226,197	236,238	246,278	256,319	266,360	276,400	286,441	296,481	306,522
7	Debt Service Credit per Unit	\$1,455	\$104	\$97	\$91	\$85	\$80	\$76	\$72	\$69	\$66	\$64

Notes:

1. Present value calculations apply a 5 percent discount rate.

ATTACHMENT G (continued)
Water and Wastewater Impact Fee Study
Impact Fee Credit Calculation

Systemwide Wastewater Credit Calculation

Line No.		2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
1	Principal Payments	\$14,273,168	\$14,986,827	\$15,736,168	\$16,522,976	\$17,349,125	\$18,216,582	\$19,127,411	\$20,083,781	\$21,087,970	\$22,142,369
2	Interest Payments (present value)	5,248,268	4,600,959	3,984,474	3,397,345	2,838,175	2,305,632	1,798,448	1,315,416	855,386	417,261
3	Principal and Present Value of Interest	\$19,521,436	\$19,587,785	\$19,720,642	\$19,920,321	\$20,187,300	\$20,522,214	\$20,925,859	\$21,399,197	\$21,943,356	\$22,559,630
4	Beginning Year Service Units	306,522	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563
5	Incremental Service Units	10,041	0	0	0	0	0	0	0	0	0
6	Total Service Units	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563	316,563
7	Debt Service Credit per Unit	\$62	\$62	\$62	\$63	\$64	\$65	\$66	\$68	\$69	\$71

Notes:

1. Present value calculations apply a 5 percent discount rate.

Attachment H Impact fee Assessment Schedules

ATTACHMENT H Water and Wastewater Impact Fee Study Impact Fee Assessment Schedules (Net Fee after Credit)

Northeast - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$5,012	\$672	\$5,684
1-inch	1.67	8,370	1,122	9,492
1½-inch	3.33	16,690	2,238	18,928
2-inch	5.33	26,714	3,582	30,296
3-inch	10.00	50,120	6,720	56,840
4-inch	16.67	83,550	11,202	94,752
6-inch	33.33	167,050	22,398	189,448
8-inch	53.33	\$267,290	\$35,838	\$303,128

Westside - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$1,568	\$1,689	\$3,257
1-inch	1.67	2,619	2,821	5,439
1½-inch	3.33	5,221	5,624	10,846
2-inch	5.33	8,357	9,002	17,360
3-inch	10.00	15,680	16,890	32,570
4-inch	16.67	26,139	28,156	54,294
6-inch	33.33	52,261	56,294	108,556
8-inch	53.33	\$83,621	\$90,074	\$173,696

Eastside - Net Impact Fee after Max Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$7,477	\$10,504	\$17,981
1-inch	1.67	12,487	17,542	30,028
1½-inch	3.33	24,898	34,978	59,877
2-inch	5.33	39,852	55,986	95,839
3-inch	10.00	74,770	105,040	179,810
4-inch	16.67	124,642	175,102	299,743
6-inch	33.33	249,208	350,098	599,307
8-inch	53.33	\$398,748	\$560,178	\$958,927

ATTACHMENT H Water and Wastewater Impact Fee Study Impact Fee Assessment Schedules (Net Fee after Credit)

Northeast - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$9,213	\$1,074	\$10,287
1-inch	1.67	15,386	1,794	17,179
1½-inch	3.33	30,679	3,576	34,256
2-inch	5.33	49,105	5,724	54,830
3-inch	10.00	92,130	10,740	102,870
4-inch	16.67	153,581	17,904	171,484
6-inch	33.33	307,069	35,796	342,866
8-inch	53.33	\$491,329	\$57,276	\$548,606

Westside - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$2,883	\$2,700	\$5,583
1-inch	1.67	4,815	4,509	9,324
1½-inch	3.33	9,600	8,991	18,591
2-inch	5.33	15,366	14,391	29,757
3-inch	10.00	28,830	27,000	55,830
4-inch	16.67	48,060	45,009	93,069
6-inch	33.33	96,090	89,991	186,081
8-inch	53.33	\$153,750	\$143,991	\$297,741

Eastside - Net Impact Fee after Revenue Credit

Meter Size	Meter Capacity Ratio	Water	Wastewater	Total
Less than 1-inch	1.00	\$13,745	\$16,788	\$30,533
1-inch	1.67	22,954	28,036	50,990
1½-inch	3.33	45,771	55,904	101,675
2-inch	5.33	73,261	89,480	162,741
3-inch	10.00	137,450	167,880	305,330
4-inch	16.67	229,129	279,856	508,985
6-inch	33.33	458,121	559,544	1,017,665
8-inch	53.33	\$733,021	\$895,304	\$1,628,325

REDLINES

15.22.060 Land use assumptions and service area.

The land use assumptions (LUA) and service areas are those adopted by the El Paso city council on ~~February 18, 2014~~ [May 7, 2024](#).

15.22.070 Capital improvements plan.

The capital improvements plan (CIP) is the plan adopted by the El Paso city council on ~~February 18, 2014~~ [May 7, 2024](#).

15.22.100 Maximum fee and actual fee to be assessed.

The maximum allowable impact fee per service unit was calculated in accordance with V.T.C.A. Local Government Code § 395.015. In accordance with V.T.C.A. Local Government Code § 395.014(7), the city has awarded a credit based on the portion of the utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan. Ad valorem taxes will not be used for the payment of improvements contained in the capital improvements plan.

The impact fee to be assessed is the impact fee adopted by the city council.

WATER IMPACT FEE PER SERVICE UNIT

	Impact Fee (Before Credit)	Maximum Allowable Impact Fee	Impact Fee to be Assessed
Service Area			
Northeast	\$10,023 \$3,561.00	\$5,012 \$3,145.00	\$5,012 \$1,178.00
Westside	\$3,136 \$1,044.00	\$1,568 \$922.00	\$1,568 \$659.00
Eastside	\$14,954 \$2,809.00	\$7,477 \$2,481.00	\$7,477 \$697.00

WASTEWATER IMPACT FEE PER SERVICE UNIT

	Impact Fee (Before Credit)	Maximum Allowable Impact Fee	Impact Fee to be Assessed
Service Area			
Northeast	\$1,345 \$538.00	\$672 \$429.00	\$672 \$291.00
Westside	\$3,379 \$1,711.00	\$1,689 \$1,364.00	\$1,689 \$927.00
Eastside	\$21,008 \$1,698.00	\$10,504 \$1,354.00	\$10,504 \$920.00

APPENDIX B
IMPACT FEE ASSESSMENT SCHEDULES

Northeast Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	<u>\$ 5,012</u> \$ 1,178.00	<u>\$ 672</u> \$ 291.00
1 inch	1.67	<u>\$ 8,370</u> \$ 1,967.00	<u>\$ 1,122</u> \$ 486.00
1½ inch	3.33	<u>\$ 16,690</u> \$ 3,921.00	<u>\$ 2,238</u> \$ 969.00
2 inch	5.33	<u>\$ 26,714</u> \$ 6,276.00	<u>\$ 3,582</u> \$ 1,551.00
3 inch	10.00	<u>\$ 50,120</u> \$ 11,775.00	<u>\$ 6,720</u> \$ 2,910.00
4 inch	16.67	<u>\$ 83,550</u> \$ 19,629.00	<u>\$ 11,202</u> \$ 4,851.00
6 inch	33.33	<u>\$ 167,050</u> \$ 39,246.00	<u>\$ 22,398</u> \$ 9,699.00
8 inch	53.33	<u>\$ 267,290</u> \$ 62,796.00	<u>\$ 35,838</u> \$ 15,519.00
10 inch	76.67	<u>\$ 384,270</u> \$ 90,279.00	<u>\$ 51,522</u> \$ 22,311.00
12 inch	143.33	<u>\$ 718,370</u> \$ 168,771.00	<u>\$ 96,318</u> \$ 41,709.00

** Fees do not apply to water meter or connections made for standby fire protection service.*

Westside Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	<u>\$ 1,568</u> \$ 659.00	<u>\$ 1,689</u> \$ 927.00
1 inch	1.67	<u>\$ 2,619</u> \$ 1,101.00	<u>\$ 2,821</u> \$ 1,548.00
1½ inch	3.33	<u>\$ 5,221</u> \$ 2,195.00	<u>\$ 5,624</u> \$ 3,087.00
2 inch	5.33	<u>\$ 8,357</u> \$ 3,514.00	<u>\$ 9,002</u> \$ 4,941.00
3 inch	10.00	<u>\$ 15,680</u> \$ 6,593.00	<u>\$ 16,890</u> \$ 9,270.00
4 inch	16.67	<u>\$ 26,139</u> \$ 10,990.00	<u>\$ 28,156</u> \$ 15,453.00
6 inch	33.33	<u>\$ 52,261</u> \$ 21,973.00	<u>\$ 56,294</u> \$ 30,897.00
8 inch	53.33	<u>\$ 83,621</u> \$ 35,158.00	<u>\$ 90,074</u> \$ 49,437.00
10 inch	76.67	<u>\$ 120,219</u> \$ 50,545.00	<u>\$ 129,496</u> \$ 71,073.00
12 inch	143.33	<u>\$ 224,741</u> \$ 94,490.00	<u>\$ 242,084</u> \$ 132,867.00

** Fees do not apply to water meter or connections made for standby fire protection service.*

Eastside Service Area			
Meter Size	Meter Capacity Ratio	Water*	Wastewater
Less than 1 inch	1.00	<u>\$ 7,477</u> \$ 697.00	<u>\$ 10,504</u> \$ 920.00
1 inch	1.67	<u>\$ 12,487</u> \$ 1,163.00	<u>\$ 17,542</u> \$ 1,537.00
1½ inch	3.33	<u>\$ 24,898</u> \$ 2,321.00	<u>\$ 34,978</u> \$ 3,065.00
2 inch	5.33	<u>\$ 39,852</u> \$ 3,714.00	<u>\$ 55,986</u> \$ 4,905.00

3 inch	10.00	<u>\$ 74,770</u> \$ 6,968.00	<u>\$ 105,040</u> \$ 9,203.00
4 inch	16.67	<u>\$ 124,642</u> \$ 11,615.00	<u>\$ 175,102</u> \$ 15,341.00
6 inch	33.33	<u>\$ 249,208</u> \$ 23,223.00	<u>\$ 350,098</u> \$ 30,672.00
8 inch	53.33	<u>\$ 398,748</u> \$ 37,158.00	<u>\$ 560,178</u> \$ 49,077.00
10 inch	76.67	<u>\$ 573,262</u> \$ 40,064.00	<u>\$ 805,342</u> \$ 52,916.00
12 inch	143.33	<u>\$ 1,071,678</u> \$ 74,899.00	<u>\$ 1,505,538</u> \$ 98,924.00

* *Fees do not apply to water meter or connections made for standby fire protection service.*



Legislation Text

File #: 24-542, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 4

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Nina Rodriguez, (915) 212-1561

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance granting Special Permit No. PZST23-00012, to allow for infill development with reductions to minimum lot area and minimum average lot width on the property described as Lot 42, Block 20, Sun Valley Addition Section Three, 5204 Sun Valley Drive, City of El Paso, El Paso County, Texas, pursuant to section 20.10.280 Infill Development of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code.

The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 5204 Sun Valley Dr.

Applicant: Goal Development Group, PZST23-00012

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: May 21, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Nina Rodriguez, (915) 212-1561

DISTRICT(S) AFFECTED: District 4

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance granting special permit No. PZST23-00012, to allow for infill development with reductions to minimum lot area and minimum average lot width on the property described as Lot 42, Block 20, Sun Valley Addition Section Three, 5204 Sun Valley Drive, City of El Paso, El Paso County, Texas, pursuant to section 20.10.280 Infill Development of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code.

The proposed special permit meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 5204 Sun Valley Dr.
Applicant: Goal Development Group, PZST23-00012

BACKGROUND / DISCUSSION:

The applicant is requesting a special permit for infill development with reductions to minimum lot area and minimum average lot width to allow for duplex use. City Plan Commission recommended 5-1 to approve the proposed special permit on March 21, 2024. As of April 22, 2024, the Planning Division received one (1) email of opposition to the special permit request. See attached staff report for additional information.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

ORDINANCE NO. _____

AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST23-00012, TO ALLOW FOR INFILL DEVELOPMENT WITH REDUCTIONS TO MINIMUM LOT AREA AND MINIMUM AVERAGE LOT WIDTH ON THE PROPERTY DESCRIBED AS LOT 42, BLOCK 20, SUN VALLEY ADDITION SECTION THREE, 5204 SUN VALLEY DRIVE, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.10.280 INFILL DEVELOPMENT OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Goal Development Group, have applied for a Special Permit for infill development under Section 20.10.280 of the El Paso City for a duplex use with reductions to minimum lot area and minimum average lot width; and,

WHEREAS, a report was made to the City Plan Commission and a public hearing was held regarding such application; and,

WHEREAS, the City Plan Commission has recommended approval of the subject Special Permit; and,

WHEREAS, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and,

WHEREAS, the City Council of the City of El Paso finds that the application conforms to all requirements of Sections 20.04.320 of the El Paso City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the property described as follows is in a R-4 (Residential) Zone District:

Lot 42, Block 20, Sun Valley Addition Section Three, 5204 Sun Valley Drive, *City of El Paso, El Paso County, Texas; and,*

2. That the City Council hereby grants a Special Permit under Sections 20.04.320 of the El Paso City Code, to allow an infill development for a duplex use with reductions to minimum lot area and minimum average lot width; and,
3. That this Special Permit is issued subject to the development standards in the R-4 (Residential) District regulations and is subject to the approved Detailed Site Development Plan, signed by the Applicant, the City Manager and the Executive

ORDINANCE NO. _____

HQ24-2361 | Trans# 513835| P&I
Special Permit Infill Dev w/Infill reduced setbacks
RTA

Secretary to the City Plan Commission. A copy of this plan is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes; and,

- 4. That if at any time the Owners fail to comply with any of the requirements of this Ordinance, Special Permit No. PZST23-00012 shall automatically terminate, and construction shall stop or occupancy shall be discontinued, until any such violation ceases; and,
- 5. That the Owners shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Russell Abeln

Russell T. Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Philip Etiwe

Philip F. Etiwe, Director
Planning & Inspections Department

ORDINANCE NO. _____
HQ24-2361 | Trans# 513835| P&I
Special Permit Infill Dev w/Infill reduced setbacks
RTA

AGREEMENT

Goal Development Group, referred to in the above Ordinance, hereby agree to develop the above-described property in accordance with the approved Detailed Site Development Plan attached to same Ordinance, and in accordance with the standards identified in the R-4 (Residential) District regulations, and subject to all other requirements set forth in this Ordinance.

EXECUTED this 2 day of April, 2024.

Goal Development Group:

By: Francisco Viniegra / President
(name/title)
[Signature]
(signature)

ACKNOWLEDGMENT

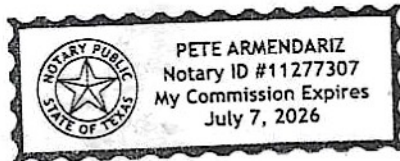
THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 2 day of APRIL, 2024, by FRANCISCO VINIEGRA, for Goal Development Group, as Owner. PRESIDENT

My Commission Expires:

7-7-2026

[Signature]
Notary Public, State of Texas



Notary's Printed or Typed Name:

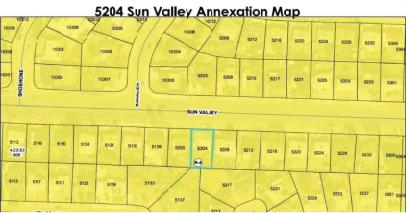
PETE ARMENDARIZ

ORDINANCE NO.

HQ24-2361 | Trans# 513835| P&I
Special Permit Infill Dev w/Infill reduced setbacks
RTA

Page 3 of 3

DETAILED DEVELOPMENT SITE PLAN



GREEN AREA CALCULATION
LANDSCAPE IS NOT REQUIRED FOR DUPLEXES

1.3 MANDATORY DESIGN REQUIREMENTS

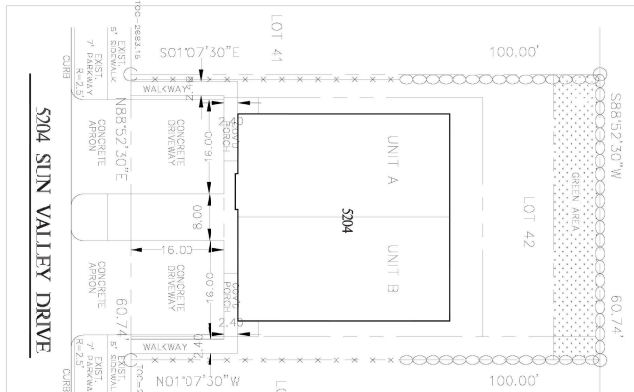
645 / 25 = 25.80 FRONT AVERAGE
STANDARD DEVIATION 10% = 3.87
21.93 FT-25.87 FT FRONT DISTANCE
DUPLEX FRONT DISTANCE= 22.35 FT

NOTE:

THE SUBJECT PROPERTY
WAS ANNEXED BY THE CITY
OF EL PASO PRIOR TO 1955

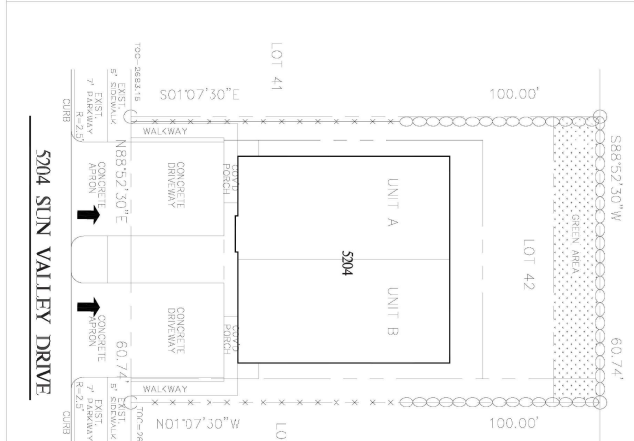
2.6 CRAFTSMAN/PRAIRIE ARQ. DESIGN

OVERHANG LINE
24" OVERHANG AROUND ALL HOUSE
TO COMPLY WITH 2.6 DESIGN CRITERIA



1.1 MANDATORY DESIGN REQUIREMENTS

THE ZONING ADMINISTRATOR HAS GRANTED AN EXCEPTION TO ALLOW PARKING
IN THE FRONT YARD AS THE DEVELOPMENT SHARES A COMMON PROPERTY
LINE AT THE REAR OF THE PROPERTY

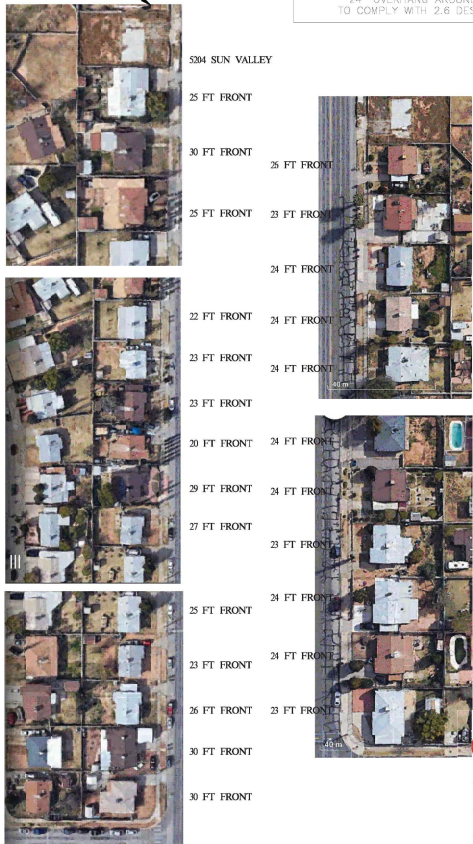


1.2 MANDATORY DESIGN REQUIREMENTS

PRINCIPLE ORIENTATION IS TOWARD SUN VALLEY DRIVE AND THE PRINCIPLE
ENTRANCE IS FROM THE SIDEWALK

2.5 SELECTIVE DESIGN GUIDELINES

The total width of the primary structure shall be greater than or equal to 80% of the total lot width along the main street. For the
purposes of this calculation, any necessary vehicular access driveway shall be subtracted from the total lot width.
Total lot width= 60.74'
Total house width, including front porches= 50.74'
80 % of total lot width=46.59'



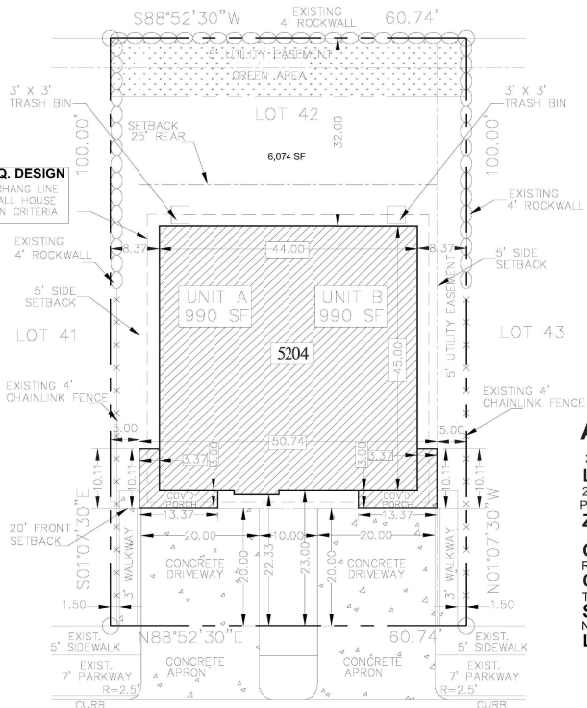
2.10 SELECTIVE DESIGN GUIDELINES

FOR PROJECTS IN RESIDENTIAL DISTRICTS THE APPLICANT SHALL DEMONSTRATE THAT THE PARCEL HAS BEEN VACANT OR
UNDERDEVELOPED FOR NO LESS THAN 15 YRS. FOR PURPOSES OF THIS GUIDELINE ONLY, UNDERDEVELOPED SHALL BE
DEFINED AS PARCELS WHICH DO NOT MEET THE MAXIMUM DENSITY PERMITTED IN THE BASE ZONING DISTRICT.
THE PROPERTY IS ZONED R-4 (RESIDENTIAL), AND WAS PREVIOUSLY DEVELOPED AS A SINGLE-FAMILY DWELLING, BEING
UNDERDEVELOPED AS IT DID NOT REACH ITS MAXIMUM DENSITY PER ITS BASE ZONING DISTRICT.

SETBACK TABLE: R-4			
SETBACK	MINIMUM	PROPOSED	
FRONT	10.80 FT.	20.00 FT.	
BACK	10.80 FT.	25.00 FT.	
WEST SIDE	5FT.	5.00 FT.	
EAST SIDE	5FT.	5.00 FT.	
CUMULATIVE FRONT & REAR	45.80 FT.	45.00 FT.	



LEFT/ RIGHT ELEVATION



90 S.F. R.O.W.

5204 SUN VALLEY DRIVE

SITE PLAN

SCALE: 1" = 10'-0"

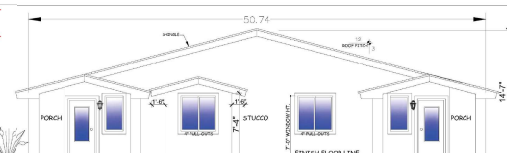
LOT LINE
SETBACK LINES
PLANNING & INSPECTIONS DEPARTMENT
DETAILED SITE DEVELOPMENT PLAN
APPROVED BY CITY COUNCIL
04/03/24
DATE
FRANCISCO VENTURA
APPLICANT
Kevin Smith
EXECUTIVE SECRETARY, CITY PLAN COMMISSION
CITY MANAGER

PARKING CALCULATIONS

2/ DWELLING UNIT X 2 SPACES = 4 PARKING SPACES REQUIRED
4 PARKING SPACES PROVIDED

LOT REQUIREMENTS

	MINIMUM	PROPOSED
LOT AREA	7,000 FT.	6,074 FT.
LOT WIDTH	70 FT.	60.74 FT.
LOT DEPTH	90 FT.	100 FT.
	MAXIMUM	PROPOSED
HEIGHT	35 FT.	14.58 FT.



NOTE:
ELEVATIONS NOT TO SCALE

FRONT ELEVATION

2.6 SELECTIVE DESIGN GUIDELINES

THE PROJECT DEMONSTRATE COMPLIANCE WITH ONE OF THE ARCHITECTURAL
STYLES DERIVED IN THE COMMUNITY DESIGN MANUAL OF PLAN EL PASO
CRAFTSMAN AND PRAIRIE STYLE:
A. WIDE OPEN OVERHANGS, 24"
B. LOW-PITCHED ROOF, HIPPED OR GABLED
C. FALSE BEAMS OR BRACES UNDER GABLES
D. FRONT PORCH ROOF SUPPORTED BY LARGE,
SQUARE TAPERED COLUMNS EXTENDING TO THE GROUND



APPLICABLE CODE:

2015 INTERNATIONAL BUILDING CODE
LEGAL DESCRIPTION
20 SUN VALLEY #3 LOT 42
PID: S8169990204200
ZONING R-4

OCCUPANCY
RESIDENTIAL
CONSTRUCTION
TYPE V-B
SCOPE OF WORK
NEW CONSTRUCTION- DUPLEX
LOT AREA

PROPOSED DUPLEX

5204 SUN VALLEY DR
EL PASO, TX 79930
20 SUN VALLEY #3 LOT 42

SCALE: 1" = 10'-0"
DETAILED
SITE PLAN

D-1

SHT. 1 OF 1

5204 Sun Valley

City Plan Commission — March 21, 2024



CASE NUMBER:	PZST23-00012
CASE MANAGER:	Nina Rodriguez, (915) 212-1561, RodriguezNA@elpasotexas.gov
PROPERTY OWNER:	Goal Development Group
REPRESENTATIVE:	Luis Contreras
LOCATION:	5204 Sun Valley Dr. (District 4)
PROPERTY AREA:	0.14 acres
EXISTING ZONING:	R-4 (Residential)
REQUEST:	Special Permit for Infill Development with reductions to minimum lot area and minimum average lot width requirements for duplex use in the R-4 (Residential) district and approval of a Detailed Site Development Plan.
RELATED APPLICATIONS:	None
PUBLIC INPUT:	One (1) email of opposition received as of March 14, 2024

SUMMARY OF REQUEST: The applicant is requesting a special permit for an infill development with reductions to minimum lot area and minimum average lot width requirements for a duplex in a R-4 (Residential) zone district, and approval of a detailed site development plan.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL** of special permit for infill development with reductions to minimum lot area and minimum average lot width requirements for a duplex in the R-4 (Residential) zone district. The proposal meets all the requirements of El Paso City Code Sections 20.04.320 – Special Permit, 20.04.150 – Detailed Site Development Plan, and 20.10.280 – Infill Development. The proposed use is consistent with *Plan El Paso*, the City's adopted Comprehensive Plan.



Figure A. Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant is requesting a special permit and detailed site development plan approval for infill development with reductions to minimum lot area and minimum average lot width requirements for a duplex in the R-4 (Residential) district. The detailed site development plan shows a 1,980 square-foot, one-story duplex with a maximum height of 14.58 feet. The table below provides a detailed summary of the requested lot requirement modifications. The detailed site development plan complies with all other applicable standards. Vehicular access to the subject property is provided from Sun Valley Drive.

The following table summarizes the requested reductions:

R-4 (Residential) Zone District - Duplex		
Density/Dimensional Standard	Required	Proposed
Lot Area (min.)	7,000 Square Feet	6,074 Square Feet
Lot Width (average min.)	70 Feet	60.74 Feet

COMPLIANCE WITH SPECIAL PERMIT FOR INFILL DEVELOPMENT STANDARDS (EL PASO CITY CODE SECTION 20.10.280)	
Criteria	Does the Request Comply?
Location Criteria: An infill development may be located on any parcel of land which meets at least one of the location criteria.	Yes. the subject property was annexed into the City of El Paso in 1953, prior to 1955. This satisfies Mandatory Requirement 20.10.280.B.3 of the El Paso City Code.
Mandatory Design Requirement 1.1: Where on-site surface parking is proposed, it shall be located at the rear of the property and when possible accessed via alleyway; or at the side of the property and screened in accordance with Section 21.50.070.F5.	Yes. The applicant has been granted an exception to Section 20.10.280 (C)(1.i.1.d) as the development shares a common property line at the rear of the property.
Mandatory Design Requirement 1.2: Buildings shall be placed on the parcels such that the principal orientation is toward the main street and the principal entrance is from the sidewalk.	Yes. The duplex is oriented towards Sun Valley Drive (main street), with pedestrian access from the same street.
Mandatory Design Requirement 1.3: For proposals abutting existing residential development the front setback shall not deviate from the average front setback of lots within the same block as the proposed development by more than 15%.	Yes. The subject property is located in an R-4 (Residential) district, abutting other existing residential developments with an average setback of 25.8 feet for all lots within the same block. The site plan shows a 22.3-foot front setback (within the deviation of 15% of the average setback requirement).
Selective Design Requirement 2.5: The total width of the primary structure shall be greater than or equal to 80% of the total lot width along the main street. For the purposes of this calculation, any necessary vehicular access driveway shall be subtracted from the total lot width.	Yes. The proposed width of the duplex is 50.74 feet, which is greater than 80% of the lot width of 60.74 feet.

Selective Design Requirement 2.6: The project shall demonstrate compliance with one of the architectural styles defined in the Community Design Manual of <i>Plan El Paso</i> .	Yes. The elevations and site plan demonstrate compliance with the craftsman and prairie architectural styles as defined in the Community Design Manual of <i>Plan El Paso</i> .
Selective Design Requirement 2.10: For projects in residential districts, the applicant shall demonstrate that the parcel has been vacant or underdeveloped for no less than 15 years. For purposes of this guideline only, underdeveloped shall be defined as parcels which do not meet the maximum density permitted in the base zoning district.	Yes. A single-family dwelling was present on the subject property between 2009 and 2018 according to GIS aerial imagery. The property is considered underdeveloped as it has not reached its maximum density as per the R-4 (Residential) zoning district.

COMPLIANCE WITH SPECIAL PERMIT REQUIREMENTS (El Paso City Code 20.04.320.D)	
Criteria	Does the Request Comply?
1. The proposed development complies, except to the extent waived, varied or modified pursuant to the provisions of this title, with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.	Yes. Aside from the required minimum lot area and minimum average lot width reductions requested, the detailed site development plan demonstrates compliance with all applicable standards of the El Paso City Code.
2. Furthers <i>Plan El Paso</i> and applicable neighborhood plans or policies.	Yes. The request is in accordance with the recommendations of <i>Plan El Paso</i> and the G-3, Post-war Future Land Use Designation.
3. Adequately served by and will not impose an undue burden upon public improvements.	Yes. The subject property fronts Sun Valley Drive, a minor arterial as classified on the City of El Paso's Major Thoroughfare Plan (MTP). Vehicular and pedestrian access is provided from Sun Valley Drive, which is adequate to support duplex use.
4. Any impacts of the proposed development on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.	Yes. There are no anticipated adverse or negative impacts on adjacent properties from the development.
5. The design of the proposed development mitigates substantial environmental problems.	N/A. There are no known environmental problems in the area that require mitigation.
6. The proposed development provides adequate landscaping and/or screening where needed.	Yes. The development complies with landscaping requirements of the El Paso City Code.
7. The proposed development is compatible with adjacent structures and uses.	Yes. Duplex use is compatible with other existing uses and building configurations in the immediate area.
8. The proposed development is not materially detrimental to the property adjacent to the site.	Yes. The duplex is similar in use and intensity to adjacent properties. No impact on adjacent properties is anticipated.

COMPLIANCE WITH <i>PLAN EL PASO</i> GOALS & POLICIES – When evaluating whether a proposed special permit is in accordance with <i>Plan El Paso</i>, consider the following factors:	
Criteria	Does the Request Comply?
<p>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p>G-3, Post-war: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	<p>Yes. The subject property and proposed duplex meet the intent of the G-3 Future Land Use Map designation as the use supplements the housing stock of the area, which is appropriate for the land use designation.</p>
<p>Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site:</p> <p>R-4 (Residential) District: The purpose of this district is to promote and preserve residential development within the city to create basic neighborhood units. It is intended that the district regulations maintain a low density of dwelling units supporting a suburban-urban interface that permits developments utilizing varying lot configurations. The regulations of the districts will permit primarily single-family and two-family residential areas, and recreational and institutional uses incidental to and serving the neighborhood.</p>	<p>Yes. Duplex use is permitted by right in the R-4 (Residential) district and is compatible with surrounding properties.</p>
THE PROPOSED PROJECT’S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:	
<p>Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.</p>	<p>The subject property is not within any historic districts or study area plan boundaries.</p>
<p>Potential Adverse Effects: Potential adverse effects that might be caused by approval or denial of the request.</p>	<p>There are no anticipated adverse impacts.</p>
<p>Natural Environment: Anticipated effects on the natural environment.</p>	<p>The subject property does not involve green field or environmentally sensitive land or arroyo disturbance.</p>
<p>Stability: Whether the area is stable or in transition.</p>	<p>The area is stable as there have not been any rezoning cases in the area within the last 10 years.</p>
<p>Socioeconomic & Physical Conditions: Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.</p>	<p>The development will keep the existing zoning district. The subject property resides in an older, stable area of the city and incorporates the use of duplex in an area mostly comprised of single-family properties.</p>

ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE: The subject property fronts on Sun Valley Drive, a minor arterial as designated in the City of El Paso's Major Thoroughfare Plan (MTP). Vehicular access to the subject property is provided from Sun Valley Drive, and pedestrian access is provided from the sidewalk along Sun Valley Drive. There are two (2) bus stops located within a five-minute walking distance (0.25 mile) from the subject property. The closest bus stop is located approximately 0.20 miles away on the southwest corner of Rushing Drive and Peacock Lane. The existing infrastructure and services are adequate to serve a duplex use.

SUMMARY OF DEPARTMENTAL REVIEW COMMENTS: No adverse comments from reviewing departments.

PUBLIC COMMENT: The subject property does not lie within the boundaries of any recognized neighborhood associations. Property owners within 300 feet of the subject property were notified of the special permit request on February 23, 2024. As of March 14, 2024, the Planning Division received one (1) email in opposition to the special permit request.

RELATED APPLICATIONS: None.

CITY PLAN COMMISSION OPTIONS: The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

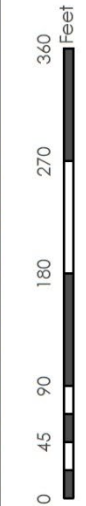
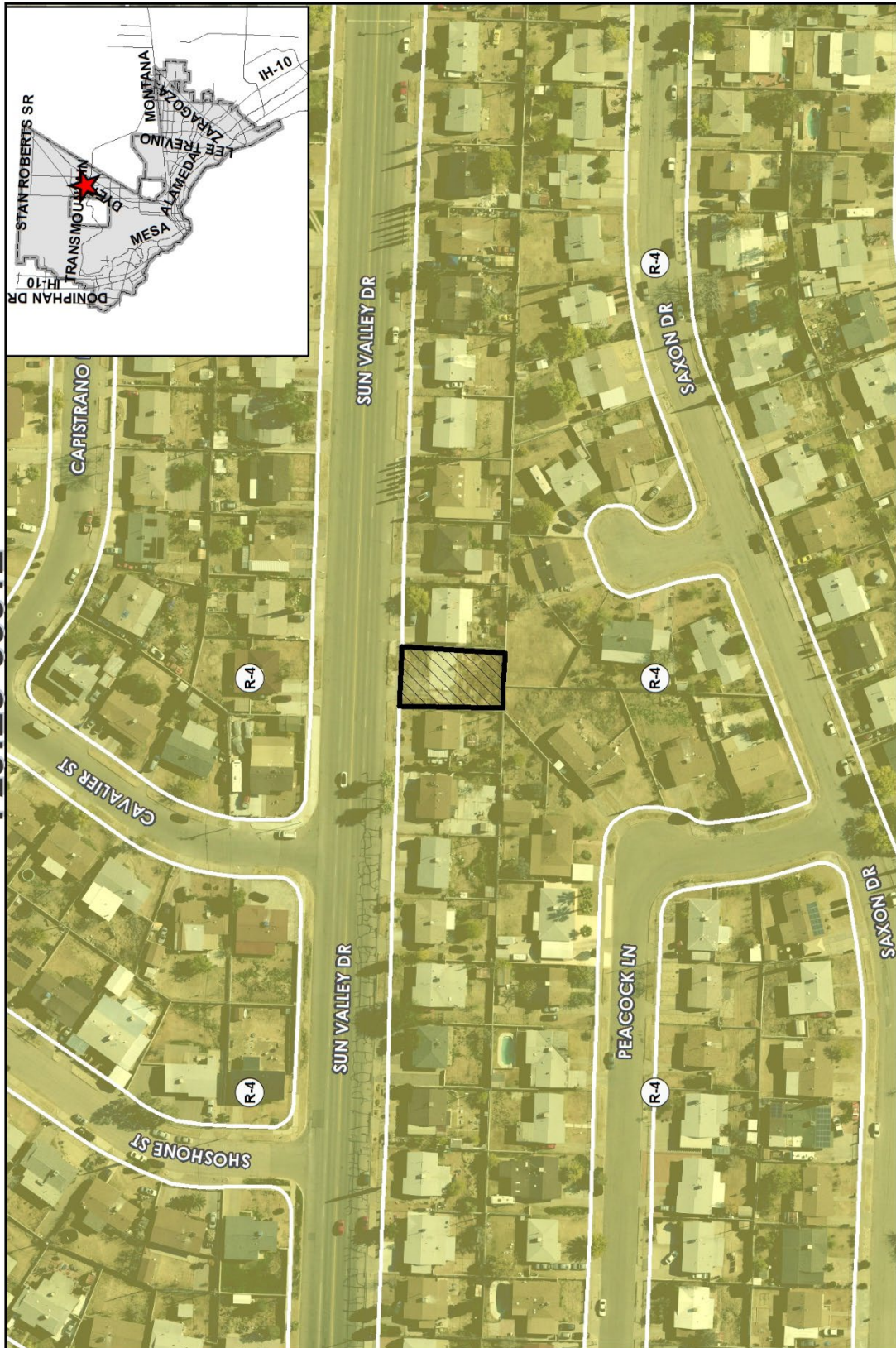
1. **Recommend Approval** of the special permit request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. **(Staff Recommendation)**
2. **Recommend Approval of the special permit request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
3. **Recommend Denial** of the special permit request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

ATTACHMENTS:

1. Zoning Map
2. Detailed Site Development Plan
3. Department Comments
4. Neighborhood Notification Boundary Map
5. Public Comment

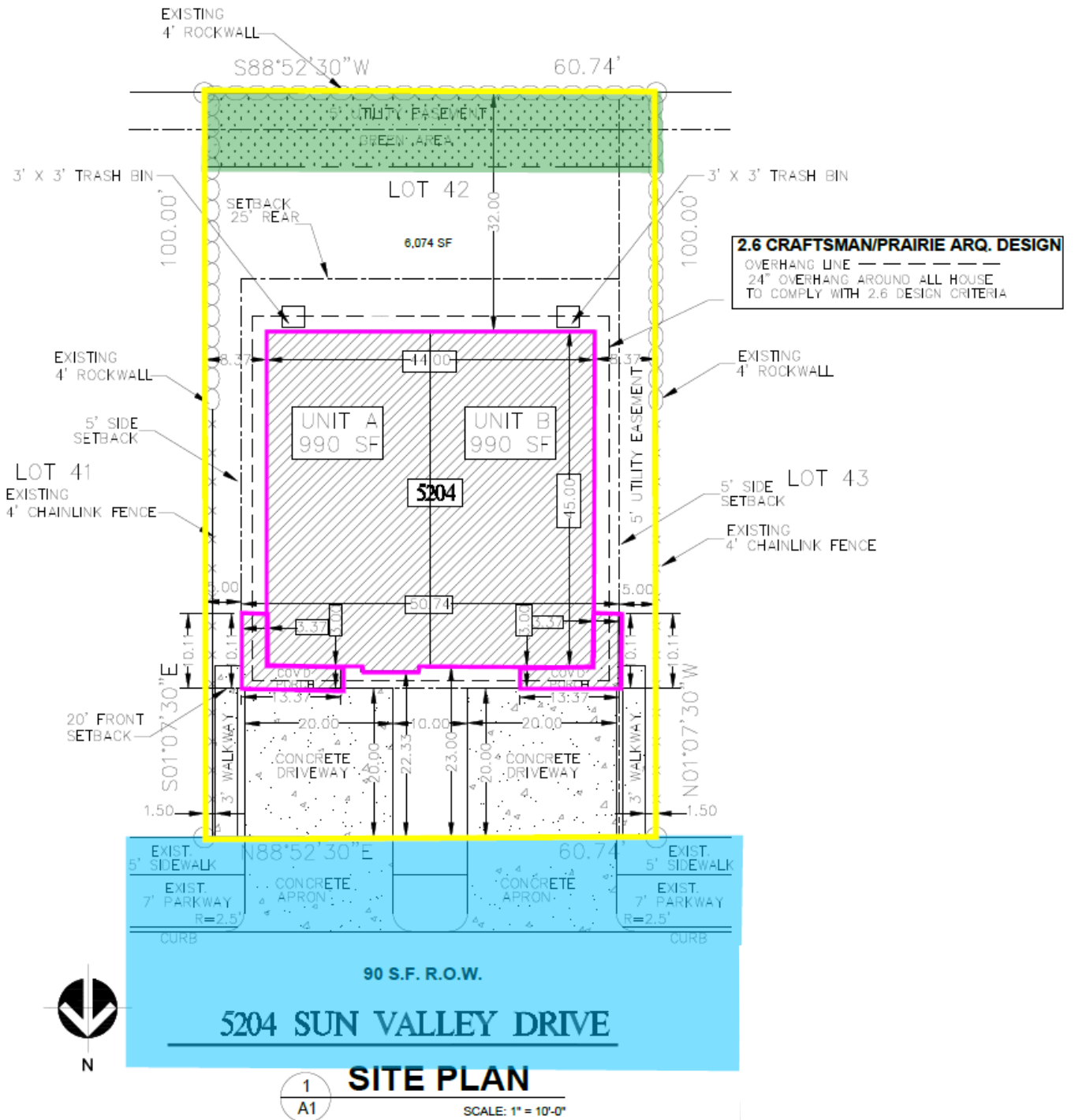
ATTACHMENT 1

PZST23-00012



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

ATTACHMENT 2



ATTACHMENT 3

Planning and Inspections Department - Planning Division

Staff recommends approval.

Planning and Inspections Department – Plan Review & Landscaping Division

Recommend approval, no objections.

Planning and Inspections Department – Land Development

Recommend approval, no objections to proposed site plan.

Fire Department

Recommend approval, no adverse comments.

Police Department

No comments received.

Environment Services

No comments received.

Streets and Maintenance Department

No objections.

Sun Metro

No comments received.

El Paso Water

EPWater does not object to this request.

EPWU-PSB Comments

There is an existing 12-inch diameter water main extending along Sun Valley Dr. approximately 20.5-feet south of the northern right of way line. This water main is available for service.

EPWater records indicate an active 3/4-inch water meter serving the subject property. The service address for this meter is 5204 Sun Valley Dr.

Previous water pressure readings from fire hydrant # 5419 located at the northeast corner of the intersection of Shoshone St. and Sun Valley Dr. have yielded a static pressure of 78 pounds per square inch, a residual pressure of 60 pounds per square inch, and a discharge flow of 856 gallons per minute.

Sanitary Sewer

There is an existing 12-inch diameter sanitary sewer main approximately 40-feet north of the southern right-of-way line. This sanitary sewer main is available for service.

General

EPWater requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Stormwater:

No comments received.

Texas Department of Transportation

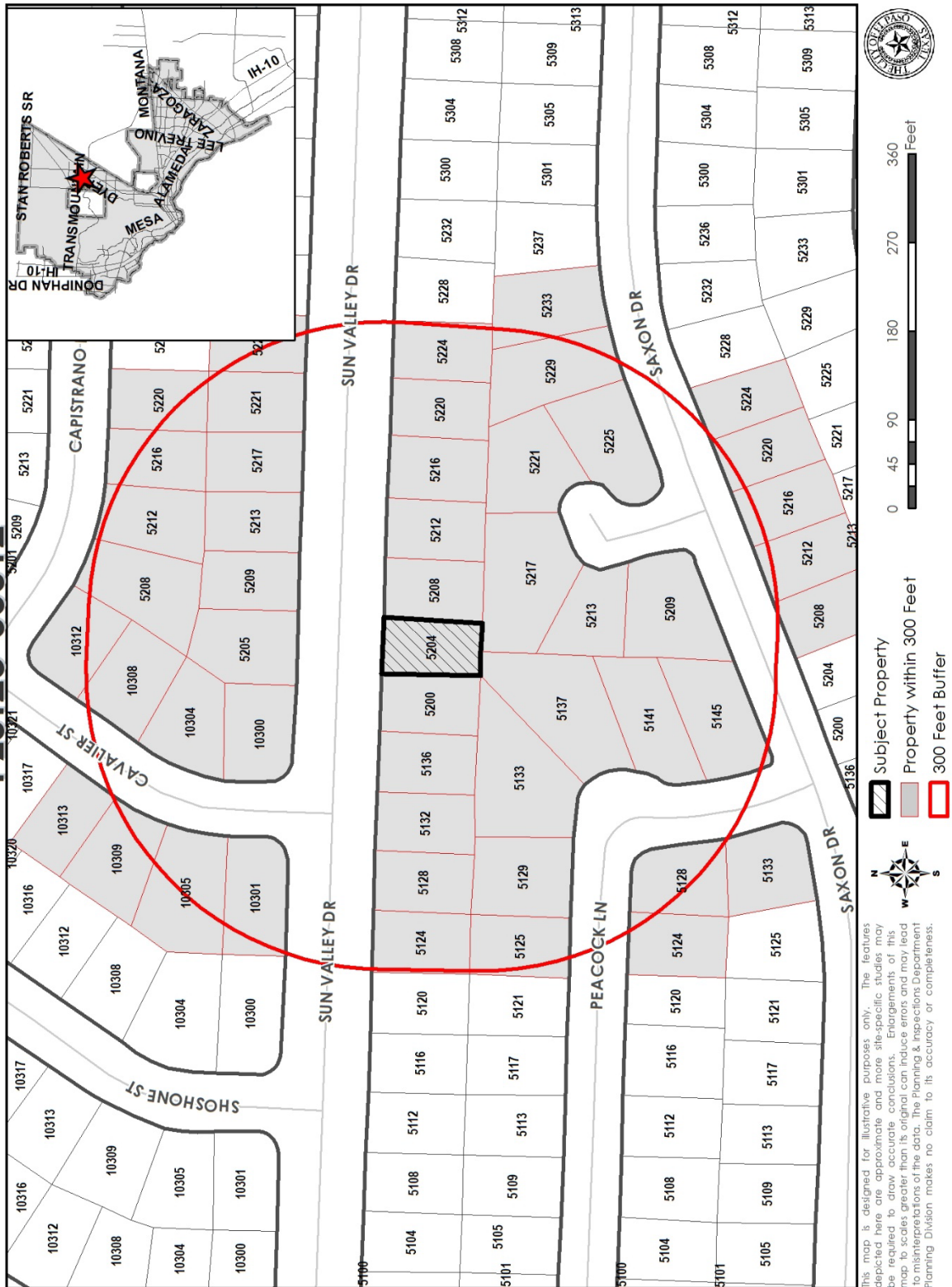
No comments received.

El Paso County Water Improvement District #1

No comments received.

ATTACHMENT 4

PZST23-00012



ATTACHMENT 5

From: [Erica Hannigan](#)
To: [Rodriguez, Nina A.](#)
Subject: City Plan Commission
Date: Wednesday, March 6, 2024 8:14:14 PM

You don't often get email from ericahannigan@yahoo.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to SpamReport@elpasotexas.gov.

To Whom it may concern,

I am a bit concerned about the duplex been built across from our single family home. When a residential neighborhood is rezoned for multi-family use, or a duplex it can have varying effects on the house value. On one hand, the increased density and potential for more housing units could drive up house values. On the other hand, some homeowners may be concerned about potential issues such as increased traffic, noise, and changes in the neighborhood's character, which could potentially lower house values.

We already have plenty of traffic and noise because of the high school and the elementary school. As a long time resident I would not like to see my taxes go any higher. We are happy in our neighborhood. Where would they park?
Why ask now how we feel about it when the duplex has already been built?

Thank you,
Rita Olivarez
5205 Sun Valley Drive
PZST23-00012 5204 Sun Valley

From: [Luis F. Contreras](#)
To: ericahannigan@yahoo.com
Subject: 5204 SUN VALLEY
Date: Thursday, March 21, 2024 9:52:05 AM

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to SpamReport@elpasotexas.gov.

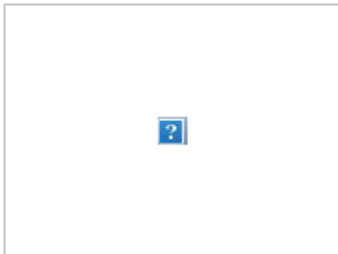
Good morning Rita,

I introduce myself, my name is Luis F. Contreras and I am responsible for the property that is being built at 5204 Sun Valley, where there was previously another construction that was demolished. Nina Rodriguez from the city offices told me that you had some concerns about this, so I would like to call or visit you to clarify this issue.

I leave you my phone number, this is my email, and anyway I'm going to stop by at noon today, hopefully I can see you.

Best Regards!!!

Luis F. Contreras
Licensed Realtor®.



(915)-269-0831
5925 Silver Springs. Suite A.
El Paso, Tx. 79912
FB: @LFCREALTOR

<https://drive.google.com/file/d/120f-BDWQQdzsT1SDf3AYTZ65TzDWX9eJ/view>

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name	FRANCISCO VINIEGRA
Business Name	GOAL DEVELOPMENT GROUP INC
Agenda Item Type	SPECIAL PERMIT
Relevant Department	PLANNING & INSPECTIONS

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.


OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature:  FRANCISCO VINIAGRA Date: 03/24/24



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-566, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Libraries, Norma Martinez, (915) 212-3200

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending Ordinance No. 16143 relating to Fines, Fees and Penalties in effect in the El Paso City Code to add authorization for a fee for Library Cards and Enhanced Library Cards.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Libraries

AGENDA DATE: 04/23/24

PUBLIC HEARING DATE: 05/07/24

CONTACT PERSON NAME AND PHONE NUMBER: Norma Martinez, 915-212-3200

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 4: Enhance El Paso's quality of life through recreational, cultural and educational environments

SUBGOAL: 4.2: Create innovative recreational, educational and cultural programs

SUBJECT:

AN ORDINANCE AMENDING ORDINANCE NO. 16143 RELATING TO FINES, FEES AND PENALTIES IN EFFECT IN THE EL PASO CITY CODE TO ADD AUTHORIZATION FOR A FEE FOR LIBRARY CARDS AND ENHANCED LIBRARY CARDS.

BACKGROUND / DISCUSSION:

In an effort to recover library card fees, the City wishes to make changes to Section 2 of the original ordinance to include the term "fee" library card fees.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Norma P. Martinez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 16143
RELATING TO FINES, FEES AND PENALTIES IN EFFECT IN
THE EL PASO CITY CODE TO ADD AUTHORIZATION FOR A
FEE FOR LIBRARY CARDS AND ENHANCED LIBRARY
CARDS.**

WHEREAS, on August 30, 2005, the City Council (the “Council”) of the City of El Paso, Texas (the “City”) adopted an Ordinance (the “Original Ordinance”), establishing the manner in which fees charged by the city will be set, repealed conflicting ordinances or ordinance provisions, and continued certain ordinances and provisions related to fines, fees, and penalties in effect in the El Paso City Code.

WHEREAS, the City wishes to make changes to Section 2 of the Original Ordinance to include under the term “fee” library card fees;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1: Section 2 of the Original Ordinance is amended to read as follows:

Section 2 As used herein, the term fee shall mean all user fees to include service fees, solid waste and other collection and disposal fees, admission fees; program, activity, league and tournament fees, inspection fees, plan review or checking fees, filing and processing fees, investigation fees, correspondence fees, animal impoundment fees, storage fees, library overdue fines/fees, library card and enhanced library card fees, lost item replacement fees; license and permit fees, including renewal and transfer fees; parking fees; fees for appeals filed in accordance with the city code; rental and other fees for the use of City property or facilities; fees relating to the operations and use of facilities and services at the El Paso International Airport; a late penalty for the payment of the fee when such penalty is specified as a dollar amount; rather than a percentage of the fee; and all other fees that are charged by the City for a recognized and valid public purpose, to recover specific identifiable costs or to provide specifically described service and items.

PASSED AND APPROVED this the ____ day of _____, 2024.

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine, City Clerk

Approved as to Form:

Karla Saenz

Karla A. Saenz
Assistant City Attorney

Approved as to Content:

Norma P. Martinez

Norma Martinez, Director
Library Department

(City Seal)



Legislation Text

File #: 24-594, Version: 2

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, Robert Cortinas, (915) 212-1067

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance approving the adoption of an ad valorem property tax exemption for qualified commercial child-care facilities and amending Title 3 (Revenue and Finance) of the El Paso Municipal Code, Chapter 3.04 (Property Taxes) by adding section 3.04.042 (Exemption- Child-care facilities) for entities that qualify under the current code. This Ordinance shall be effective January 1, 2024 upon adoption by the City Council of the City of El Paso.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Manager's Office

AGENDA DATE: April 23, 2024

CONTACT PERSON NAME / PHONE NUMBER: Robert Cortinas, Chief Financial Officer/Deputy City Manager (915) 212-1067

DISTRICT(S) AFFECTED: All

STRATEGIC GOALS: Goal 6: Set the Standard for Sound Governance and Fiscal Management

SUBJECT:

An Ordinance approving the adoption of an ad valorem property tax exemption for qualified child-care facilities and amending Title 3 (Revenue and Finance) of the El Paso Municipal Code, Chapter 3.04 (Property Taxes) by adding section 3.04.042 (Exemption- Child-care facilities). This Ordinance shall be effective January 1, 2024 upon adoption by the City Council of the City of El Paso.

BACKGROUND / DISCUSSION:

During the 88th Regular Session, the Texas Legislature passed enabling legislation, SB 1145, to place a constitutional amendment on the ballot for voters on November 7, 2023, which if approved, would allow cities and counties to have the option to provide an exemption from ad valorem property taxation of between 50 to 100 percent of the appraised value of all or part of real property used to operate a commercial child-care facility. Texas voters approved the constitutional amendment on November 7, 2023.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

Ad valorem taxes

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS APPROVING THE ADOPTION OF AN AD VALOREM PROPERTY TAX EXEMPTION FOR QUALIFIED COMMERCIAL CHILD-CARE FACILITIES AND AMENDING TITLE 3 (REVENUE AND FINANCE) OF THE EL PASO MUNICIPAL CODE, CHAPTER 3.04 (PROPERTY TAXES) BY ADDING SECTION 3.04.042 (EXEMPTION - CHILD-CARE FACILITIES) FOR ENTITIES THAT QUALIFY UNDER THE CURRENT CODE.

WHEREAS, during the 88th Regular Session, the Texas Legislature passed enabling legislation, SB 1145, to place a constitutional amendment on the ballot for voters on November 7, 2023, which if approved, would allow cities and counties to have the option to provide an exemption from ad valorem property taxation of between 50 to 100 percent of the appraised value of all or part of real property used to operate a commercial child-care facility; and

WHEREAS, to be eligible, licensed child-care facilities must meet the criteria as described in Texas Tax Code Section 11.36, among other criteria; and

WHEREAS, if a child-care facility is leasing the facility, the benefit must be passed down to the provider and not retained by the property owner; and

WHEREAS, current estimates show that under this eligibility criteria, some local providers would be eligible for this property tax relief; and

WHEREAS, federal funding that has allowed many child-care providers to stay open and retain staff during the pandemic will soon expire, possibly resulting in increased instability for working families and our community's child-care providers, who already operate with incredibly thin profit margins; and

WHEREAS, it is a long-established goal of the City to advance policies, programs, and investments that support child-care providers and the families they serve;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That the City Council of the City of El Paso adopts the following findings:

- A. That Texas Tax Code Section 11.36, authorizes an exemption from ad valorem (property) taxes on all or part of the appraised value of real property, or a portion thereof, operating as a qualifying child-care facility; and

- B. An exemption, as described in section (A) above, of 100 percent of the appraised value of all or a portion of real property used to operate a qualifying child-care facility is in the public interest.

SECTION 2. That the City Council of the City of El Paso adopts an exemption, as authorized by Texas Tax Code Section 11.36, entitling qualifying persons to an exemption from taxation by the City of 100% of the appraised value of:

- (A) the real property the person owns and operates as a qualifying child-care facility; or
- (B) the portion of the real property that the person owns and leases to a person who uses the property to operate a qualifying child-care facility.

SECTION 3. As set forth in Texas Tax Code Section 11.36(g), a person cannot claim the child-care facility exemption on property they own and lease to another to operate a qualifying child-care facility if the person also claims a Texas Tax Code Section 11.13 residence homestead exemption on the property or leases any part of the property to another for use as a principal residence.

SECTION 4. That Chapter 3.04. of the El Paso Municipal Code is amended to add the following Code Section:

Section 3.04.042 – Exemption – Child-Care Facilities.

- A. Effective January 1, 2024, a Qualifying Child-Care Facility, as defined by Texas Tax Code Section 11.36, as may be amended, shall be exempt from 100% of ad valorem taxes hereafter levied by the city for that year.
- B. To determine eligibility for the property tax exemption outlined in this Section 3.04.042, a child-care facility must comply with the criteria as outlined in Texas Tax Code Section 11.36, as may be amended.
- C. Owners of properties used to operate child-care facilities are required to apply for the tax exemption through the appraisal district in accordance with Texas Tax Code Section 11.43, as may be amended.

SECTION 5. That this Ordinance shall be effective January 1, 2024 upon adoption by the City Council of the City of El Paso.

SECTION 6. Except as herein amended and revised, Title 3, Revenue and Finance, of the El Paso City Code shall remain in full force and effect.

ADOPTED this ____ day of _____, 2024.

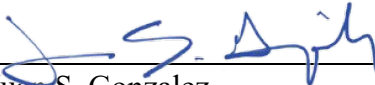
CITY OF EL PASO:

Oscar Leoser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Maria O. Pasillas
City Tax Assessor/Collector

ORDINANCE NO. _____



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-540, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

District 1

Capital Improvement Department, Yvette Hernandez, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on the award of Task Order #1 for solicitation 2022-0678, Fire Station 15 (FS 15) Renovation to Keystone Contractors & Engineers for a total estimated award of \$1,451,588.63.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: 04/23/2024
PUBLIC HEARING DATE: Not Applicable

CONTACT PERSON(S) NAME AND PHONE NUMBER: Yvette Hernandez, P.E., City Engineer, 212-0065

DISTRICT(S) AFFECTED: 1

STRATEGIC GOAL:
No. 2 – Set the Standard for a Safe and Secure City

SUBGOAL:
2.3 – Increase public safety operational efficiency

SUBJECT:

Discussion and action on the award of Task Order #1 for solicitation 2022-0678, Fire Station 15 (FS 15) Renovation to Keystone Contractors & Engineers for a total estimated award of \$1,451,588.63

BACKGROUND / DISCUSSION:

On October 11, 2022 Council approved the award of Solicitation 2022-0678 Job Order Contracting and Facilities Construction to Keystone Contractors & Engineers, CF Jordan Construction and Veliz Company, LLC and Veliz Construction. Work under these contracts is performed via task orders with task orders exceeding **FIVE HUNDERED THOUSAND DOLLARS** (\$500,000) requiring Council approval. The task order for the FS 15 Renovation exceeds \$500,000 and therefore requires Council approval.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:

Amount: \$1,451,588.63
Funding Source: 2019 Public Safety Bond
Account: 190 – 4820 – 29090 – 580270 – PCP22FS15RENOV8

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ___ YES ___ NO

PRIMARY DEPARTMENT: Capital Improvement
SECONDARY DEPARTMENT: Fire Department

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Gvette Hernandez

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Contract Change Order Coversheet /Checklist
City of El Paso Capital Improvements Department

Project Name: Job Order Contracting & Facilities Construction - Fire Station No. 15 Renovations Date Received: March 4, 2024 ✓

Solicitation Number: 2022-0678 (Task Order #1) Contractor: Keystone Contractors & Engineers

Change Order Number: 2k-1 ✓ Date CO was identified April 3, 2024

Funding Type: QOL ☐ General Fund ☒ TX DOT ☐ CDBG ☐ FTA ☐ FAA ☐

Contingency: \$ TBD Original Budget: \$1,451,588.63 ✓ Current Remaining Budget: \$ TBD PO No.(s): TBD

Identified by: DOR ☐ Contractor ☐ User Dept. ☐ CID ☒ Other ☐ (identify : _____)

Impacts: Cost ☒ Time* ☒ (Check all that Apply) * Identify Schedule activity impacted, **attach** frag-net justifying time.

No change order shall be approved unless work is ordered in writing by the Owner Designated Rep

If Written Order provided prior to formal execution of CO **attach** copy of the written directive, and justification, as why the direction was necessary prior to a formal agreement. Attach concurrence of representative having authority to execute change order(s) for the city of El Paso, Contract Specific by Resolution. If formal RFP was provided to contractor **attach** copy. If E-mail was direction provided to contractor attach Copy.

Change order Type Check One: Mandatory ☐ Discretionary ☒ (Mandatory Violets Written code/standard, or will not function for intended purpose)

If mandatory **attach** justification, Direction from DOR and/or code/ standards references that the CO corrects, or Documentation from User Department Head explaining why the change is required

Differing site condition	_____	Engineering Change/Construction Deficiency	_____
User requested Change **	<u>X</u>	Substitution Contractor initiated	_____
Designer Directive (ASI)	_____	Error and omission	_____
Value Engineering Change	_____	Quantity Adjustment	_____

** Identify Funding source _____ Grant Funded Projects **attach** Concurrence of Grant Funded program Director

Justification: Task order 2k-1 to incorporate the Fire Station 15 Renovations Drawings and Specifications into the 2022-0678 Job Order Contracting and Facilities Construction contract. The Change will not change the overall contract amount. Construction time frame of 240 Calendar days to Substantial and 30 additional calendar days to Final completion

Method Utilized for implementing change

(Reference general conditions 2.5.2) Check all that apply

.1	Unit Bid Prices Previously Approved	_____	(attach Copy of supporting documents)
.2	An Agreed upon Lump Sum	<u>X</u>	(Attach record of Negotiations, and Cost Analysis)
.3	Actual Cost (Force Account Change)	_____	(Attach Detailed record as per 2.2.5.2.3)

Cost/Price/Time Analysis

Attach Copy of analyst justifying cost and quantities

Contractors proposed cost: \$1,451,588.63 ✓
Final Negotiated amount: \$1,451,588.63
Time: Requested 275 Days, justified Yes

Independent Cost Estimate prepared Yes ☒, No ☐, Validated, Vender Quotes, Published Data, Previously agreed Costs, Other (attach documentation of cost analysis).

Contract Change Reference: Reference Plan /Spec change, Describe Change (Attach additional sheets if necessary)

Narrative Description of Change SOW: Task order 2k-1 will incorporate the construction documents into the Job Order Contracting & Facilities Construction Contract No. 2022-0678 dated April 4, 2024 this task order does not change the overall contract. The task order will be issued for the scope of work listed in the attachments and the project drawings dated December 2023 and technical specifications dated November 2023. The total amount of task order 2k-1 will be \$1,451,588.63. ✓

Existing Drawing Reference: Refer to attached drawings for the Fire Station 15 Renovations dated December 2023 ✓

Existing Specification Reference: Refer to attached Technical Specifications for the Fire Station 15 Renovations dated November 2023.

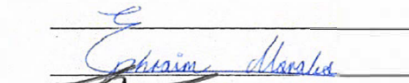
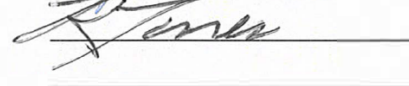

New Drawings/Specifications Reference: N/A

User Department Concurrence (if required):

Requested by Project /Construction Manager:

Division Manager:

Recommended for Approval by City Engineer:




Gilbert Guerrero
Assistant Director of Capital Improvements

Print Name _____

Print Name: Ephraim Morales

Print Name: Rogelio Torres

Date: 4/5/24

Contract Change Order Documentation Summary and Determination of Cost Reasonableness:Contract Name: Job Order Contracting & Facilities Construction – Fire Station 15 RenovationsSolicitation /Project Number: 2022-0678Change Order Number: 2k-1 ✓Prepared By: Ephraim Morales**RFP:**In response to an (Select one and entry number and date) **RFP number** 1 **or Field Directive number** _____ dated 12/19/2023 (Attach Copy). Or In response to _____

and unsolicited proposal was provided.

Initial Cost Estimate:

Check all that apply:

 No initial estimate of the change order costs was attempted. (Attach Justification countersigned by assigned DM) A ROM Estimate in the amount of \$ _____ was prepared on Date _____ attach copy A Detailed Estimate in the amount of \$ _____ was prepared on Date _____ attach copy. X The Design Consultant provided a detailed estimate in the amount of \$ 992,919.68 was prepared on Date 08/10/23 attach copy.**Contractors Proposal:**The contractor provided a proposal Dated 04/04/2024 (attach copy) in the amount of \$ 1,451,588.63 and requesting 275 Calendar/Working days .

The proposal was reviewed as to the required Scope of work and found to accurately reflect the Scope of Work **Yes** X **No** _____. If No a formal revision was requested on this date _____ (attach Copy(s) of request) and received date _____, in the amount of \$ _____ and requesting _____ Calendar/Working days **Or Check if applicable** _____ after review with assigned DM the city elected to proceed with negotiations and address the scope inconsistencies in Negotiations without a proposal revision (list inconsistencies to be addressed in negotiations). _____

Attach continuation sheet if necessary

Cost evaluation: Cost reasonableness was determined using the following methods check all that apply.

☐ Utilizing existing Bid Item

☒ Price Analysis

☐ Cost Analysis

(Provide narrative description for each method utilized and how reasonableness was determined)

Attach mark up a proposal with negotiation objectives, including accepted cost, Dated and initialed by the Preparer and Assigned Division Manager. Label Marked UP Proposal:

Narrative description of determination of reasonableness: (Attach Continuation sheets as necessary, include detailed table showing Proposed/Objective /and Negotiated when appropriate. (Sample included)

Narrative:

The design consultant provided a detailed estimate prepared on August 10, 2023 and estimated to be \$992,919.68. Under the CID Job Order Contract a request for proposal was sent to the contractor on December 19, 2023 for the work needed to be performed at the Fire Station 15 Renovation.

The contractor responded on March 4, 2024 with a proposal of \$1,451,588.63 based on the latest version of R.S. Means Facilities Construction Cost Data as required by the Job Order Contracting and Facilities Construction contract. The proposal was evaluated against the cost estimate prepared by design engineer and found to be fair and reasonable. After Review of all the information the Project Manager recommends approval of the proposal for task order #2k-1.

Time Justification:

The original RFP indicated a construction timeframe of 245 days to substantial and 30 days for Final. The contractor agrees to the total of 275 consecutive calendar days.

CITY OF EL PASO TASK ORDER

CONSTRUCTION CHANGE ORDER NO.:	2k-1	DATE:	April 3, 2024	<input type="checkbox"/> SCOPE CHANGE
PROJECT:	Job Order Contracting & Facilities Construction	SOLICITATION #	2022-0678	<input checked="" type="checkbox"/> CONSTRUCTION CHANGE
	Fire Station 15 Renovation		Task #1	
Original Contract Amount:	\$ 1,451,588.63	Contract Time to Substantial Completion	0	
Net Change by previous Change Orders:	\$ -	Total days added due to Change Orders and CQN's	0	
Net Change by previous Construction Quantity Notices:		Total days added for this Change Order	0	
Amount of this Construction Change Order:	\$ -	New Contract Time to Substantial Completion:	0	
New Amended Contract Amount:	\$ 1,451,588.63	Current Substantial Completion Due Date	1/0/1900	
Change Order Percentage:	0.00%			

CONTRACTOR NAME: Keystone Contractors & Engineers

Funding Source Public Safety Bond

Please provide a detailed scope of work of the change order (see back for reason/justification):

Task order #1 will incorporate the construction documents into the Job Order Contracting & Facilities Construction Contract No. 2022-0678 dated April 4, 2024. This task order does not change the overall contract. The task order will be issued for the Scope of Work listed below in the attachments.

Builders Risk insurance is required for this task order.

A separate Notice to Proceed will be issued upon approval of necessary Bonds and Insurance as required by the contract.

Attachments: Scope of Work, Fire Station No. 15 Renovation Plans dated December 2023. Technical Specifications Dated November 2023.

Agreed Upon Proposal for Task #1: \$1,451,588.63

Time: 245 consecutive Calendar Days for substantial completion, 30 additional days for Final Completion for a total of Two Hundred and Seventy-Five (275) calendar days.

Unless specifically noted this change order addresses all compensation of time and money, including direct and indirect cost associated with the above described scope of work.

CALENDAR DAYS ADDED TO COMPLETION TIME:

0

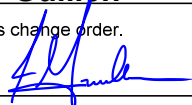
*TOTAL CHANGE ORDER AMOUNT:

*Change Order will not change overall Contract Amount

CONTRACTOR: **Keystone Contractors & Engineers**

I, **Francisco Guillen**, of Keystone Contractors & Engineers agree and accept the terms and conditions of this change order.

Signature:



Date: **04.05.24**

CITY OF EL PASO (OWNER)

I, Yvette Hernandez P.E. of the City of El Paso hereby authorize and direct the Contractor to proceed with additional work as described in this form.

Signature: _____

Date: _____

Yvette Hernandez, P.E.

CONSTRUCTION CHANGE ORDER NO.: <u>2k-1</u>		DATE: <u>April 3, 2024</u>	<input type="radio"/> 0	SCOPE CHANGE
PROJECT: <u>Job Order Contracting & Facilities Construction</u>		SOLICITATION # <u>2022-0678</u>	<input checked="" type="radio"/> X	CONSTRUCTION CHANGE
Purchase Order No. <u>24000000##</u>				

LINE	ADDED AMOUNT
------	--------------

Additional funding/direction:

Time: The time for the task order #1 shall be a total of 275 consecutive calendar days. 245 consecutive Calendar Days for substantial completion, 30 additional days for Final Completion for a total of Two Hundred and Seventy-Five (275) calendar days to final completion. Time was justified by comparison to similar renovations of similar scope.

Engineering Division Manager recommends approval:

August 10, 2023

Roger Torres
Capital Projects Manager
City of El Paso
City 2 / 218 N. Campbell
El Paso, Texas 79901

Subject: **Fire Station No. 15**
Renovation / 90% Design Phase

Dear Mr. Torres:

We are pleased to submit the 100% Design Phase drawings and probable cost including the additional ambulance and electrical modifications as requested.


The construction probable cost estimate including the ambulance and electrical modifications is at this phase is \$992,919.68. The construction estimate budget is \$919,461.00, this is \$73,458.68 over budget.

The probable cost of \$992,919.68 includes 10% (\$82,059.48) for Contingency, 20% for general conditions, %1.60 for surety bond.

If deem appropriate, we can further discuss this estimate with you and our consultants.

Let me know if you have any questions and please do not hesitate to contact me.

Sincerely,



Jesus Ortega / Exigo Architects
Vice-President

architecture . interiors
planning . project management

211 N. Florence Suite 204
El Paso, Texas 79901
www.exigoarch.com
phone 915.533.0323
fax 915.533.0327



Capital Improvement Department

MAYOR
Oscar Leeser

REQUEST FOR PROPOSAL

December 19, 2023

CITY COUNCIL

District 1
Brian Kennedy

Keystone Contractors & Engineers
Mr. Francisco Guillen
2718 Wyoming, Ave
El Paso, TX 79903

District 2
Alexandra Anello

Project Name: Fire Station 15- Renovations

District 3
Cassandra Hernandez

Mr. Guillen

District 4
Joe Mollnar

Under the Capital Improvement Department Job Order Contracting and Facilities Construction contract # 2022-0678, you are requested to submit a proposal by or before 1/12/2024 for accomplishing the following scope of work:

District 5
Isabel Salcido

Work will include but not limited to:

District 6
Art Fierro

The renovation of the existing Fire Station No. 15 with 4,626 + square feet of existing building and the construction of a new 573 square foot addition and extension of the right bay. The project includes exterior and interior improvements, concrete, masonry, metals, woods, plastics, and composites, thermal and moisture protection, openings, finishes, specialties, equipment, furnishings, mechanical, electrical and plumbing systems.

District 7
Henry Rivera

District 8
Chris Canales

**INTERIM
CITY MANAGER**
Cary Westin

Per item K "Cost Estimating" page I-B-a-2 of the contract, the contractor must use the latest version of R.S. Means Facilities Construction Cost Data to provide the cost estimate.

Per item 8 "Time of Completion and Liquidated Damages" page I-B-a-5 of the contract. The duration of the work will be 245 consecutive calendar days to substantial completion. 30 Days additional for final completion.

Liquidated damages in the amount of \$416.72 per day will be assessed if work is not completed within the agreed substantial time frame

Yvette Hernandez, P.E., – City Engineer

City 2 | 218 N. Campbell, 2nd Floor | El Paso, Texas 79901 | (915) 212-0065



DELIVERING EXCEPTIONAL SERVICES



Capital Improvement Department

MAYOR
Oscar Leaser

Should you have any questions contact Arlet Gamboa, Construction Manager at (915) 218-3140, or to me, the Engineering Division Manager, (915) 212-1864.

Sincerely,

CITY COUNCIL

District 1
Brian Kennedy

District 2
Alexandra Annello


Rogelio Torres
Engineering Division Manager

District 3
Cassandra Hernandez

District 4
Joe Molinar

Attachment(s):
Project Drawings dated December 2023
Project Specifications dated November 2023

District 5
Isabel Salcido

District 6
Art Fierro

Cc: Gilbert Guerrero, Assistant Director of Capital Improvement
Rogelio Torres Engineering Division Manager
Construction Manager
Project file

District 7
Henry Rivera

District 8
Chris Canales

**INTERIM
CITY MANAGER**
Cary Westin

Yvette Hernandez, P.E., – City Engineer
City 2 | 218 N. Campbell, 2nd Floor | El Paso, Texas 79901 | (915) 212-0065



DELIVERING EXCEPTIONAL SERVICES



PROJECT PROPOSAL

DATE SENT: March 4, 2024		PROPOSAL NO.: PR24-009
ATTENTION: Ephraim Morales, Civil Eng. Associate. CC: Rogelio Torres, Capital Project Manager		
JOB NAME: Fire Station No.15 Renovations JOC 2022-0678		
JOB LOCATION: 115 Shorty Lane, El Paso, Texas 79922		
PHONE (915) 212-1813	FAX/ EMAIL MoralesE@elpasotexas.org	

PROPOSAL SUBMITTED TO: City of El Paso, Capital Improv. Department
STREET ADDRESS: 218 North Campbell Street, Second Floor
CITY, STATE, AND ZIP CODE: El Paso, Texas 79901

DESCRIPTION OF WORK:

As part of the Scope of work for the Project mentioned above, we propose to furnish all labor materials and equipment necessary to include the following:

Fire Station No. 15 Renovation

1. General Site Demolition as noted on plans, sheet C 1.0 & A 000.
2. Grading Plan as noted on plans, sheet C 2.0.
3. Erosion Control Plan as noted on plans, sheet C 5.0.
4. Landscape as noted on plans, sheet L100.
5. Irrigation as noted on plans, sheet L200.
6. General Building Demolition as noted on plans, sheet A 101.
7. Overall Improvement as noted on plans, sheet A 102.
8. New Roof as noted on plans, sheet A 110.
9. New floor finishes as noted on plans, sheet A 141.
10. Reflective Ceiling plan as noted on sheet A 160.
11. Elevations as noted on plans, sheets A 201, A 210.
12. Building sections as noted on plans, sheets A 300, A 320 & A 321.
13. Millwork as noted on plans, sheet A 500.
14. Windows, Doors & Room Details and Schedules as noted on sheet A 600 & A 601.
15. Foundation as noted on plans, sheet S 1.1 & S 3.1.
16. Framing as noted on plans, sheet S 2.1 & S4.1.
17. HVAC Equipment schedule as noted on sheet M 100 and/or specifications.
18. HVAC details as noted on plans, sheet M 101.
19. HVAC Demolition as per Sheet M 200.
20. HVAC Overall improvement plans as per Sheet M 201.
21. New 4" waste line & existing gas line replacement as noted on plans, sheet P 100.
22. Plumbing Schedule as per Plans P101.
23. Plumbing Demolition as per Plans P 200.
24. Plumbing Overall Improvement plan as per sheet P 201 and P 300.
25. Condensate lines & gas lines for new & existing units as noted on plans, sheet P 400.
26. Electrical demolition Plans and Notes on sheet E D 1.1.
27. Electrical Site plan on sheet E 1.0.
28. Lighting plan sheet E 2.0.
29. Power Plan sheet E 3.0.
30. Special systems as noted on plans, sheet E 4.0.

31. Panel schedules as noted on plans, sheet E 5.0.
32. Haul debris outside the existing premises.
33. General supervision.
34. Final project clean-up

Sub-Total Demolition and Improvements \$ 1,127,734.10
Adjusted to El Paso RS Means City Cost Index
Total Including Coefficient (1.267) \$ 301,105.00
Permit if Required \$4,961.14
Payment and Performance Bonds \$ 17,788.39
Base Bid Total Amount \$ 1,451,588.63

Note: This proposal includes all general requirements as per the City of El Paso JOC 2022-0678. Please refer to detail RS Means Estimate Breakdown Provided on the following pages.

Exclusions:

1. Asbestos abatement.
2. Construction Permit, as this is waived.
3. Hand dryer, Trash receptacle, Napkin Dispenser & Disposal, Utilities Shelf, Mop & broom holder, Folding Shower Seat, Robe Hook, Appliances, Furnishing (Furniture), Resilient Tile Flooring, Any work on existing roofing (Roof is under warranty).
4. Any other construction/work not explicitly mentioned in this proposal.

Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,


Francisco Guillen, P.E.

Keystone Contractors & Engineers

Office: (915) 562-4159 x 23

Fax: (915) 503-2235

Email: fguillen@keystone-ce.net

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name	Francisco Guillen
Business Name	Keystone GC, LLC.
Agenda Item Type	
Relevant Department	Capital Improvement Department

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: _____



Digitally signed by Francisco Guillen
Date: 2024.04.05 11:25:28-06'00'

Date: _____

04.05.2024



Legislation Text

File #: 24-555, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Purchasing and Strategic Sourcing, K. Nicole Cote, (915) 212-1092

Police, Chief Peter Pacillas, (915) 212-4305

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

The linkage to the Strategic Plan is subsection: 2.3 - Increase public safety operational efficiency

Award Summary:

Discussion and action on the award of Solicitation 2023-0278R Prisoner Transport Security to Universal Protection Service, LP dba Allied Universal Security Services for a three (3) year term for an estimated amount of \$5,644,812.33. The award also includes a two (2) year option for an estimated amount of \$4,009,896.22. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$9,654,708.55. This contract will provide prisoner booking, transportation, and watch services for the El Paso Police Department.

Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$312,123.31 annually, which represents a 19.89%, increase due to the current market conditions.

Department:	Police
Award to:	Universal Protection Service, LP dba Allied Universal Security Services
City & State:	Pasadena, CA
Item(s):	All
Initial Term:	3 Years
Option Term:	2 Years
Total Contract Time:	5 Years
Annual Estimated Award:	\$1,881,604.11
Initial Term Estimated Award:	\$5,644,812.33
Option Term Estimated Award:	\$4,009,896.22
Total Estimated Award	\$9,654,708.55
Account(s)	321 - 521150 - 1000 - 21100

Funding Source(s):	General Funds
District(s):	All

This was a Request for Proposals Procurement - service contract.

The Purchasing & Strategic Sourcing Department and Police Department recommend award as indicated to Universal Protection Service, LP dba Allied Universal Security Services the highest ranked bidder based on the evaluation factors established in the evaluation criteria for this procurement.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: NA

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Peter Pacillas, Chief, Police Department, (915) 212-4305
K. Nicole Cote, Managing Director, Purchasing & Strategic Sourcing, (915)
212-1092

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2 – Set the Standard for a Safe and Secure City

SUBGOAL: 2.3 – Increase public safety operational efficiency

SUBJECT:

Discussion and action on the award of solicitation 2023-0278R Prisoner Transport Security to Universal Protection Service, LP dba Allied Universal Security Services for a three (3) year term for an estimated amount of \$5,644,812.33. The award also includes a two (2) year option for an estimated amount of \$4,009,896.22. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$9,654,708.55. This contract will provide prisoner booking, transportation, and watch services for the El Paso Police Department.

BACKGROUND / DISCUSSION:

The Prisoner processing and transportation duties are normally performed by on-duty sworn officers, but outsourcing for services allows officers to return much sooner to patrol duties and/or functions requiring sworn officers.

SELECTION SUMMARY:

Solicitation was advertised on April 25, 2023 and May 2, 2023. The solicitation was posted on City website on April 25, 2023. There were a total of nineteen (19) viewers online; two (2) proposals were received, non being local. An inadequate competition survey was conducted.

CONTRACT VARIANCE:

The difference based in comparison to the previous contract is as follows: An increase of \$312,123.31 annually, which represents a 19.89%, increase due to the current market conditions.

PROTEST

No protest received for this requirement.

PRIOR COUNCIL ACTION:

NA

AMOUNT AND SOURCE OF FUNDING:

Amount: \$5,644,812.33

Funding Source: 321 – 521150 – 1000 – 21100

Account: General Fund

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Police

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Peter Pacillas, Chief, Police Department

Project Form
Request for Proposals

*****Posting Language Below*****

Please place the following item on the Regular Agenda for the City Council Meeting of April 23, 2024.

Strategic Goal 2 – Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection: 2.3 – Increase public safety operational efficiency

Award Summary:

Discussion and action on the award of solicitation 2023-0278R Prisoner Transport Security to Universal Protection Service, LP dba Allied Universal Security Services for a three (3) year term for an estimated amount of \$5,644,812.33. The award also includes a two (2) year option for an estimated amount of \$4,009,896.22. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$9,654,708.55. This contract will provide prisoner booking, transportation, and watch services for the El Paso Police Department.

Contract Variance:

The difference based in comparison to the previous contract is as follows: An increase of \$312,123.31 annually, which represents a 19.89%, increase due to the current market conditions.

Department:	Police
Award to:	Universal Protection Service, LP dba Allied Universal Security Services
City & State:	Pasadena, CA
Item(s):	All
Initial Term:	3 Years
Option Term:	2 Years
Total Contract Time:	5 Years
Annual Estimated Award:	\$1,881,604.11
Initial Term Estimated Award:	\$5,644,812.33
Option Term Estimated Award:	\$4,009,896.22
Total Estimated Award	\$9,654,708.55
Account(s)	321 – 521150 – 1000 – 21100
Funding Source(s):	General Funds
District(s):	All

This was a Request for Proposals Procurement – service contract.

The Purchasing & Strategic Sourcing Department and Police Department recommend award as indicated to Universal Protection Service, LP dba Allied Universal Security Services the highest ranked bidder based on the evaluation factors established in the evaluation criteria for this procurement.

It is requested that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this award.

In accordance with this award, the City Manager or designee is authorized to exercise future options if needed.

CITY OF EL PASO RFP SCORESHEET

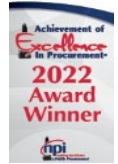
PROJECT: 2023-0278R Prisoner Transport Security

Evaluation of Submittal

		Universal Protection Service, LP dba Allied Universal Security Services Pasadena, CA	Vets Securing America, Inc. dba Vets Securing America San Antonio, TX
MAX POINTS			
Factor A - Price			
	35	\$ 14,767,653.41	\$ 14,927,867.94
		35.00	34.62
Factor B - Experience – Comparable Contracts			
	30	25.00	0.00
Factor C - References			
	35	11.67	0.00
TOTAL SCORE	100	71.67	34.62
Rank		1	2



CITY OF EL PASO REQUEST FOR PROPOSALS TABULATION FORM



Solicitation Title: Prisoner Transport Security

Solicitation #: 2023-0278R

Due Date: July 5, 2023

Department: Police Department

BIDDER'S NAME:	LOCATION:	AMENDMENT(S) ACKNOWLEDGED:
Univiersal Protection Service, LP dba Allied Universal Security Services	Pasadena, CA	Yes
Vets Securing America, Inc. dba Vets Securing America	San Antonio, TX	Yes
RFPs SOLICITED: 398 LOCAL RFPs SOLICITED: 148 RFPs RECEIVED: 2 LOCAL RFPs RECEIVED: 0 NO BIDS: 13		

NOTE: The information contained in this RFP tabulation is for information only and does not constitute actual award/execution of contract.

Approved: _____/s/
69 e: 7/10/2023 _____

**2023-0278R Prisoner Transport Security
Viewer's List**

No.	<u>Participant Name</u>	<u>Response Date</u>	<u>Response Status</u>	<u>City</u>	<u>State</u>
1	Paso-Tex Industries LLC	06/19/2023	No Bid	El Paso	TX
2	UNIK-TECH LLC	05/10/2023	No Bid	EL PASO	TX
3	WOFFORD TRUCK PARTS (TE EL PASO,LLC)	04/27/2023	No Bid	EL PASO	TX
4	DYER CYCLE	04/25/2023	No Bid	El Paso	TX
5	Casillas Signs Shop (Casillas Group Inc)	04/25/2023	No Bid	El Paso	TX
6	Longhorn Distributing (Loren Hodges & Son's Inc.)	04/25/2023	No Bid	El Paso	TX
7	Mean Clean LLC		Viewed	El Paso	TX
8	Pronto Body Shop		Viewed	El Paso	TX
9	Securityguard915 LLC		Viewed	El Paso	TX
10	Signal 88 Security of El Paso (Woody Family Enterprises, LLC)		Viewed	El Paso	TX
11	CounterTrade Products, Inc.	04/25/2023	No Bid	ARVADA	CO
12	Bound Tree Medical, LLC	04/25/2023	No Bid	Chicago	IL
13	Sunset Survival & First Aid Inc	04/25/2023	No Bid	Huntington Beach	CA
14	All Aboard America!	04/25/2023	No Bid	Mesa	AZ
15	Group Travel Consultants, Inc	05/22/2023	No Bid	Orlando	FL
16	Vets Securing America, Inc (Vets Securing America)	07/05/2023	Submitted	San Antonio	TX
17	Universal Protection Service, LP dba Allied Universal Security Services	07/03/2023	Submitted	Santa Ana	CA
18	Arnold Machine, Inc.	05/25/2023	No Bid	Tiffin	OH
19	Unipak Corp.	05/23/2023	No Bid	West Long Branch	NJ

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

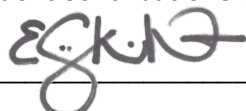
I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature:  Date: _____



Legislation Text

File #: 24-489, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Capital Improvement Department, Daniela Quesada, (915) 212-1826

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits) to add new uses for the Sidewalk Cafe and Parking Parklet Programs and adopt the Right-Of-Way Cafe Design Guidelines. The penalty is as provided in Section 15.08.125.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 9, 2024
PUBLIC HEARING DATE: April 23

CONTACT PERSON(S) NAME AND PHONE NUMBER: Daniela Quesada, 915-212-1826

DISTRICT(S) AFFECTED: City-wide

STRATEGIC GOAL: Goal 1 – Cultivate an Environment Conducive to Strong, Economic Development
Goal 3 – Promote the Visual Image of El Paso

SUBGOAL: 1.1 Stabilize and expand El Paso's tax base
3.1 Improve the visual impression of the community (gateways, corridors, intersection, and parklands)

SUBJECT:

An ordinance amending Title 15, Chapter 15.08 (Street Rentals), section 15.08.120 (Special Privilege Licenses and Permits) to add new uses for the sidewalk cafe and parking parklet programs and adopt the right-of-way cafe design guidelines. The penalty is provided in section 15.08.125.

BACKGROUND / DISCUSSION:

The CID Planning Division, in partnership with the Planning & Inspections and Streets & Maintenance Departments, is launching the Right-of-Way Café Program, a permanent extension of the Sun City Safe initiative established in response to the Covid-19 pandemic. The program introduces two permits, the Sidewalk Café and the Parking Parklet, aiming to activate downtown and uptown El Paso streets in a safe, pedestrian-friendly manner, aligning with the El Paso Complete Streets 2023 initiative.

PRIOR COUNCIL ACTION:

Sun City Safe 2020
El Paso Complete Streets 2023

AMOUNT AND SOURCE OF FUNDING:

N/A

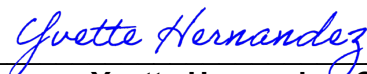
HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: CID - Planning

SECONDARY DEPARTMENT: Planning and Inspections Department and Streets & Maintenance

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Yvette Hernandez, City Engineer

AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08 (STREET RENTALS), SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES AND PERMITS) TO ADD NEW USES FOR THE SIDEWALK CAFE AND PARKING PARKLET PROGRAMS AND ADOPT THE RIGHT-OF-WAY CAFE DESIGN GUIDELINES. THE PENALTY IS AS PROVIDED IN SECTION 15.08.125.

WHEREAS, On August 31, 2020, The El Paso City Council suspended various sections of the El Paso City Code to facilitate temporary uses of the public right-of-way and private property; and,

WHEREAS, in accordance with Ordinance No. 019091 City Administration has developed the *Sun City Safe Pilot Program* to support restaurants and similar establishments in their efforts to safely operate during the COVI D-19 pandemic by further facilitating outdoor service and dining opportunities; and,

WHEREAS, The City wishes to adopt regulations consistent with the *Sun City Safe Pilot Program* permanently to allow businesses and residents the opportunity for expanded use of the public right-of-way,

WHEREAS, The City wishes to offer a simplified process to allow applicants to obtain a permit to use the right-of-way for safe outdoor use of extensions of their businesses, and,

WHEREAS, the regulations herein are in the best interest of the public health, safety, and welfare of The City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EL PASO, TEXAS:

SECTION 1. The City Council adopts the Right-of-Way Design Guidelines attached to this ordinance as Attachment “A” which can be amended administratively so long as it meets the guidelines approved under this ordinance.

SECTION 2. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Section B (Application Required) is amended to read as follows:

- B. Application required. To acquire licenses or permits under this chapter, an applicant shall submit the following to the permit official, and follow the procedures prescribed by this section.
1. One application for a license or permit shall be made in writing or submitted electronically on a form prescribed by the permit official, which must be completed in accordance with the instructions provided on/with the application;
 2. One location map, accurately outlining the public rights-of-way or easement(s) upon which an encroachment is proposed.
 3. A digital copy of the proposed plan of the public right-of-way or public easement, drawn to scale, showing the following:
 - a. Size, location, arrangements of existing structures and improvements on the public rights-of-way or easements;
 - b. Size, location, arrangements and dimensions of proposed improvements to be located on the public rights-of-way or easements;

- c. Elevations or perspective of the buildings showing all existing and proposed encroachments;
4. Proof of ownership (warranty deed, title commitment, etc.).
5. A sealed written metes and bounds description and survey, of the public rights-of-way or easements if permanent structures are proposed.
6. A transmittal letter including specific information, special circumstances or conditions, which apply to the request.
7. A certificate of liability insurance or self-insured affidavit in accordance with subsection G (insurance required) of this chapter.
8. Upon review for completeness and acceptance of the application by the permit official, the applicant shall pay the established processing fee for the special privilege license or permit as prescribed in subsection F.1 of this chapter. The processing fee is non-refundable.

SECTION 3. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Section D (Procedure for a permit.), subsection 1 is amended to read as follows:

1. Permit applications and related materials will be forwarded to the affected departments, which will make a recommendation for approval or denial of the request within 7 days of the date of distribution.

SECTION 4. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Table 1-1, subsection 2 (Surface encroachments), is amended to rename paragraph a. and add paragraphs q. as follows:

a. Sidewalk Café	Permit	One-two years	See Section N.
q. Parking Parklet	Permit	One year	See Section O.

SECTION 5. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Section F (Fees.), subsection 2, line (a.) is deleted.

SECTION 6. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Section G (Insurance Required.), is amended to read as follows:

- G. Insurance required. As a condition of the license or permit, the grantees shall agree to indemnify, defend and hold harmless the city, its officers, agents, servants and employees from any and all claims, loss, damages, causes of action, suits and liability of every kind, including all expenses of litigation for injury or death of any person, or for damages to any property arising out of or in connection with grantee's use of the public right-of-way regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of the city.
 1. No license or permit shall be granted by the city unless grantee files a copy with the Planning & Inspections Department and financial services a certificate of liability insurance accompanied by a copy of the policy of insurance as prescribed by the Risk Management of the City of El Paso.

2. Grantee(s) shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and pay any judgment of a court of competent jurisdiction against the city, its officers, agents, servants or employees and grantee(s) their officers, agents, servants or employees as additional insureds to the full amount of the policy limits. The policy of insurance shall name the grantee and the city as insureds to the full amount of the policy limits.
3. Such policy or certificate shall provide that the insurance cannot be cancelled, or the amount of coverage changed without thirty days prior written notice to the city's Planning & Inspections Department and financial services, or ten days prior written notice for cancellation based on non-payment of insurance premiums.
4. Failure to keep the policy in full force and effect throughout the term of the license shall be grounds for cancellation. Certificates of insurance that state the insurer shall endeavor to give notice and/or that there shall be no liability for failure to give notice required therein shall not meet the minimum requirements of this section.

SECTION 7. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits), Subsection N (Outdoor Patio Cafes), is amended to read as follows:

N. Sidewalk cafés.

1. Filing application.
 - a. A letter from the property owner, if different from the food and/or beverage service establishment operator, indicating their authorization to obtain a sidewalk café permit; and acknowledging responsibility for any encroachments installed by tenant on city right-of-way.
 - b. The permittee shall be required to comply with all applicable codes, rules, regulations, and laws.
2. Compliance with Design Guidelines Required.
 - a. Sidewalk cafés shall comply with all guidelines in the “Right-of-way Café Design Guidelines” available on the city’s website or on file with the Planning and Inspections Department.
 - f. The sidewalk café shall not prevent access to El Paso Water Utilities, El Paso Natural Gas, or El Paso Electric Company easements, meters, valves, manholes, or structures for maintenance and/or repair. The sidewalk café shall not prevent access to the El Paso Fire Department connections (FDC), fire hydrants, or fire escapes.
 - g. The sidewalk café shall not impede access to City of El Paso light fixtures, benches, bicycle racks, etc. for maintenance and repair. Trees planted by the City of El Paso and irrigation systems that are located within the sidewalk café area shall be maintained by the permittee and may not have objects attached to them that would impede or affect the life of the trees. The city shall have the right to enter and inspect the property at any time to ensure proper maintenance of city property.
3. Construction.
 - a. All construction shall comply with any applicable historic district design standards and guidelines. Applicants shall receive approval from the historic preservation officer or the historic landmark commission (if applicable) prior to approval of the permit.

All proposed improvements within city right-of-way shall be included in the permit application.

- b. A pavement cut permit in accordance with Chapter 13.08 (Excavations) shall be required for any work on city right-of-way.
 - c. Sidewalk cafés shall be reviewed for ADA compliance prior to permit approval. Sidewalk cafés shall not impede ADA accessibility.
4. Boundaries and fencing.
- a. A sidewalk café shall not be enclosed by permanent structure(s).
 - (1) If fencing is provided, fencing shall be continuous around the perimeter of the sidewalk café except for one opening/entry point. Fences shall have a durable professional finish and shall comply with applicable historic district guidelines. Fencing shall include sleeves at the base of the poles to allow for removal from city rights-of-way if necessary.
 - (2) The boundaries of a sidewalk café on a city sidewalk may also be defined by planters, trees, benches or other structure as approved by the permit official. If the applicant is permitted by TABC to sell and/or serve alcoholic beverages within the sidewalk café, the perimeter of sales shall be adequately delineated to note control of the premises and the following shall apply:
 - (a) Street furniture, benches, planters and seat wells shall comply with the provisions of subsection J. (additional requirements for street furniture) of this chapter.
 - (b) A minimum service area of two feet adjacent to each table that does not encroach into the pedestrian pathway is required for unenclosed café areas.
 - (c) A minimum distance of five feet shall be provided for a table and two chairs placed directly opposite each other is required for unenclosed sidewalk café areas.
5. Alcohol.
- a. A license issued by the Texas Alcoholic Beverage Commission (TABC) is required for the sale and service of alcoholic beverages within the sidewalk café area.
 - b. City approval of an application for a sidewalk café on city right-of-way does not guarantee, warrant or assure that the Texas Alcoholic Beverage Commission will allow the sale and service of alcoholic beverages within the sidewalk café area.
 - c. The permittee must comply with any standards established by the Texas Alcoholic Beverage Commission.
6. Fire department requirements.
- a. The location of any proposed outdoor serving stations requires fire marshal approval for their proximity to points of ingress and egress to the property. The area for the sidewalk café shall meet the current fire code requirements as determined by the fire marshal regarding sidewalk café areas and ingress and egress points of access. The fire marshal through plan review shall determine fire code compliance.
 - b. The fire marshal shall also require that occupancy capacities as defined in the International Building Code for the sidewalk café area and the building remain distinct and separate.
 - c. The sidewalk café must be open to the air, except that a canopy or awning conforming to requirements established by this chapter for aerial encroachments may be constructed over the sidewalk café and may be included in the same special privilege application.

Canopies within the sidewalk café area shall meet current fire code definition and specifications. Proposed canopies shall comply with subsection I. (additional requirements for awnings, canopies, arcades and galleries) of this chapter.

- d. Acceptable auxiliary outdoor heating devices shall meet the requirements of the current fire code.
- 7. Other requirements.
 - a. Planters within the sidewalk café limit line shall be shown on the site plan submitted with the application and shall comply with subsection J. (additional requirements for street furniture) of this chapter.
 - b. Each sidewalk café shall have no less than one trash receptacle within the café limit line.
 - c. Overhead lighting located within public right-of-way shall be included in the permit application and shall meet all applicable historic district architectural and design standards. All electrical work shall be designed and installed in compliance with the Chapter 18.16 (Electrical Code).
 - (1) Lighting on fencing may be permitted to add a decorative element but shall not be designed to attract attention. Flashing lights are not permitted.
 - (2) Lighting shall be clear or white.
 - (3) Light strands shall be maintained in good repair and burned-out bulbs shall be replaced promptly.
 - d. All relocation, removal, disposition and/or salvage of any city property shall be coordinated with the Streets & Maintenance Department. The Streets & Maintenance Department shall follow the city's establish policy and procedure for disposal or salvage of such property.
- 8. Cincinnati commercial district sidewalk café requirements. In addition to all other applicable provisions of Subsection 15.08.120 (Special privilege licenses and permits) of this Code, the following provisions shall be applicable to this district:
 - a. Boundaries. The sidewalk cafés shall be defined as the terraced areas immediately adjacent to the storefront. For purposes of this subsection, retail and/or office space establishments, in addition to food and/or beverage service establishments may obtain a sidewalk café permit to use the terraced area immediately adjacent to the storefront. Boundaries of the sidewalk cafés shall be limited to the City of El Paso's constructed terraces as referenced in the university pedestrian improvements streetscape construction documents. Sidewalk cafés are limited to the use of seated only food and/or beverage service or retail and/or office space use.
 - b. Fencing. All fencing shall comply with design and height specifications found in the furnishing details of the City of El Paso's university pedestrian improvements streetscape construction documents.
 - c. Seating. For food and/or beverage service only. Seated-only capacity shall be required. Standing-only capacity shall not be permitted.
 - (i) Tables and chairs shall not exceed thirty inches in height.
 - (ii) Tables and chairs must be moveable to accommodate wheelchair access.
 - d. Smoking. Smoking shall not be permitted within the boundaries of the sidewalk café.

- e. Limits on use of the sidewalk café. The use of the sidewalk café (as defined in Section 15.08.120.N.8.a) must cease between the hours of 1:00 a.m. to 7:00 a.m. However, the use of the sidewalk café during special events will be governed by the terms of the special event permit.

SECTION 8. Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits) is amended to add a new Subsection O (Parking Parklets) to read as follows:

O. Parking Parklets

1. General

- a. “Parking Parklet” means the use and occupation of a portion of the public right of way that is currently used as on-street parking for additional outdoor public space.
- b. Application
 - i. Application for Parking Parklet permit shall be filed with the City. The applicant shall pay the established fee. Such application shall include the following information:
 - ii. The name and address of the applicant.
 - iii. The legal address of the real property adjacent to the site proposed for the Parking Parklet.
 - iv. If alcoholic beverages are served within the designated Parking Parklet area, the permittee must provide proof that a valid license under all applicable laws for alcohol sales has been obtained.
 - v. A site plan of sufficient detail to demonstrate compliance with the requirements of this section.
- c. Traffic Control Plan.
 - i. A traffic control plan in compliance with 12.30 is required for all applications for permit under this section during construction. Traffic control plan templates are available from the City Traffic Engineer and included in the Right-of-Way Design Guidelines.
 - ii. The traffic control plan and any required traffic control devices will be at the sole discretion of the Traffic Engineer.
 - iii. A traffic control permit is not required after construction activities have ceased.
- d. Compliance with Design Guidelines.
 - i. All proposed Parking Parklets shall comply with all guidelines in the “Right-of-way Café Design Guidelines” available on the city’s website or on file with the Planning and Inspections Department.
- e. In the event that The City determines that the location of any Parking Parklet constitutes an immediate physical danger, the encroachment into the right-of-way must be removed immediately.

f. Operational Standards

- i. A Parking Parklet must occupy only parking spaces directly in front of the applicant's business or establishment.
- ii. Occupancy within the Parking Parklet is limited to tables and chairs.
- iii. The permittee must maintain the sidewalk and parking area in a good and safe condition.
- iv. No amplified music, speakers, microphones, televisions, or other audio/visual devices will be permitted within the Parking Parklet area.
- v. Operating hours of the Parking Parklet shall be restricted to the operating hours of the adjacent business or businesses.
- vi. The Parking Parklet elements must be removed from the public right-of-way except during normal business hours. The storage of Parking Parklet elements within the public right-of-way is prohibited.
- vii. The Parking Parklet must have a two-foot (2') buffer zone between it and adjacent parking spaces and vehicular travel lanes. Additionally, wheel stops or posts should be included, as determined by the City Manager or their designee.
- viii. The Parking Parklet shall include a flush transition at the curb to permit easy access for wheelchair users or others with mobility issues and to avoid any tripping hazards.
- ix. Additional occupancy provided by the Parking Parklet may not exceed 50% of the establishment's permitted maximum occupancy.

SECTION 9. Except as herein amended, Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and permits) remains in full force and effect.

PASSED AND ADOPTED, this _____ day of _____, 2024.

THE CITY OF EL PASO, TEXAS

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Russel T. Abeln

Russell T. Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe

Philip F. Etiwe
Planning & Inspection Director

RIGHT OF WAY CAFÉ



DESIGN GUIDELINES
City of El Paso
December 2023



★ Mission

Deliver exceptional services to support a high quality of life and place for our community.

★ Vision

Develop a vibrant regional economy, safe and neighborhoods, and exceptional recreational cultural and educational opportunities powered by a high government.

★ Values

I	INTEGRITY
R	RESPECT
E	EXCELLENCE
A	ACCOUNTABILITY
P	PEOPLE

01

Goal **CULTIVATE AN ENVIRONMENT CONDUCTIVE TO STRONG, ECONOMIC DEVELOPMENT**

- 1.1 Stabilize and expand El Paso's tax base
- 1.2 Enhance visitor revenue opportunities
- 1.6 Provide business-friendly permitting and inspection process

03

Goal **PROMOTE THE VISUAL IMAGE OF EL PASO**

- 3.1 Improve the visual impression of the community (gateways, corridors, intersections, and parklands)
- 3.3 Establish a brand that celebrates and promotes El Paso's unique identity and offerings

ACKNOWLEDGEMENTS

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Director Grant Funded Programs

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Samuel Rodriguez
Chief Operations Officer

Streets & Maintenance

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Streets & Maintenance Director

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Streets & Maintenance Assistant Director

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Director of Economic and Intl Development

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Economic Development Assistant Director





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1.1 WHAT IS THE RIGHT-OF-WAY

The right-of-way refers to a designated area of land owned and controlled by the City of El Paso or the Texas Department of Transportation. It typically includes public streets, sidewalks, alleys, and other public infrastructure that are essential for transportation and public access.

The city right-of-way is typically considered a public domain and is accessible to all members of the community. However, certain restrictions and regulations may apply, such as permits for construction activities, temporary closures for events or maintenance, and specific rules for street vendors or public transportation.



1.2 ABOUT RIGHT-OF-WAY CAFÉS

The Right-of-Way Café program in El Paso offers an exciting opportunity for food and beverage businesses to enhance their establishments by extending their service areas towards the public sidewalks and on-street parking. The program aims to create a lively and communal dining experience, allowing patrons to enjoy their meals and beverages in an outdoor setting. With El Paso's abundant sunshine and beautiful downtown, right-of-way cafés are a perfect addition to the city's vibrant food and restaurant culture, supporting local businesses and promoting community.

Key features of the Right-of-Way Café program include:

1. **Alfresco Dining Experience:** Right-of-way cafés offer customers a unique and relaxed dining experience, with tables and seating placed outdoors, allowing them to savor their meals in the fresh air and enjoy the city's atmosphere.
2. **Temporary Use of Public Space:** The program allows participating restaurants and licensed businesses to temporarily utilize city sidewalks and portions of on-street parking to set up open-air seating areas.
3. **Support for Local Businesses:** By facilitating the expansion of restaurant services into public spaces, the program aims to support and strengthen local businesses, contributing to the growth of El Paso's food and restaurant culture.

1.3 WHEN IS A PERMIT NECESSARY

A right-of-way café permit is required when **city sidewalks and public on-street parking** are used for **outdoor dining** directly abutting an existing food and beverage establishment. A café sited entirely on private property does not require a Right-of-Way café permit but may be subject to other permits such as a temporary use permit.

1.4 WHO MAY APPLY FOR A PERMIT

Operators of a right-of-way café must be businesses licensed to serve food and beverages. The applicant does not have to be the property owner, but if they are not, they must have a valid lease for the building abutting the proposed right-of-way café.

TYPES OF PERMITS

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2.2 PARKING PARKLET.....	12



2.1 SIDEWALK CAFE

A sidewalk cafe is an outdoor dining space that extends from a neighboring established restaurant onto a portion of the sidewalk. The sidewalk cafe occupies a part of the sidewalk adjacent to the establishment. It may include tables, chairs, umbrellas, or other furnishings to create a comfortable and inviting outdoor dining experience. The primary purpose of a sidewalk cafe is to provide restaurant customers with the option to dine outdoors while contributing to the vibrancy and street life of the city.



Example #1



Example #2



Example #3

2.2 PARKING PARKLET

A Parking Parklet, alternatively referred to as a parklet or sidewalk extension, is a small-scale urban intervention aimed at converting a segment of a conventional on-street parking space into a public space. This permit enables parklets to function as an expansion of a neighbouring established restaurant, providing the establishment with the opportunity to cater to customers in an outdoor setting.



Example #1



Example #2



Example #3

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APPLICATION PROCESS

3.1 PERMIT PROCESS FLOWCHART.....16

3.2 INSTRUCTIONS FOR APPLICATION SUBMITTAL.....17

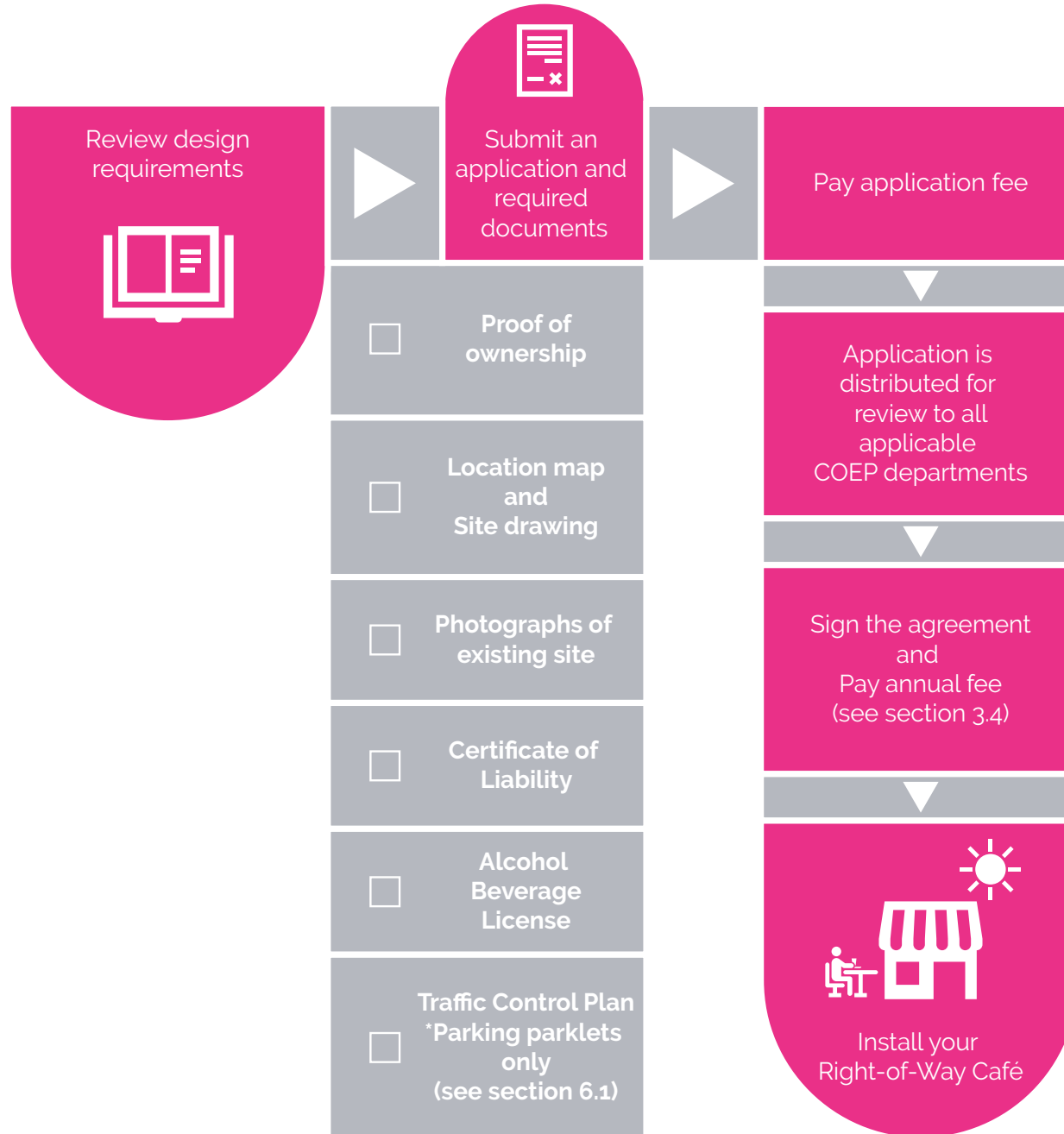
3.3 INSURANCE REQUIREMENTS18

3.4 PERMIT FEES.....18

3.5 SITE MAP EXAMPLE19



3.1 PERMIT PROCESS FLOW CHART



3.2 INSTRUCTIONS FOR APPLICATION SUBMITTAL

Applicants must complete the [application](#) and submit it in person to the One-Stop-Shop located at 811 Texas Ave. El Paso, TX 79901. Alternatively, the application may be submitted via email to ROWpermits@elpasotexas.gov.

In addition to a complete application, the following documents must be submitted to process your request for a Right-of-way Café Permit:

- ☐ **Proof of ownership:** This may include a warranty deed, title commitment, or other relevant documentation. If the applicant is not the business owner, they must have a valid lease for the building and written permission by the property owner indicating authorization to obtain a right-of-way café permit.
- ☐ **Location Map:** A location map, accurately outlining the public rights-of-way or easement(s) upon which a temporary encroachment is proposed.
- ☐ **Site Drawing:** A detailed site drawing is required during the submission. While professional drawings are not mandatory, the site drawing must be legible, close to scale, and provide sufficient detail to describe the proposed temporary encroachment on the public right-of-way or easement(s). An example can be found on page 19.
- ☐ **Photographs:** Please include pictures of the existing site before the installation of the café, as well as photos of the adjacent street and sidewalk.
- ☐ **Certificate of Liability Insurance:** The insurance must meet the requirements specified on page 18.
- ☐ **Alcohol Beverage License:** If your application involves selling and serving beverages containing alcohol within the city's right-of-way, include a copy of the current alcohol beverage license.
- ☐ **Traffic Control Plan** *only applicable for parking parklets. ([See section 6.1](#))

Once the permit official reviews the application for completeness and acceptance, the applicant must pay the processing fee for the special privilege license or permit, as prescribed in Schedule C. Please note that the processing fee is non-refundable

3.3 INSURANCE REQUIREMENTS

A certificate of liability insurance or self-insured affidavit with the required liability limitations as required per Section 15.08.120G of the El Paso City Code. Liquor liability insurance will be required separately for requests to sell and serve alcoholic beverages on City right-of-way. Certificate of liability insurance must be in accordance with the State of Texas Certificate Law. City of El Paso must be listed as the “Certificate Holder” as well as “Additional Insured” under the descriptions section. In addition, coverage must meet the following limitations:

\$1,000,000 in General Commercial Liability for Personal Injury/ Death per occurrence.

\$2,000,000 in General Aggregate Coverage

\$1,000,000 in Property Damage

\$5,000,000 if located within 50 feet of the streetcar

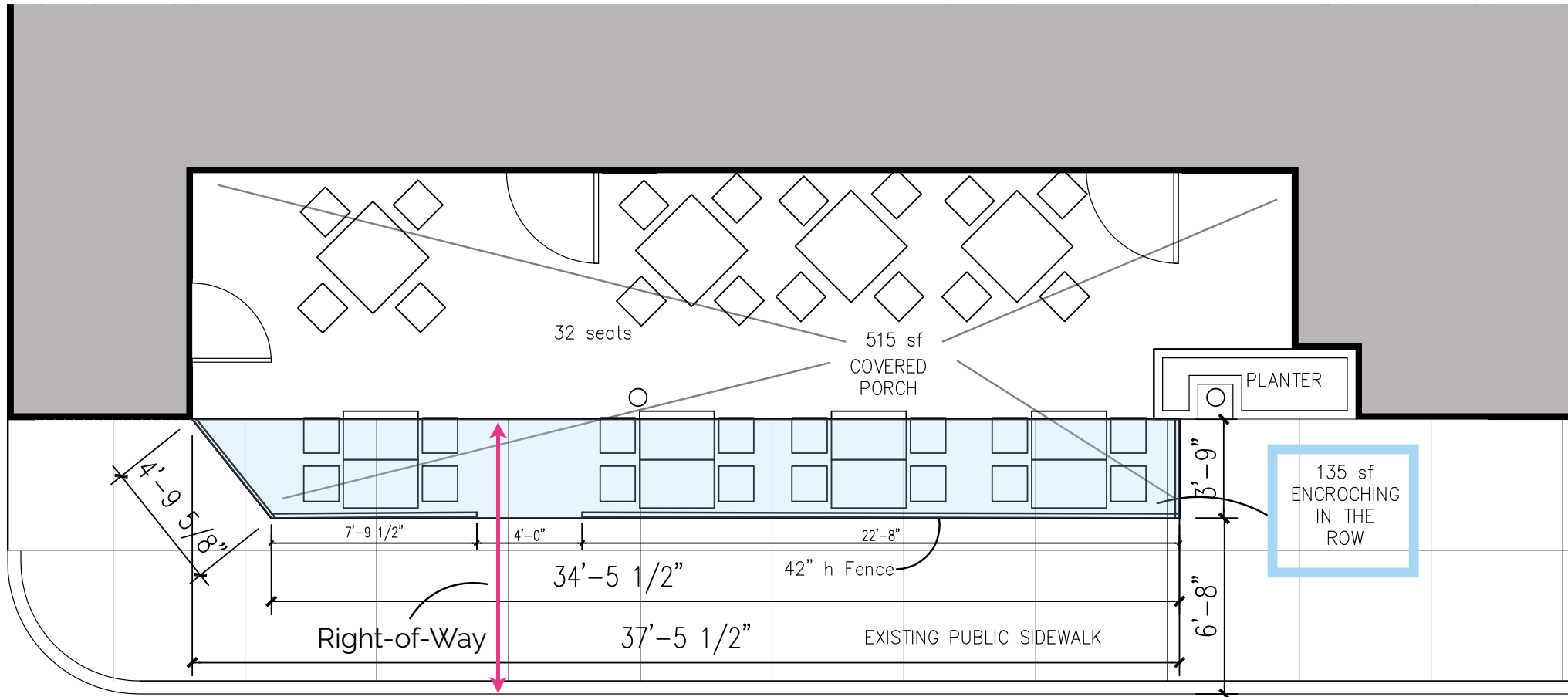
3.4 PERMIT FEES

ROW Cafe Program	Sidewalk Cafe Permit	Parking Parklet Permit
Application fee	\$371.00 + applicable technology fee	\$371.00 + applicable technology fee
Annual fee	\$159.00 per site + applicable technology fee	\$2,000.00 per metered space +applicable technology fee

*See [City of El Paso Schedule C](#) for more information

**Fees subject to review by City Council

3.5 SITE PLAN EXAMPLE



1 IMPROVEMENT FLOOR PLAN
SCALE: 3/16" = 1'-0"

SIDEWALK CAFÉ

4.1 LOCATION REQUIREMENTS.....	22
4.2 DESIGN REQUIREMENTS.....	23
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4.5 OTHER REQUIREMENTS.....	25
4.6 CASE STUDY #1.....	26
4.7 CASE STUDY #2.....	27

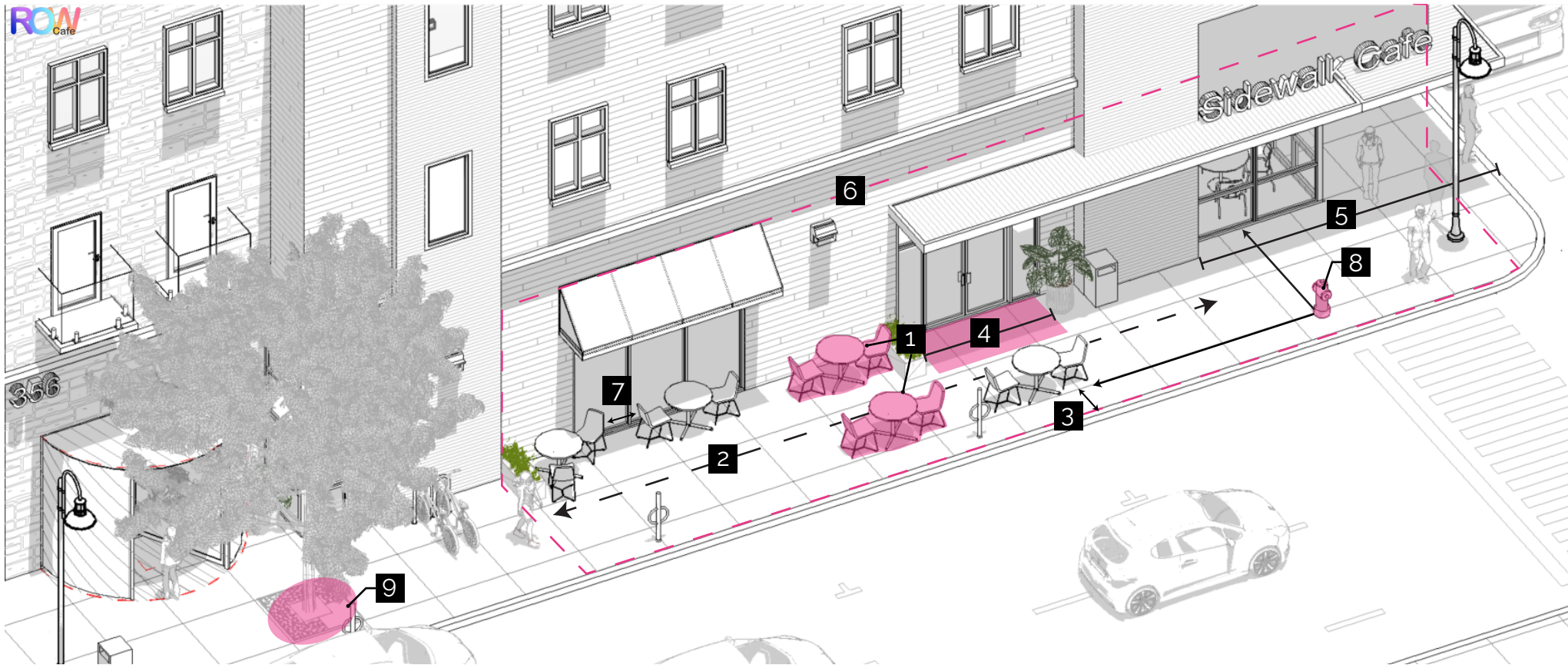


**SANITATION
CERTIFIED**

CJSGLOBAL
QUALIFIED INDUSTRIES

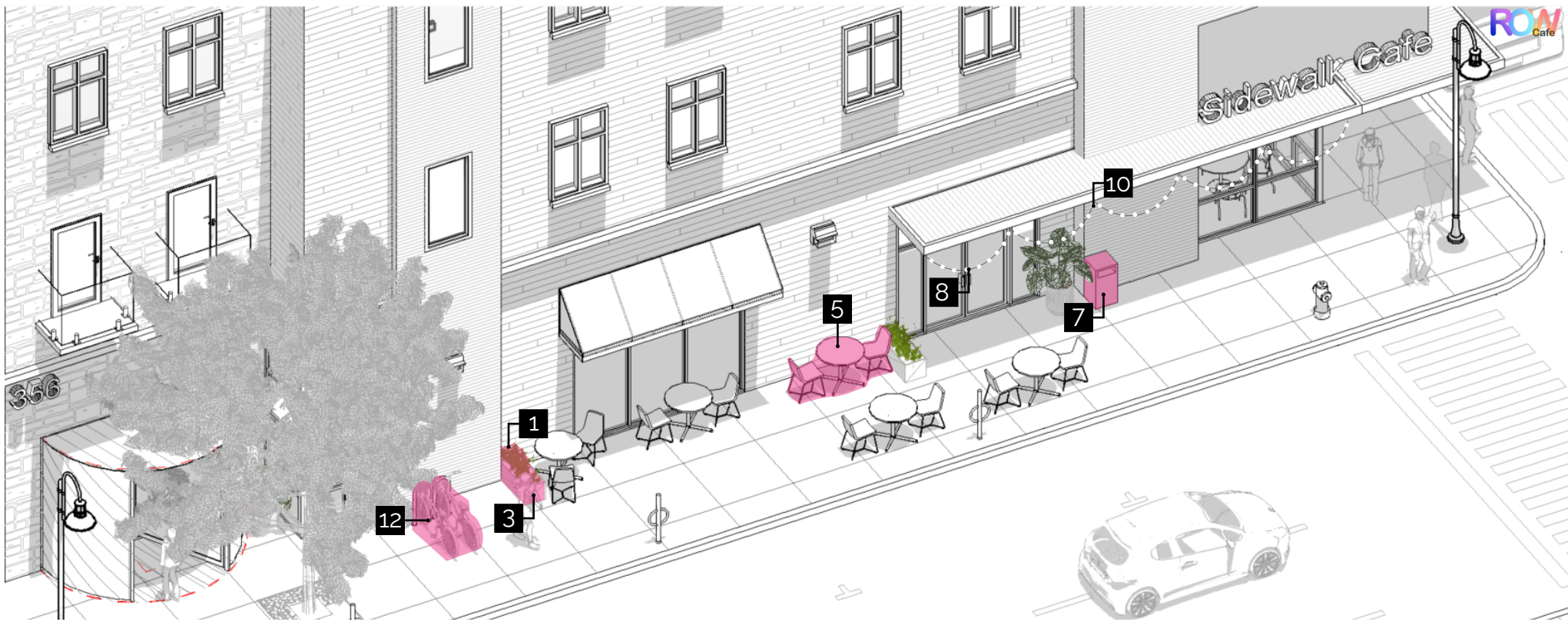
COVID-19 sanitization deep cleaning services. CJSGlobal is also safe for food and beverage service. Includes all dining surfaces, bar areas, restrooms, kitchen equipment and employee areas.

WWW.CJSGLOBAL.COM
for more information on our sanitization standards.



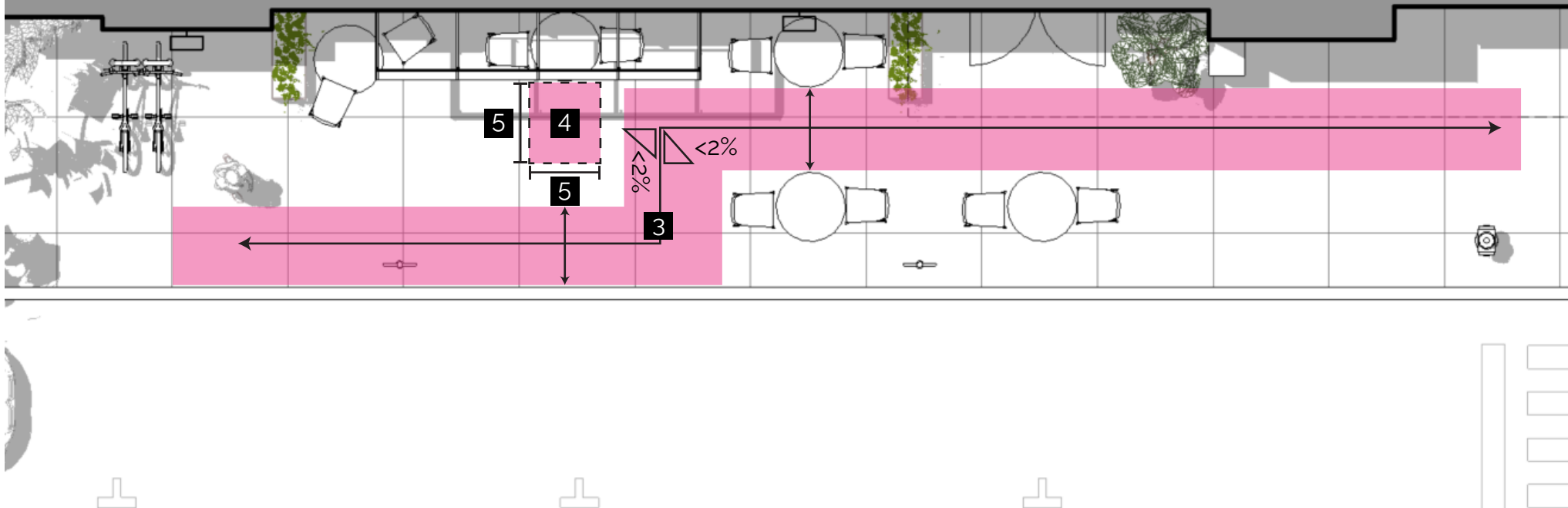
4.1 LOCATION REQUIREMENTS

1. The sidewalk café may be located between the face of the curb and the pedestrian pathway and/or between the pedestrian pathway and the face of the building(s).
2. Maintain a 5 feet minimum clear path for pedestrian access.
3. A minimum setback of 2 feet between the face of the curb and the closest portion of the sidewalk café is required.
4. Maintain a minimum of 3 feet wide unobstructed path of ingress and egress between all exit door(s) and the public right-of-way; and between adjacent cafés.
5. Cafés and structures must be located at least 20 feet from any adjacent intersection or street corner. The location of the café adjacent to the intersection or street corners may be modified with the approval of the City Traffic Engineer where special conditions exist, and modification is consistent with public safety.
6. The sidewalk café must stay within the business frontage and shall not extend beyond without written permission from the neighbouring businesses.
7. Maintain a minimum of 2 feet between tables.
8. Maintain a 15 feet clear space at the base of existing fire hydrants.
9. Maintain a 3 feet radius of clear space at the base of existing trees.
10. Easements, meters, valves, manholes, or structures must be accessible for maintenance and/or repair.



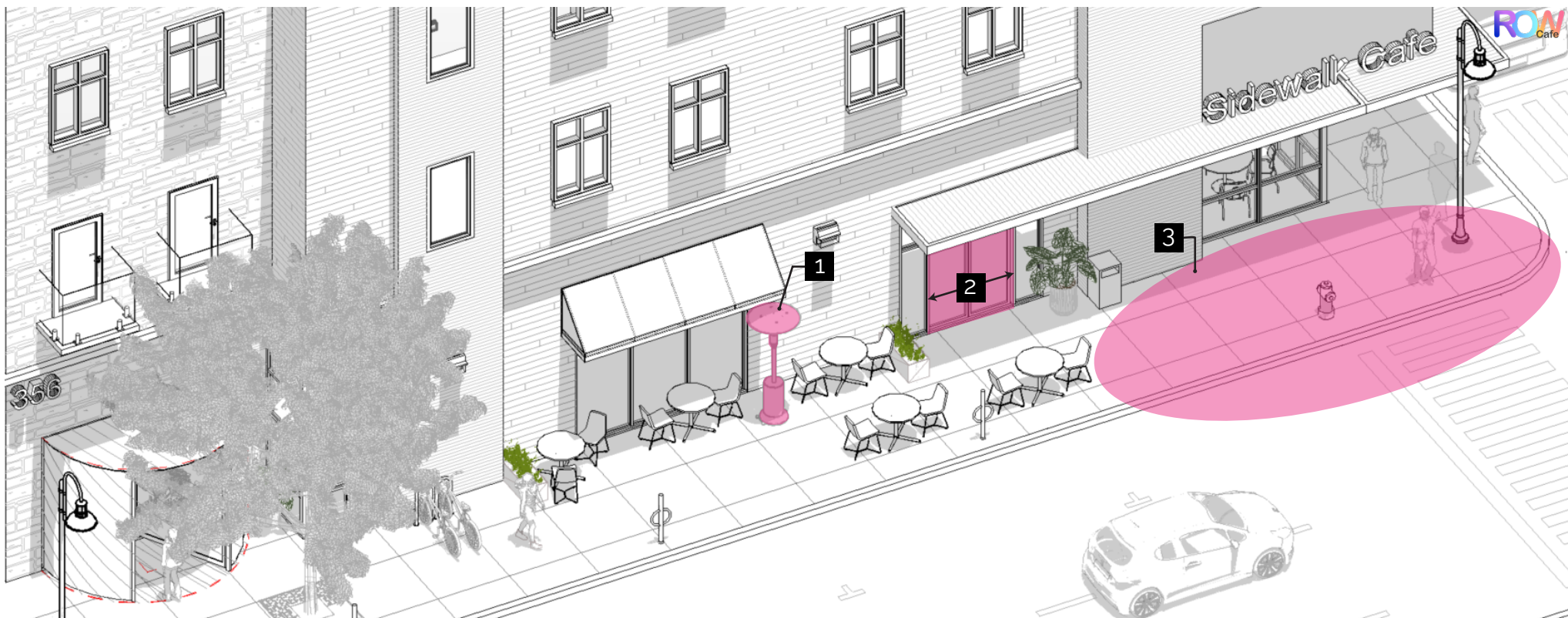
4.2 DESIGN REQUIREMENTS

1. The sidewalk café shall not be enclosed by permanent structures.
2. If fencing is provided, fencing shall be continuous around the perimeter of the patio café except for entry points. Fences must have a durable professional finish and shall comply with applicable historic district guidelines.
3. Planters may be used as barriers to delineate the café limits. Barriers must be 30" - 36" in height.
4. All construction and additions shall comply with any applicable historic district design standards and guidelines.
5. The sidewalk café must consist of moveable furniture. All furniture should be designed for outdoor use. Furniture must be able to withstand heavy weather conditions.
6. All materials must be suitable for outdoor use.
7. Each outdoor sidewalk café shall have a trash receptacle within the café limit line, not including the City of El Paso trash receptacles.
8. Any light fixtures, awnings, umbrellas, extension cords, etc., shall not protrude into the clear pedestrian path.
9. Lighting on fencing may be permitted to add a decorative element but shall not be designed to attract attention.
10. Flashing lights are not permitted. Lighting shall be clear or white.
11. Light strands shall be maintained in good repair, and burned-out bulbs shall be replaced promptly.
12. Street furniture and fixtures by the City of El Paso, such as bike racks, benches, light fixtures, and others, must be available at all times.
13. Objects like umbrellas and heating devices should be designed to endure wind speeds of 20 mph or higher, and measures must be taken to prevent them from becoming airborne.
14. Loose furniture, including tables, chairs, umbrellas, shades, portable heaters, portable light fixtures, and other items, must be removed from the row during wind advisories of 30 mph or more.



4.3 ACCESSIBILITY REQUIREMENTS

1. All sidewalk cafés must comply with TAS (Texas Accessibility Standards).
2. The sidewalk café must not be located on a raised platform or sunken area unless an accessible ramp is provided.
3. A minimum 36" ADA-accessible entryway to the sidewalk café must be maintained for all cafés.
4. A minimum of one wheelchair-accessible seating space must be provided in all sidewalk cafés. A minimum of one wheelchair-accessible seating space must be provided for every 20 non-accessible seats.
5. Accessible wheelchair spaces shall have a minimum of 36 inches in width by 48 inches in depth unobstructed area.



4.4 FIRE CODE REQUIREMENTS

1. Acceptable auxiliary outdoor heating devices shall meet the current fire code requirements.
2. A minimum emergency service access gap of 3 feet wide, without horizontal or vertical obstructions, shall be required for every 20 feet of linear frontage.
3. Fire hydrants and El Paso Fire Department water connections (FDC) must be accessible at all times.
4. Smoking or vaping shall not be permitted within the sidewalk café or 20 feet of such as per [section 9.50.030](#) of the City of El Paso Municipal Code.
5. Music may be permitted. Any music must comply with the [noise ordinance](#).

4.5 OTHER REQUIREMENTS

1. No food preparation, equipment, or storage may take place on the sidewalk café.
2. The serving of alcohol must be limited to within the boundaries of the sidewalk café as identified in the permit application.
3. A license issued by the Texas Alcoholic Beverage Commission (TABC) is required to sell and service alcoholic beverages within the sidewalk café.
4. City approval of a permit allowing a sidewalk café on city right-of-way does not guarantee, warrant, or assure that the TABC will allow the sale and service of alcoholic beverages within the sidewalk café area.
5. All relocation, removal, disposition, and/or salvage of any city property is prohibited without prior approval. It shall follow the established policy and procedure for disposal or salvage of such property if approved.



4.6 CASE STUDY #1



Location

Elements of the sidewalk café are not located more than 3 feet from a utility pole.
The pedestrian pathway is obstructed by cafe elements.



Design



Accessibility

Cafe has no accessible pedestrian path.



Fire code

Elements of the sidewalk café are not located more than 15 feet from a fire hydrant.



4.7 CASE STUDY #2



Location

Elements of the sidewalk café are not located more than 3 feet from a tree.



Design



Accessibility



Fire code

PARKING PARKLET

5.1 LOCATION REQUIREMENTS.....30

5.2 DESIGN REQUIREMENTS.....31

5.3 ACCESSIBILITY REQUIREMENTS.....32

5.4 FIRE CODE REQUIREMENTS.....32

5.5 OTHER REQUIREMENTS.....33

5.6 CASE STUDY #1.....34

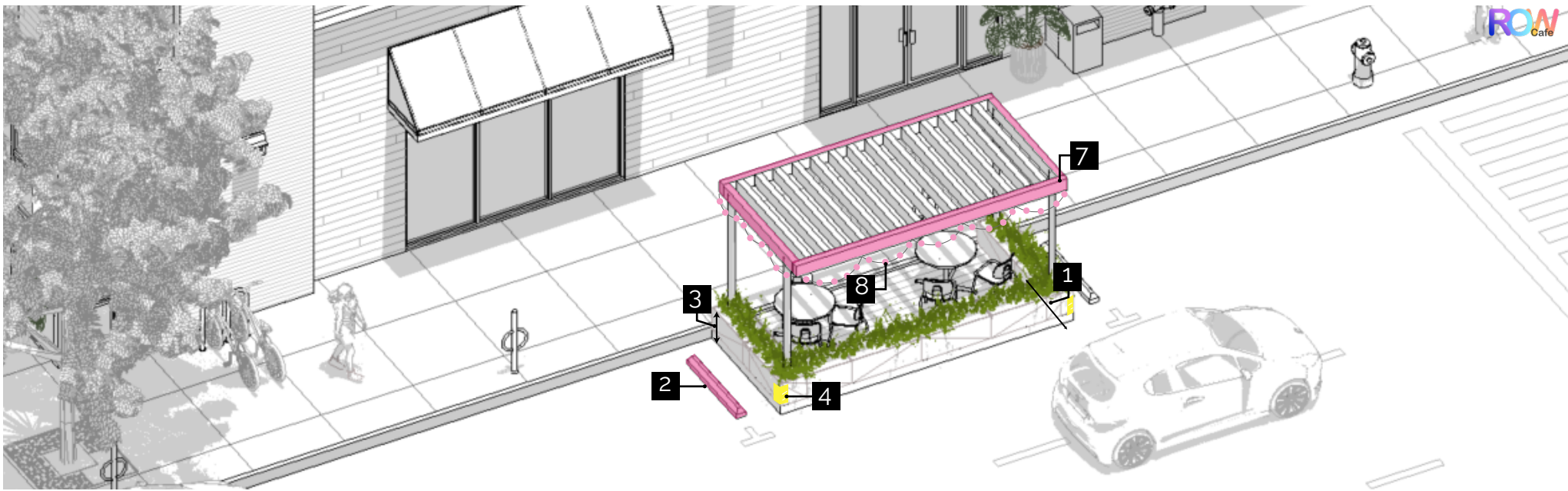
5.7 CASE STUDY #2.....35





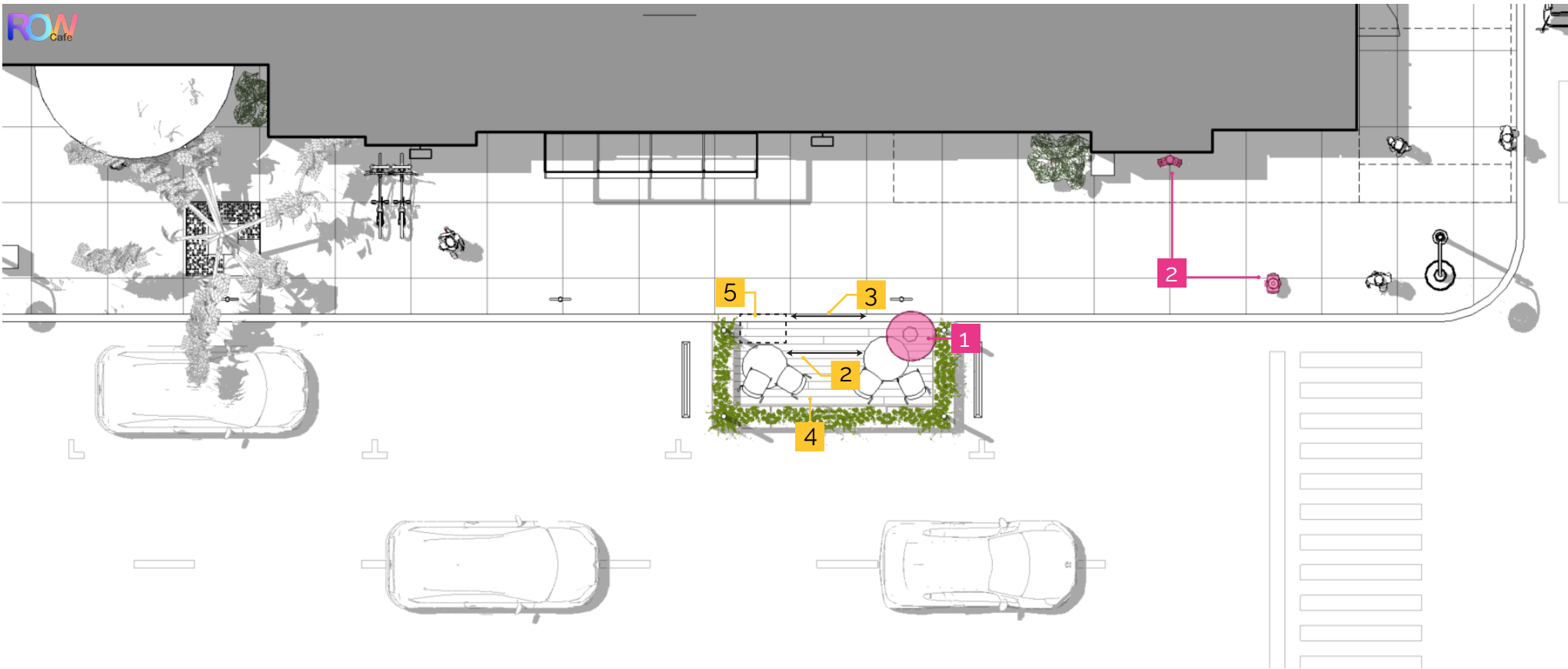
5.1 LOCATION REQUIREMENTS

1. The parklet must utilize the parking spaces directly in front of the business. It should not extend beyond without written permission from the neighbouring businesses.
2. Parklets are permitted on streets with speed limits of 35 mph or less; any other will be considered on a case-by-case basis.
3. Parklets are not permitted on streets owned by the Texas Department of Transportation (TxDOT).
4. Parklets must be located at least 20 feet from any adjacent intersection, street corner, or crosswalk.
5. Parklets are not permitted along red and yellow painted curbs.
6. Maintain a 15 feet clear space at the base of existing fire hydrants.
7. Parklets are prohibited at bus stops, loading zones, or designated bike lanes.
8. Parklets are not permitted over utility access panels, manhole covers, transformers, water meters, or water valves. All parklets shall maintain a minimum of 5 feet from any storm drain, inlets, or cleanouts.
9. Parklets proposed along the streetcar route will be considered on a case-by-case basis and must be approved by Sun Metro prior to approval.
10. Parklets located next to driveways must have a minimum 10 feet setback from the outside edge of the driveway.
11. Parklets are not allowed within 50 feet of the nearest rail of a railroad crossing.
12. Maintain a minimum distance of 20 feet from the driveway entrance of a fire station. Additionally, Parklets are prohibited from being directly across from such entrances or within 75 feet of them.
13. Parklets are permitted on metered parking spaces only.



5.2 DESIGN REQUIREMENTS

1. Maintain a minimum 2 feet setback between the parking parklet seating area and adjacent on-street parking spaces and travel lanes.
2. Wheel stops, or posts must be included to separate the occupied parking space and the adjacent parking spaces and travel lane.
3. Provide a 42" high barrier at the edge of the parking parklet as a barrier to vehicular traffic. If cable railing is used, spacing between cables must not exceed six inches (see materials section.)
4. Reflectors must be included at each end of the parking parklet.
5. Parklets must include vertical elements that make them visible to traffic, such as reflective delineator posts or reflective plastic drums.
6. Parklets may not occupy more than three parking spaces. No design element may encroach into adjacent parking spaces.
7. Umbrellas or canopies may not encroach on the pedestrian travel path, travel lanes, or adjacent parking spaces.
8. The parklet must include lighting if intended for night use. Any lighting must comply with the dark sky ordinance.
9. Parklets must be equipped with a deck or platform that is flush with the adjacent sidewalk, with a maximum gap of 1/2 inch.
10. Maintain an equal grade with the adjoining sidewalk.
11. The parklet base must not be attached or bolted to the street in any manner. Instead, it should be constructed as a self-supporting structural foundation that rests directly on the street surface. The frame of the parklet should not be permanently affixed to the street or curb, and no permanent modifications or alterations to the street are permitted.
12. Access must be provided underneath the flooring of the parklet for cleaning purposes.
13. No loose particles such as sand or loose stone are permitted as surface materials.
14. The parklet must be designed to allow rainwater to flow along the curb without obstructions. The entire parklet structure should be built to allow for easy removal of the parklet if necessary.
15. All materials must be high quality, durable, non-reflective, and weather-resistant.
16. Objects like umbrellas and heating devices should be designed to endure wind speeds of 20 mph or higher, and measures must be taken to prevent them from becoming airborne.
17. Loose furniture, including tables, chairs, umbrellas, shades, portable heaters, portable light fixtures, and other items, must be removed from the row during wind advisories of 30 mph or more.



5.3 ACCESSIBILITY REQUIREMENTS

1. The parklet must comply with all TAS (Texas Accessibility Standard) standards.
2. The accessible path on the deck surface shall be a minimum of 44 inches wide and shall be level.
3. A minimum 36 inches ADA-accessible entryway to the parklet must be maintained.
4. Openings in the floor or deck must not be greater than $\frac{1}{2}$ inch. Elongated openings shall be placed so that the long dimension is perpendicular to the direction of travel.
5. A minimum of one wheelchair-accessible seating space must be provided for every 20 non-accessible seats.

5.4 FIRE CODE AND HEALTH REQUIREMENTS

1. Acceptable auxiliary outdoor heating devices shall meet the current fire code requirements.
2. Fire hydrants and El Paso Fire Department water connections (FDC) must be accessible at all times.
3. Smoking or vaping shall not be permitted within the sidewalk café or 15 feet of such.
4. Music may be permitted. Any music must comply with the [noise ordinance](#).

5.5 OTHER REQUIREMENTS

1. Permittee shall be responsible for maintenance of the parking parklet including but not limited to:
 - a. Removing any graffiti tagging within 24 hours, unless part of a pre-approved design.
 - b. Perform pest abatement as needed.
 - c. Allow for adequate drainage.
 - d. Maintaining all plants, equipment and furnishings.
 - e. Trash removal including any loose trash within 1.5 feet of the parklet.
 - f. Repair conditions at all times and promptly replace any broken improvements or property within a reasonable period of time.
2. A parking parklet proposal may be rejected if it conflicts with future programmed streetscape improvements by the City of El Paso.
3. Storage or preparation of food is not permitted in the parklet.
4. Parklets are intended for commercially zoned areas and shall not be allowed in residential districts.
5. The parking parklet permit is non-transferable. If the applicant business changes ownership or cease to operate, the permit will be automatically terminated and the parklet shall be removed by the applicant or a new application must be submitted by the new owner. A new application of an existing parklet does not guarantee approval.
6. Seating. For food and/or beverage service only. Seated-only capacity shall be required. Standing-only capacity shall not be permitted.
7. Tables and chairs shall not exceed 42 inches in height.
8. Tables and chairs must be moveable to accommodate wheelchair access. The business is responsible for the loss or theft of any property.
9. Emergency: During emergencies, the City or other public utility may remove the parklet with little or no notice.



5.6 CASE STUDY #1



Location

Elements of the parklet are located within the bike lane.
Parklet is not within a metered space.



Design

No setback between the travel lane and parklet.
Parklet does not contain a deck or platform.
Parklet does not maintain equal grade with sidewalk



Accessibility



Fire code



5.7 CASE STUDY #2



Location



Design



Accessibility



Fire code

ADDITIONAL INFORMATION

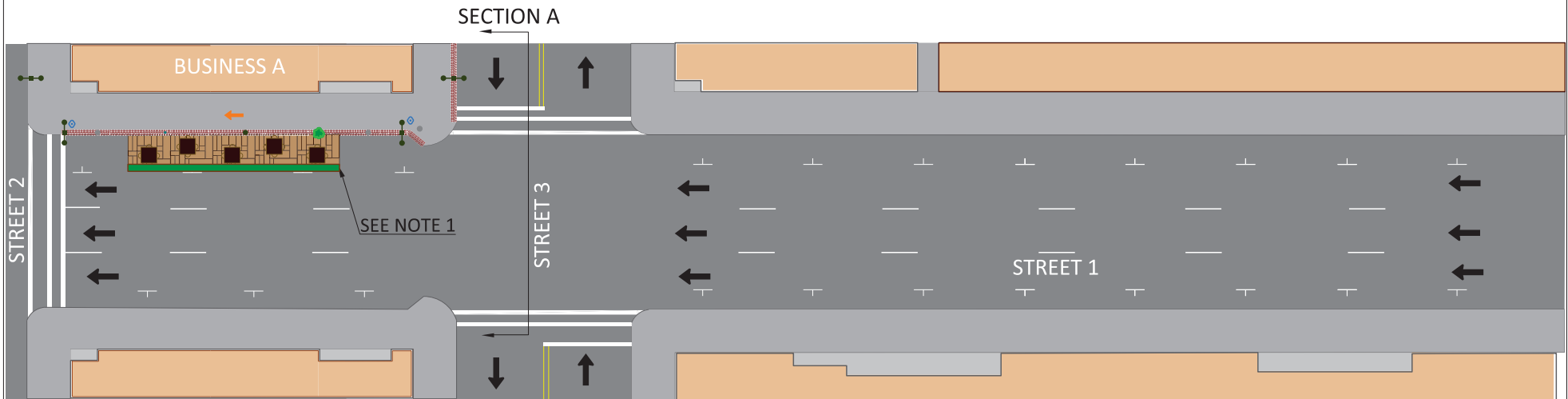
6.2 TRAFFIC CONTROL EXAMPLES.....38

6.1 GLOSSARY.....44



6.1 TRAFFIC CONTROL TEMPLATES

TYPICAL 2A - PARKLET (ONE-WAY STREET) - COMPLETED

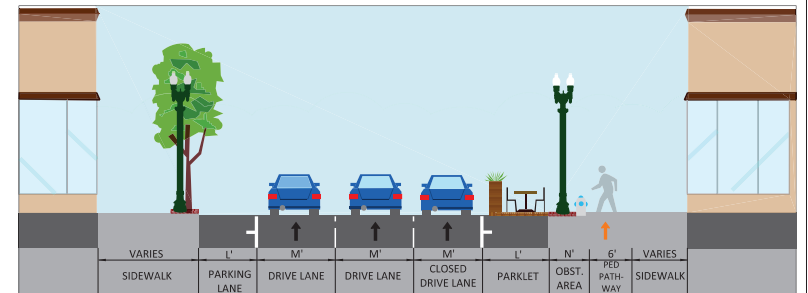


NOTES:

1. ACTUAL PARKLET FEATURES WILL VARY. ENCLOSURE TO BE PROVIDED PER COEP APPROVED MATERIALS.

LEGEND

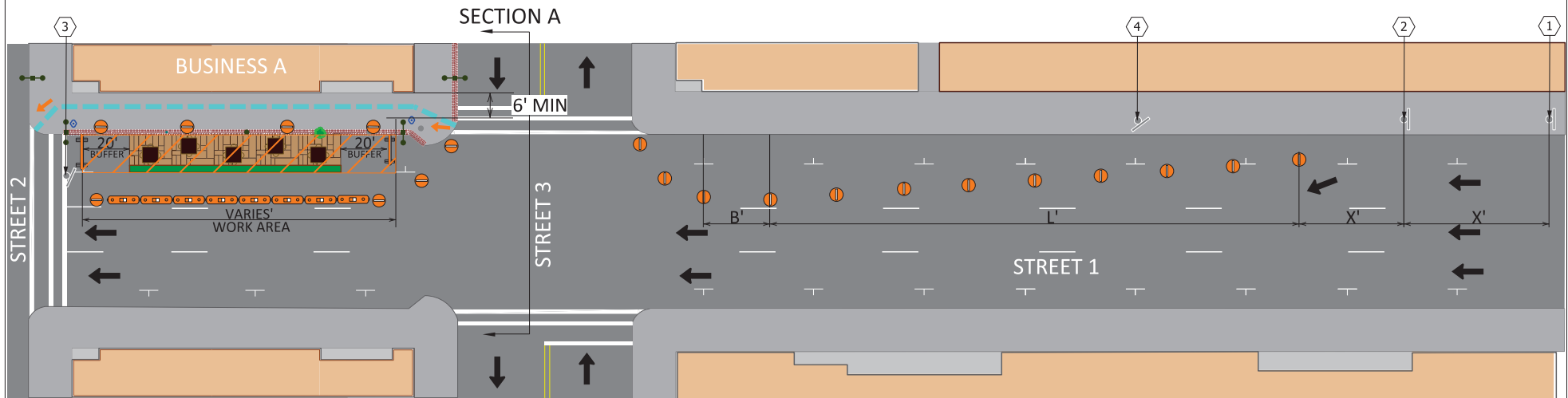
	DINING TABLES/AMENITIES
	EXISTING OBSTRUCTIONS
	VEHICULAR TRAFFIC FLOW
	PEDESTRIAN TRAFFIC FLOW



SECTION A

	LOCATION:	PARKLET FOR ONE-WAY STREET	STANDARD NO.	APPROVED BY: _____ (DATE & SIGNATURE)	SCALE: N.T.S.
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2A- COMPLETED		
			THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.		
					SHEET 9

TYPICAL 2A - PARKLET (ONE-WAY STREET) - TCP



NOTES:

1. TCP IS ONLY FOR INSTALLATION AND REMOVAL PHASES. REMOVE ALL TRAFFIC CONTROL DEVICES/INVENTORY UPON COMPLETION OF PARKLET INSTALLATION. REPLACE DEVICES WITH COEP APPROVED ENCLOSURES AND APPROVED MATERIALS.



CW20-1D
36"X36"
①



CW20-5TR
36"X36"
②



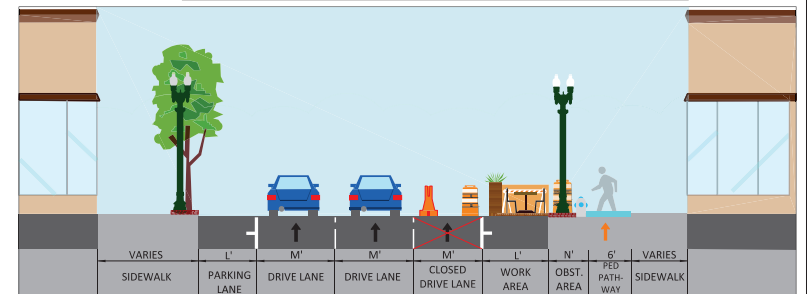
G20-2
36"X18"
③




R7-1 DBL
12"X18"
④
(INSTALL TEMPORARY NO
PARKING SIGN DURING WORK
ACTIVITIES)

POSTED SPEED LIMIT	CHANNELIZING DEVICE "B" (FT)	SIGN SPACING "X" (FT)	CLOSED LANE WIDTH (FT):		
			10	11	12
25	25	100	105	115	125
30	30	120	150	165	180
35	35	160	205	225	245

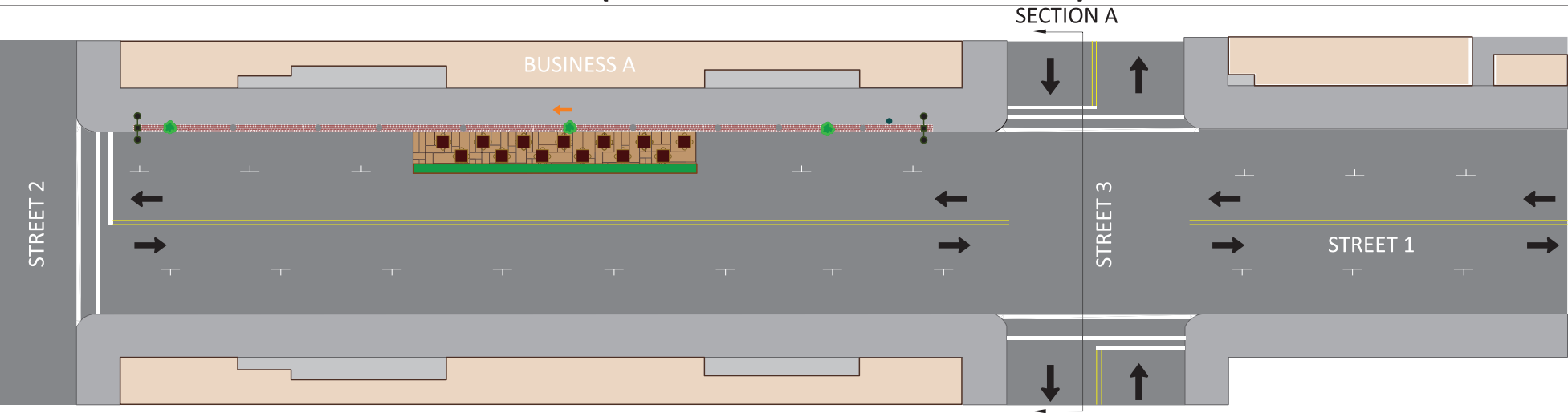
LEGEND		
	A-FRAME TYPE I BARRICADE	DINING TABLES/AMENITIES
	TYPE III BARRICADE	EXISTING OBSTRUCTIONS
	ORANGE WATER BARRIER	ADVANCED WARNING SIGN
	STEEL BARRICADE	PEDESTRIAN PATHWAY TO BE MAINTAINED
	WORK AREA	VEHICULAR TRAFFIC FLOW
	CHANNELIZING DEVICES	PEDESTRIAN TRAFFIC FLOW



SECTION A

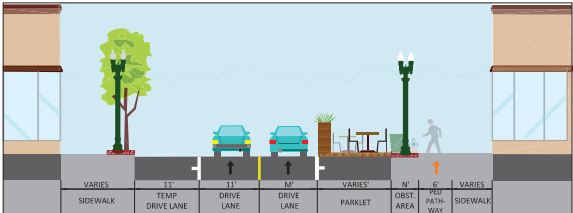
<div><p>CITY OF EL PASO STREETS & MAINTENANCE DEPARTMENT</p></div>	LOCATION:	PARKLET FOR ONE-WAY STREET	STANDARD NO.	APPROVED BY: _____ (DATE & SIGNATURE)					SCALE: N.T.S
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2A- TRAFFIC CONTROL PLAN						
			THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.	TYPICAL USAGE					
				SPEED LIMIT ≤ 35 MPH	SHORT DURATION	SHORT TERM STATIONARY	INTERMEDIATE TERM STATIONARY	LONG TERM STATIONARY	
				✓	✓	✓	✓	✓	
				SHEET 10					

TYPICAL 2B - PARKLET (TWO-LANE TWO-WAY STREET) - COMPLETED



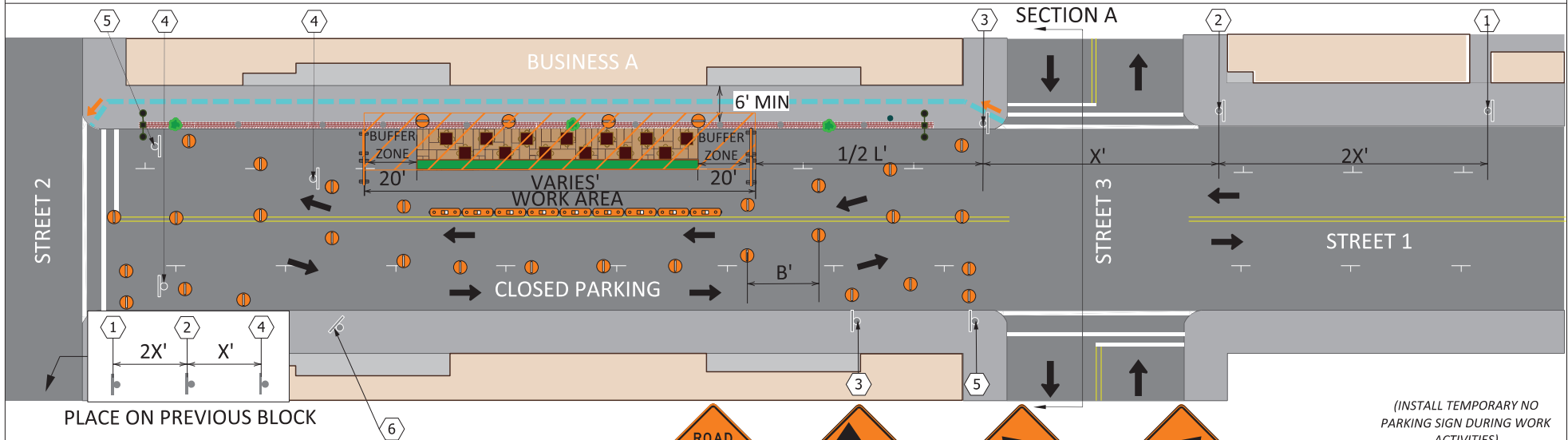
NOTES:
1. ACTUAL PARKLET FEATURES WILL VARY. ENCLOSURE TO BE PROVIDED PER COEP APPROVED MATERIALS.

LEGEND	
	DINING TABLES/AMENITIES
	EXISTING OBSTRUCTIONS
	VEHICULAR TRAFFIC FLOW
	PEDESTRIAN TRAFFIC FLOW



 CITY OF EL PASO STREETS & MAINTENANCE DEPARTMENT	LOCATION:	PARKLET FOR TWO-LANE TWO-WAY STREET	STANDARD NO.	APPROVED BY: _____ (DATE & SIGNATURE)	SCALE: N.T.S.
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2B-COMPLETED		
			THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.		
					SHEET 11

TYPICAL 2B - PARKLET (TWO-LANE TWO-WAY STREET) - TCP



NOTES:

1. TCP IS ONLY FOR INSTALLATION AND REMOVAL PHASES. REMOVE ALL TRAFFIC CONTROL DEVICES/INVENTORY UPON COMPLETION OF PARKLET INSTALLATION. REPLACE DEVICES WITH COEP APPROVED ENCLOSURES AND APPROVED MATERIALS.

LEGEND			
	A-FRAME TYPE I BARRICADE		DINING TABLES/AMENITIES
	TYPE III BARRICADE		EXISTING OBSTRUCTIONS
	ORANGE WATER BARRIER		ADVANCED WARNING SIGN
	STEEL BARRICADE		PEDESTRIAN PATHWAY TO BE MAINTAINED
	WORK AREA		VEHICULAR TRAFFIC FLOW
	CHANNELIZING DEVICES		PEDESTRIAN TRAFFIC FLOW

CW20-1D
 36"X36"
 1

CW1-4L
 36"X36"
 2

CW1-6aT
 36"X36"
 3

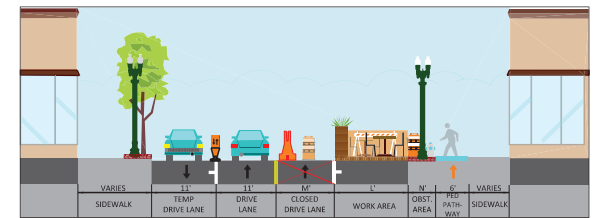
CW1-6aT
 36"X36"
 4

G20-2
 36"X18"
 5

R7-1 DBL
 12"X18"
 6

(INSTALL TEMPORARY NO PARKING SIGN DURING WORK ACTIVITIES)

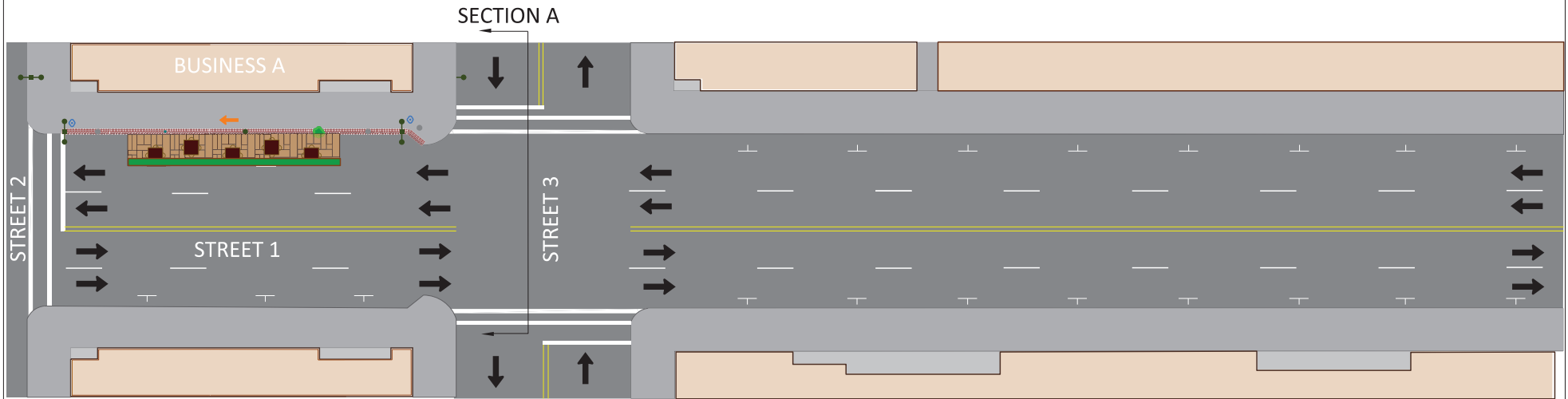
POSTED SPEED LIMIT	CHANNELIZING DEVICE "B" (FT)	SIGN SPACING "X" (FT)	CLOSED LANE WIDTH (FT):		
			10	11	12
25	25	100	105	115	125
30	30	120	150	165	180
35	35	160	205	225	245



SECTION A

 CITY OF EL PASO STREETS & MAINTENANCE DEPARTMENT	LOCATION:	PARKLET FOR TWO-LANE TWO-WAY STREET	STANDARD NO.	APPROVED BY: _____		SCALE: N.T.S. SHEET 12	
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2B-TRAFFIC CONTROL PLAN	(DATE & SIGNATURE)			
	TYPICAL USAGE						
THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.			SPEED LIMIT ≤ 35 MPH	SHORT DURATION	SHORT TERM STATIONARY	INTERMEDIATE TERM STATIONARY	LONG TERM STATIONARY

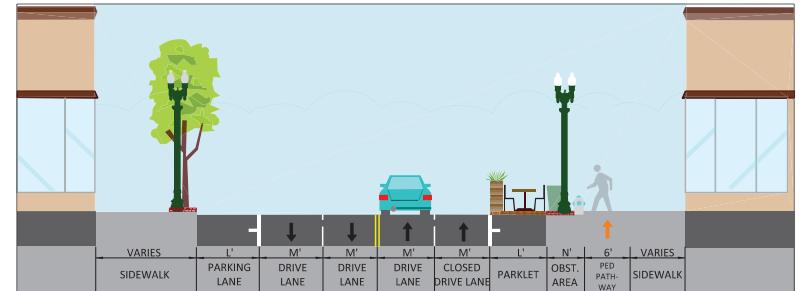
TYPICAL 2C - PARKLET (MULTI-LANE TWO-WAY STREET) - COMPLETED




NOTES:

1. ACTUAL PARKLET FEATURES WILL VARY. ENCLOSURE TO BE PROVIDED PER COEP APPROVED MATERIALS.

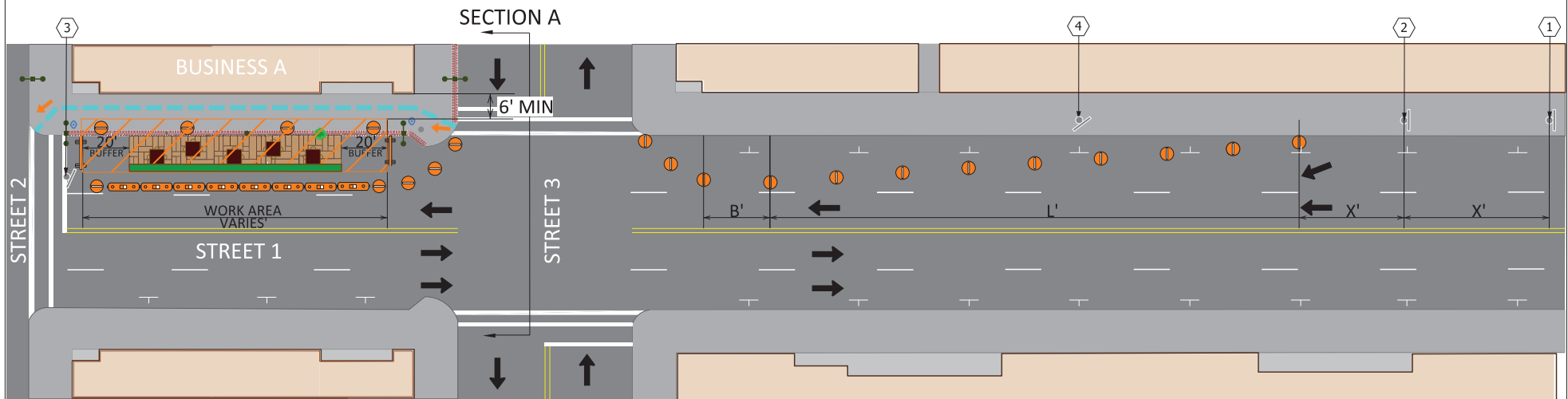
LEGEND	
	DINING TABLES/AMENITIES
	EXISTING OBSTRUCTIONS
	VEHICULAR TRAFFIC FLOW
	PEDESTRIAN TRAFFIC FLOW



SECTION A

 CITY OF EL PASO STREETS & MAINTENANCE DEPARTMENT	LOCATION:	PARKLET FOR MULTI-LANE TWO-WAY STREETS	STANDARD NO.	APPROVED BY: _____ (DATE & SIGNATURE)	SCALE: N.T.S
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2C- COMPLETED		
			THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.		
SHEET 13					

TYPICAL 2C - PARKLET (MULTI-LANE TWO-WAY STREET) - TCP



NOTES:

1. TCP IS ONLY FOR INSTALLATION AND REMOVAL PHASES. REMOVE ALL TRAFFIC CONTROL DEVICES/INVENTORY UPON COMPLETION OF PARKLET INSTALLATION. REPLACE DEVICES WITH COEP APPROVED ENCLOSURES AND APPROVED MATERIALS.



CW20-1D
36"X36"
1



CW-20-5TR
36"X36"
2















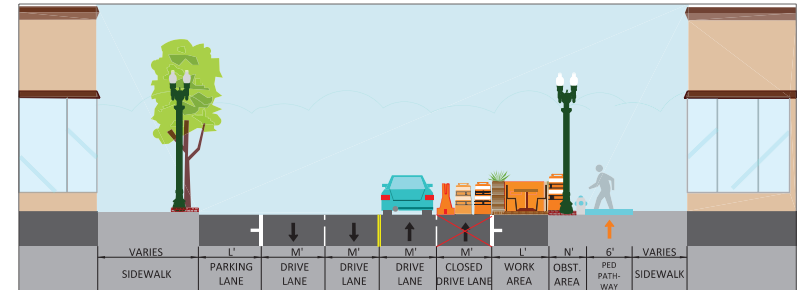
G20-2
36"X18"
3




R7-1 DBL
12"X18"
4
(INSTALL TEMPORARY NO
PARKING SIGN DURING WORK
ACTIVITIES)

POSTED SPEED LIMIT	CHANNELIZING DEVICE "B" (FT)	SIGN SPACING "X" (FT)	CLOSED LANE WIDTH (FT):		
			10	11	12
25	25	100	105	115	125
30	30	120	150	165	180
35	35	160	205	225	245

LEGEND			
	A-FRAME TYPE I BARRICADE		DINING TABLES/AMENITIES
	TYPE III BARRICADE		EXISTING OBSTRUCTIONS
	ORANGE WATER BARRIER		ADVANCED WARNING SIGN
	STEEL BARRICADE		PEDESTRIAN PATHWAY TO BE MAINTAINED
	WORK AREA		VEHICULAR TRAFFIC FLOW
	CHANNELIZING DEVICES		PEDESTRIAN TRAFFIC FLOW



SECTION A

 CITY OF EL PASO STREETS & MAINTENANCE DEPARTMENT	LOCATION:	PARKLET FOR MULTI-LANE TWO-WAY STREETS	STANDARD NO.	APPROVED BY: _____ (DATE & SIGNATURE)					SCALE: N.T.S
	TYPICAL CITY BLOCK EL PASO, TX		TYPICAL 2C- TRAFFIC CONTROL PLAN						
	TYPICAL USAGE								
	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD.		SPEED LIMIT ≤ 35 MPH	SHORT DURATION	SHORT TERM STATIONARY	INTERMEDIATE TERM STATIONARY	LONG TERM STATIONARY	SHEET 14	
			✓	✓	✓	✓	✓		

6.2 Glossary

The following definitions are provided for purposes of this document only

A

Accessible - An environment or facility that provides equal access to people with different abilities.

Alley - any public or private passageway or street open to traffic and generally used to reach the rear end of lots or buildings.

Applicant - any person, group, organization, or entity who seeks a permit from the permit official to conduct or sponsor a special event governed by this chapter.

B

Bicycle lane - a designated lane or portion of a roadway that is specifically marked or selected for the use of bicycles.

C

Crosswalk - a portion of the roadway at an intersection that is marked with pavement markings where traffic stops to guide pedestrians in the proper crossing paths.

Curb - a raised edge or boundary separating the roadway from a pedestrian walkway, such as a sidewalk or footpath. Curbs are typically made of durable materials like concrete and are designed to provide a physical barrier between the road and the adjacent pedestrian area.

D

Driveway - an area designed to provide a controlled and convenient path for vehicles to enter or exit a property. Driveways generally have a slope or incline that allows vehicles to transition smoothly from the street to the private property.

E

Easement - a legal right or privilege granted to a person or entity to use or access a specific portion of another person's property for a particular purpose. Some common types of easements include: right-of-way, utility easement, conservation easement, and drainage easement.

Egress - the pathways, exits, and systems that are designed to ensure the safe evacuation of occupants in the event of a fire, natural disaster, or other emergencies. These egress systems typically include exit doors, corridors, staircases, ramps, emergency lighting, and signage, all of which are intended to facilitate the rapid and orderly movement of people out of a building.

F

Frontage - the front facade of a building; area of public realm that is parallel to the front of a building.

M

Metered parking - an on-street parking space where drivers pay for parking based on their use time. Payment is typically made through parking meters or pay stations, with the purchased time displayed on a digital display.

O

On-street parking - a "curbside parking space" located adjacent to the curb where it is permissible within the public right-of-way for drivers to leave their vehicles.

P

Pedestrian pathway - a designated route or pathway specifically intended to provide a safe, accessible walkway for pedestrians.

Private property - real estate that are owned by individuals, businesses, or other non-governmental entities.

Property owner - an individual, business, or entity that has legal ownership and control over a particular property or asset. The property owner holds the rights and responsibilities associated with the property, including the right to use, transfer, and manage the property according to applicable laws and regulations.

Public infrastructure - the physical systems, facilities, and services that are owned, operated, and provided by the government or public entities for the benefit of the general public.

R

Right-of-way - Land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, bikeway, or drainage purposes.

S

Setback - A distance from a curb, property line, or structure within which building is prohibited.

Sidewalk - a paved path or walkway alongside a road or street that is intended for pedestrians. It provides a designated space for people to walk, separating them from vehicular traffic. Sidewalks are typically constructed with materials such as concrete or asphalt.

Siteplan - a detailed architectural or engineering drawing that provides an overview of a specific property or development project. It typically includes information about the layout, dimensions, and location of buildings, roads, parking areas, landscaping, and other elements on the site.

T

Traffic Control - the management and regulation of vehicular and pedestrian movement on roads, streets, and highways to ensure safe and efficient transportation. It involves the use of various measures and devices such as traffic signals, signs, lane markings, and the deployment of law enforcement officers or traffic management personnel to direct and control the flow of traffic.

Traffic Control Plan - a detailed document or set of instructions that outlines specific measures and strategies for managing and regulating traffic in a particular area or at a specific location. They may include information on traffic diversions, lane closures, signage, flagging operations, and other measures designed to ensure safety.

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RIGHT-OF-WAY CAFE APPLICATION

PLANNING AND INSPECTIONS DEPARTMENT – RIGHT-OF-WAY DIVISION
CITY OF EL PASO 811 TEXAS AVE. EL PASO TEXAS 79901 (915) 212-0104

Pursuant to 15.08.120 (Special Privilege Licenses and Permits) of the El Paso City Code, the City may grant a special privilege license or permit for use of public right-of-way for specified uses. The Planning and Inspections Right of Way team are available to advise you in the preparation of this application. Call (915) 212-1584 or email ROWpermits@elpasotexas.gov for further information.

What are Right-of-Way Cafés?

Right-of-way cafes are temporary uses of city sidewalks and on-street parking for the purpose of open-air seating provided by a restaurant located on the adjoining property, where the restaurant patrons may eat or drink.

When is a Right-of-Way Café Permit Necessary?

A right-of-way café permit is required when city sidewalks are used for outdoor dining. An outdoor café sited entirely on private property does not require a special privilege permit but may require other permits such as a temporary use permit.

Who May Apply for a Right-of-Way Café Permit?

Operators of a right-of-way café must be businesses licensed to serve food and beverages. The applicant does not have to be the property owner; but if they are not the owner, they must provide a letter by the property owner.

Insurance Requirements

Certificate of Liability. A certificate of liability insurance or self-insured affidavit with the required liability limitations as required per Section 15.08.120G of the El Paso City Code. Liquor liability insurance will be required separately for requests to sell and serve alcoholic beverages on City right-of-way. Certificate of liability insurance must be in accordance with the State of Texas Certificate Law. City of El Paso must be listed as the "Certificate Holder" as well as "Additional Insured" under the descriptions section. In addition, coverage must meet the following limitations:

- \$1,000,000 in General Commercial Liability for Personal Injury/Death per Occurrence.
- \$2,000,000 in General Aggregate Coverage.
- \$1,000,000 in Property Damage
- \$5,000,000 if located within 50 feet of the streetcar

What construction is allowed?

A right-of-way café shall not be enclosed by permanent structures. See the Right-of-Way Café Design Guidelines for allowed structures.

What is the Fee for a Right-of-Way Café Permit?

The Right-of-Way Café permit fee follows the Schedule C fee list. This fee is due at the time the permit is issued, payable by cash, check (remit to the City of El Paso), money order or credit card (Visa, MasterCard, and Discover are accepted and subject to a 1.98% credit card fee). Please note these fees are non-refundable.

Instructions for Application Submittal

Applicants must submit a completed application online at <https://aca-prod.accela.com/ELPASO/Default.aspx>

A complete application must include the following documents to process the request for a Right-of-way Café Permit:

- **Review the Right-of-Way Café Design Guidelines**
- **Prepare:**
 - **Site Drawing:** A detailed site drawing is required at the time of submission. While drawings are not required to be professionally drawn, they must be legible, close to scale and provide sufficient detail to describe what your outdoor patio café will look like. See design manual for details.
 - **Proof of ownership** (warranty deed, title commitment, etc.)
 - **Photographs** of existing site prior to the café installation, along with photos of the adjacent street and sidewalk (see examples).
 - **Copy of State TABC license and must be current with City Alcohol License**
 - **Certificate of Liability Insurance**
 - **Traffic Control Plan** *only applicable for parking parklets.

Checklist for Submittal

Right-of-Way Café Checklist requirements:

- ☐ 1. Application for a permit shall be submitted electronically on a form prescribed by the permit official, which must be completed in accordance with the instructions provided on the application.
- ☐ 2. Proof of ownership (warranty deed, title commitment, etc.). If not the owner, a letter from the owner authorizing the request for a Right-of-Way Café.
- ☐ 3. One location map, accurately outlining the public rights-of-way or easement(s) upon which a temporary encroachment is proposed, see design manual for example.
- ☐ 4. Site Drawing. See design manual for example.
- ☐ 5. Photographs of existing site prior to the café installation, along with photos of the adjacent street and sidewalk. See design manual for example.
- ☐ 6. Certificate of Liability A certificate of liability insurance or self-insured affidavit with the required liability limitations as required per Section 15.08.120G of the El Paso City Code. Liquor liability insurance will be required separately for requests to sell and serve alcoholic beverages on City right-of-way. Certificate of liability insurance must be in accordance with the State of Texas Certificate Law. City of El Paso must be listed as the "Certificate Holder" as well as "Additional Insured" under the descriptions section. In addition, coverage must meet the following limitations:
 - \$1,000,000 in General Commercial Liability for Personal Injury/Death per Occurrence;
 - \$2,000,000 in General Aggregate Coverage;
 - \$1,000,000 in Property Damage
 - \$5,000,000 if located within 50 of the street car
- ☐ 7. Alcohol Beverage License – a copy of the current alcohol beverage license is required for applications requesting to sell and serve beverages containing alcohol within city right-of-way.
- ☐ 8. Traffic Control Plan – only required for Parking Parklet permits.
- ☐ 9. Upon review for completeness and acceptance of the application by the permit official, the applicant shall pay the established processing fee for the special privilege license or permit as prescribed in Schedule C. The processing fee is non-refundable.



Right-of-Way CAFE APPLICATION

PLANNING AND INSPECTIONS DEPARTMENT – RIGHT OF WAY DIVISION
CITY OF EL PASO 811 TEXAS AVE. EL PASO TEXAS 79901 (915) 212-0104

11/13/2023

Date:

1. Applicant Information

Applicant's Name: _____
Company/Business Name: _____
Business Address: _____
Mailing Address, City, State, Zip Code: _____
Phone: _____ Email: _____

2. Owner Information

Property Owner's Name: _____
Company/Business Name (if applicable): _____
Mailing Address, City, State, Zip Code: _____
Phone: _____ Email: _____

Note: The applicant does not have to be the property owner; but if they are not the owner, they must have a valid lease for the building and written permission by the property owner indicating authorization to obtain a right-of-way café permit.

4. Type of Closure

Sidewalk Café: ☐ Parking Parklet: ☐

3. Location

Address: _____

Legal Description: _____

Historic Designation ☐: Yes ☐No * City Representative District Number: Choose an item.

4. Days and Hours of Establishment Operation

Sunday:	Thursday:
Monday:	Friday:
Tuesday:	Saturday:
Wednesday:	

5. Alcoholic Beverages

Will alcohol beverages be served? ☐Yes ☐No

TABC Permit No. _____ City License No. _____

6. Permitted Items/Structures

Check off the type of item/structure proposed and the list the number. **Note: no permanent structures are allowed**

- ☐ Chairs # ____ ☐ Benches # ____
- ☐ Tables # ____ ☐ Umbrellas # ____
- ☐ Planters # ____ ☐ Awnings/Canopy # ____

7. Curbside Conflicts

Review your proposed site for evidence of any of the following curb conflicts. Indicate any potential conflicts observed.

- ☐ Fire Hydrant ☐ Fire Escapes ☐ Utility Easements
- ☐ Bus Stop/Transit Station ☐ Taxi Zones ☐ Meters
- ☐ Loading Zone ☐ Driveways ☐ Valves
- ☐ Manholes ☐ Light Fixtures ☐ Other: _____

Please note: If any curb conflicts exist, additional review may be required.

8. Historic Designation

Is the property located in a historic area? ☐ Yes ☐ No

Proposed outdoor patio cafés shall comply with any applicable historic district design standards and guidelines.

9. Description of Request

Please provide a description of your request and any additional information you feel is pertinent to consider during the application process.

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Sidewalk Café

THIS AGREEMENT is entered into by and between the **City of El Paso**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as “the City,” and _____, owner, hereinafter referred to as “Grantee.”

In consideration of the promises and mutual considerations hereinafter set forth, the parties hereto agree as follows:

1. REPRESENTATIONS:

- A. Grantee has requested to install, maintain, use and repair a **sidewalk café** City of El Paso, El Paso County, Texas more commonly known as _____; and
- B. The City may grant a special privilege permit for use of the City right-of-way for a sidewalk café where a favorable recommendation is made regarding the request to install the outdoor patio café pursuant to the El Paso City Code 15.08.120.N. Any work done on a property with an “H” overlay or listed as a historic property must be reviewed by the Historic Preservation Office (HPO) and may require review from the Historic Landmark Commission (HLC).

2. DESCRIPTION. This Special Privilege Agreement (hereinafter the “Permit”) authorizes Grantee the right to encroach over portions of City right-of-way at _____ (hereinafter “Permit Area”) with an outdoor patio café (hereinafter “**sidewalk café**”) as shown in Exhibit “A” which is attached hereto and made a part hereof for all purposes.

3. TERM. The term of this Permit shall be for **2 years** from the date of execution of this Permit. The grantee may request to renew this permit by submitting a request in writing to the City at least (3) months prior to the expiration date of this Permit. This Permit shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantee as herein required. Grantee understands, agrees, and accepts that the City may require that the terms, conditions, and provisions of this be modified as a condition for renewing the grant of the encroachment upon or through City rights-of-way as permitted by this Permit.

4. CONSIDERATION. For consideration of the Permit, the grantee shall pay to the City a fee of ONE HUNDRED AND FIFTY-NINE AND 00/100 Dollars (\$159.00) per year for the use of City right-of-way. The annual fee shall remain the same for a period of one year from the effective date of the Permit. The City retains the right to increase or decrease the annual fee specified in this Permit during consideration of renewals.

The City shall notify the Grantee of any proposed changes in fees as prescribed in Section 15 (Notice) of this Permit. This Permit is granted on the condition that Grantee pays for all costs associated with the Structures, as well as all costs for the restoration of the Permit Area upon the termination of the Permit.

The annual consideration shall be paid in the form of a cashier’s check or business check payable to “The City of El Paso” and delivered to the Planning and Inspections Department for remittance to the Financial

Services Department. Subsequent annual considerations shall be due the first day of the month of the effective date of this Permit.

ADVANCE PAYMENT OPTION: Grantee may pay to the City the sum of _____ prior to the execution of this Permit. Said (_____) reflects a 3% discount of the total annual fees required for the entire term of the Permit. In the event of cancellation of this Permit by the City and/or the Grantee, the Grantee shall not be entitled to a refund of the consideration paid to the City.

The advance payment shall be in the form of a cashier's check or business check payable to "The City of El Paso" and delivered to the Planning and Inspections Department for remittance to the Financial Services Department.

5. USE OF PROPERTY. This Permit is granted solely for the encroachment onto public right-of-way with the sidewalk café. Grantee shall not commence construction under this Permit until all applicable building permits have been issued by the City appropriate under the applicable City ordinances and the terms of this Permit. This Permit shall not be construed to waive any City or State permit requirements. Grantee shall be responsible for all maintenance of the sidewalk café.

- A. As an express condition of this Permit, and not as a mere covenant, Grantee agrees to restore the Premises to its original state upon removal of any of the encroachments stated herein.
- B. A copy of a license issued by the Texas Alcoholic Beverage Commission (TABC) is required for the sale and service of alcoholic beverages within the outdoor patio café

6. WORK DONE BY OTHERS The City expressly reserves the right to install, repair, or reconstruct the City right-of-way used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, expressly including but not limited to, drainage facilities and structures.

A. The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under the City right-of-way occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall notify Grantee of work to be performed as herein described.

B. The City shall not be liable to Grantee for any damage resulting there from, nor shall the City be liable to Grantee for any damages arising out of the performance of any work by the City, its contractors or subcontractors, not willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to Grantee's sidewalk café.

C. If the City requires Grantee to remove, alter, change, adapt, or conform its sidewalk café because of changes in the grade of the City right-of-way or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground pipes owned by the City, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City without claim for reimbursement or damages against the City. If these requirements impose a financial hardship upon Grantee, Grantee shall have the right to present alternative proposals for the City's consideration. If the City requires Grantee to remove, alter, change, adapt or conform its sidewalk café to enable any other entity or person, except the City, to use, or to use with greater convenience, the City right-of-way, Grantee shall not be required to make such changes until such other entity or person shall have undertaken with solvent bond, to reimburse Grantee

for any loss and expense which will be caused by or arise out of such removal, alteration, change, adaptation or conformance of Grantee's sidewalk café; provided, however, the City shall not be responsible nor liable for such reimbursement.

7. IMPROPER USE. This Permit shall not permit or be construed to permit any other private use of the City's right-of-way which impairs its function as a right-of-way. Grantee shall not construct any additional improvements, or make any additions or alterations on or over the City right-of-way, without the prior written consent of the Planning and Inspections Director.

8. REPAIRS. Grantee shall keep the sidewalk café and Permit Area clean and in good repair during the term of this Permit. Grantee shall repair any damage to the sidewalk café and/or Permit Area regardless of the cause of such damage at Grantee's sole expense.

9. MAINTENANCE. Grantee shall maintain the sidewalk café and Permit Area in good condition, in a clean, orderly, and attractive condition for the duration of the Permit. Grantee shall be responsible for all maintenance of the sidewalk café and Permit Area.

10. INDEMNITY. As a condition of the Permit, the Grantee or its insurer shall **INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, its officers, agents, servants and employees HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT.** Without modifying the conditions of preserving, asserting, or enforcing any legal liability against the City as required by the City Charter or any law, the City shall promptly forward to the Grantee every demand, notice, summons, or other process received by the City in any claim or legal proceeding contemplated herein. The Grantee shall 1) Investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) Negotiate or cause to be negotiated the claim as the Grantee may deem expedient; and 3) Defend or cause to be defended on behalf of the City all suits for damages even if groundless, false, or fraudulent, brought on because of such injuries or damages. The Grantee shall pay all judgments in actions defended by the Grantee pursuant to this section along with all attorney's fees and costs incurred by the City including interest accruing to the date of the payment by the Grantee, and premiums on any appeal bonds. The City, at its election shall have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City shall not be responsible for any loss or of damage to the Grantee's property from any cause.

7. LIABILITY INSURANCE. Grantee shall provide a commercial general liability policy with a minimum one million dollar (\$1,000,000.00) limit, per occurrence, for personal injury, death and property damage, with a minimum two million dollar (\$2,000,000.00) general aggregate limit. These amounts are not a limitation upon the Grantee's agreement to indemnify and hold the City harmless.

A. Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantee, his officers, agents, servants or employees. All policies shall name the City of El Paso, its officers, agents, servants, and employees as additional insureds to the full amount of the policy limits.

B. No Permit shall be granted by the Planning and Inspections Director until Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the Planning and Inspections

Department and Financial Services Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice as to non-payment of insurance policy premiums. Failure to keep the policy in full force and effect throughout the term of the Permit shall be grounds for cancellation of the Permit. Certificates of Insurance that state that the insurer shall endeavor to give notice and/or that there shall be no liability for the failure to give the notice required herein shall not meet the requirements of this section.

11. CANCELLATION. Should the City at any time or for any reason decide that the right-of-way onto which the sidewalk café is encroaching is needed for public use, the City may upon thirty (30) calendar days written notice, cancel this Permit at no cost to the City and may take possession of the public right-of-way. All rights of the Grantee in the Permit Area shall then be terminated. Grantee may cancel this Permit, for any reason, upon thirty (30) calendar days prior written notice to the City, and all rights of the Grantee shall then be terminated. In addition, if, for a period of six (6) months, Grantee shall cease to use or occupy the property for the purposes herein contemplated, or if Grantee defaults in any of his obligations under this Permit and fail to correct such defaults within fifteen (15) calendar days after written notice to do so; the City may cancel this Permit and take possession. All rights of the Grantee on the City right-of-way shall then terminate.

A. Any waiver by the City of any breach of any of Grantee's obligations shall not be deemed a continuing waiver, and shall not prevent the City from exercising any remedy it may have for any succeeding breach of the same or another obligation of the Grantee.

B. Upon termination of this Permit for whatever reason, the encroaching sidewalk café shall become the property of the City and shall, at the option of the City, be removed by the Grantee without cost to the City.

12. LIENS AND ENCUMBRANCES. Grantee shall defend and indemnify the City against any liability and loss of any type arising from any lien or encumbrance on the property that arises or is alleged to have arisen from Grantee's use of the Premises.

13. ASSIGNMENT. Grantee shall not assign this Permit without the prior written consent of the City Manager or designee.

14. MISCELLANEOUS.

A. RIGHT OF ENTRY AND INSPECTION: The City's authorized representative shall have the right to enter the Permit Area at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this Permit.

B. LAWS AND ORDINANCES: Grantee shall comply with all statutes, laws, codes and ordinances applicable to Grantee's construction and maintenance of the sidewalk café, as well as Grantee's use of the Premises, except as specifically provided by the grant of this Permit. This Permit shall not grant permission for Grantee to erect the sidewalk café without first having obtained any required building permits from the City. In addition, Grantee shall obtain any and all other required permits and inspections and shall pay the necessary permit fees.

C. SUCCESSORS AND ASSIGNS: All of the terms, provisions, covenants, and conditions of this Permit inure solely to the benefit the Grantee and City and shall not be a benefit for the successors and assigns of Grantee. This permit shall not be construed as a covenant running with the Permitted Area or the Premises or any other real property leased by Grantee or any other entity. Any assignee

or sub grantee of the Permit shall not be entitled to operate under the provisions of this Permit without the express consent of the Planning and Inspections Director.

D. NOTICES: A copy of the agreement shall be provided to the applicant and Financial Services Department. All notices provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City of El Paso

Attn: Planning and Inspections Department
811 Texas Avenue
El Paso, Texas 79901

with a copy to:

City of El Paso
Attn: Financial Services Department
Financial Accounting & Reporting
300 North Campbell
El Paso, Texas 79901-1196

and:

Or to such other address as the parties may designate to each other from time to time.

E. ENTIRE AGREEMENT: This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by both parties.

F. SEVERABILITY: Every provision of this Permit is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of the Permit.

G. LAWS GOVERNING: The laws of the State of Texas shall govern the validity, performances, and enforcement of this Permit and if legal action is necessary to enforce it, exclusive venue shall be in El Paso County, Texas.

15. RESTRICTIONS AND RESERVATIONS. This Permit is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. If, at any time during the initial term of this Permit, or any extension thereof, any such rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land, preclude, interrupt or interfere with Grantee's use of the Permit Area, Grantee shall have the right to terminate this Permit upon giving the City prior written notice of its intention to do so.

16. NO WAIVER. Any waiver by the City of any breach of any of Grantee's obligations shall not be deemed a continuing waiver, and shall not prevent the City from exercising any remedy it may have for any succeeding breach of the same or another obligation of the Grantee.

17. WARRANTY OF CAPACITY TO EXECUTE CONTRACT. If Grantee accepts the terms and conditions of this License, each of the persons accepting on behalf of such Grantee warrant to the City that the corporate Grantee is a duly authorized and existing corporation, that the corporate Grantee is qualified to do business in the State of Texas, that the corporate Grantee has full right and authority to accept the terms

and conditions of this License and each and every person signing on behalf of the corporate Grantee is authorized to do so. Upon the City's request, the corporate Grantee will provide evidence satisfactory to the City confirming these representations.

18. EFFECTIVE DATE. This Permit shall not take effect unless Grantee files its written acceptance with the Planning and Inspections Department, pays the consideration of the Permit and provides the certificate of insurance. This contract is effective as of the last date of entered below.

WITNESS THE FOLLOWING SIGNATURES AND SEALS

APPROVED this ____ day of _____, 2023.

GRANTEE:

Applicant Signature

Name: _____

Title: _____

ACKNOWLEDGEMENT

THE STATE OF TEXAS)

)

COUNTY OF EL PASO)

)

This instrument is acknowledged before me on this _____ day of _____, 2023,
by _____, as _____, on behalf of _____ as Grantee.

Notary Public, State of Texas

My Commission Expires:

EXHIBIT A

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Parking Parklet

THIS AGREEMENT is entered into by and between the **City of El Paso**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as “the City,” and _____, owner, hereinafter referred to as “Grantee.”

In consideration of the promises and mutual considerations hereinafter set forth, the parties hereto agree as follows:

1. REPRESENTATIONS:

- A. Grantee has requested to install, maintain, use and repair a **Parking Parklet** City of El Paso, El Paso County, Texas more commonly known as _____; and
- B. The City may grant a special privilege permit for use of the City right-of-way for a parking parklet where a favorable recommendation is made regarding the request to install the outdoor patio café pursuant to the El Paso City Code 15.08.120.N.

2. DESCRIPTION. This Special Privilege Agreement (hereinafter the “Permit”) authorizes Grantee the right to encroach over portions of City right-of-way at _____ (hereinafter “Permit Area”) with an outdoor patio café (hereinafter “**parking parklet** as shown in Exhibit “A” which is attached hereto and made a part hereof for all purposes.

3. TERM. The term of this Permit shall be for **2 years** from the date of execution of this Permit. The grantee may request to renew this permit by submitting a request in writing to the City at least (3) months prior to the expiration date of this Permit. This Permit shall expire without notice at the end of such expiration period unless a request for renewal is submitted in writing to the City by the Grantee as herein required. Grantee understands, agrees, and accepts that the City may require that the terms, conditions, and provisions of this be modified as a condition for renewing the grant of the encroachment upon or through City rights-of-way as permitted by this Permit.

4. CONSIDERATION. For consideration of the Permit, the grantee shall pay to the City a fee of TWO THOUSAND 00/100 Dollars (\$2,000.00) per year per parking space, for the use of City right-of-way. The annual fee shall remain the same for a period of one year from the effective date of the Permit. The City retains the right to increase or decrease the annual fee specified in this Permit during consideration of renewals.

The City shall notify the Grantee of any proposed changes in fees as prescribed in Section 15 (Notice) of this Permit. This Permit is granted on the condition that Grantee pays for all costs associated with the Structures, as well as all costs for the restoration of the Permit Area upon the termination of the Permit.

The annual consideration shall be paid in the form of a cashier’s check or business check payable to “The City of El Paso” and delivered to the Planning and Inspections Department for remittance to the Financial Services Department. Subsequent annual considerations shall be due the first day of the month of the effective date of this Permit.

ADVANCE PAYMENT OPTION: Grantee may pay to the City the sum of _____ prior to the execution of this Permit. Said (_____) reflects a 3%

discount of the total annual fees required for the entire term of the Permit. In the event of cancellation of this Permit by the City and/or the Grantee, the Grantee shall not be entitled to a refund of the consideration paid to the City.

The advance payment shall be in the form of a cashier's check or business check payable to "The City of El Paso" and delivered to the Planning and Inspections Department for remittance to the Financial Services Department.

5. USE OF PROPERTY. This Permit is granted solely for the encroachment onto public right-of-way with the **parking parklet**. Grantee shall not commence construction under this Permit until all applicable building permits have been issued by the City appropriate under the applicable City ordinances and the terms of this Permit. This Permit shall not be construed to waive any City or State permit requirements. Grantee shall be responsible for all maintenance of the **parking parklet**

- A. As an express condition of this Permit, and not as a mere covenant, Grantee agrees to restore the Premises to its original state upon removal of any of the encroachments stated herein.
- B. A copy of a license issued by the Texas Alcoholic Beverage Commission (TABC) is required for the sale and service of alcoholic beverages within the outdoor patio café

6. WORK DONE BY OTHERS The City expressly reserves the right to install, repair, or reconstruct the City right-of-way used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, expressly including but not limited to, drainage facilities and structures.

A. The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under the City right-of-way occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall notify Grantee of work to be performed as herein described.

B. The City shall not be liable to Grantee for any damage resulting there from, nor shall the City be liable to Grantee for any damages arising out of the performance of any work by the City, its contractors or subcontractors, not willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to Grantee's **parking parklet**

C. If the City requires Grantee to remove, alter, change, adapt, or conform its **parking parklet** because of changes in the grade of the City right-of-way or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground pipes owned by the City, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City without claim for reimbursement or damages against the City. If these requirements impose a financial hardship upon Grantee, Grantee shall have the right to present alternative proposals for the City's consideration. If the City requires Grantee to remove, alter, change, adapt or conform its **parking parklet** to enable any other entity or person, except the City, to use, or to use with greater convenience, the City right-of-way, Grantee shall not be required to make such changes until such other entity or person shall have undertaken with solvent bond, to reimburse Grantee for any loss and expense which will be caused by or arise out of such removal, alteration, change, adaptation or conformance of Grantee's **parking parklet**; provided, however, the City shall not be responsible nor liable for such reimbursement.

7. **IMPROPER USE.** This Permit shall not permit or be construed to permit any other private use of the City's right-of-way which impairs its function as a right-of-way. Grantee shall not construct any additional improvements, or make any additions or alterations on or over the City right-of-way, without the prior written consent of the Planning and Inspections Director.

8. **REPAIRS.** Grantee shall keep the **parking parklet** and Permit Area clean and in good repair during the term of this Permit. Grantee shall repair any damage to the **parking parklet** and/or Permit Area regardless of the cause of such damage at Grantee's sole expense.

9. **MAINTENANCE.** Grantee shall maintain the **parking parklet** and Permit Area in good condition, in a clean, orderly, and attractive condition for the duration of the Permit. Grantee shall be responsible for all maintenance of the **parking parklet** and Permit Area.

10. **INDEMNITY.** As a condition of the Permit, the Grantee or its insurer shall **INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY, its officers, agents, servants and employees HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT.** Without modifying the conditions of preserving, asserting, or enforcing any legal liability against the City as required by the City Charter or any law, the City shall promptly forward to the Grantee every demand, notice, summons, or other process received by the City in any claim or legal proceeding contemplated herein. The Grantee shall 1) Investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) Negotiate or cause to be negotiated the claim as the Grantee may deem expedient; and 3) Defend or cause to be defended on behalf of the City all suits for damages even if groundless, false, or fraudulent, brought on because of such injuries or damages. The Grantee shall pay all judgments in actions defended by the Grantee pursuant to this section along with all attorney's fees and costs incurred by the City including interest accruing to the date of the payment by the Grantee, and premiums on any appeal bonds. The City, at its election shall have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City shall not be responsible for any loss or of damage to the Grantee's property from any cause.

7. **LIABILITY INSURANCE.** Grantee shall provide a commercial general liability policy with a minimum one million dollar (\$1,000,000.00) limit, per occurrence, for personal injury, death and property damage, with a minimum two million dollar (\$2,000,000.00) general aggregate limit. These amounts are not a limitation upon the Grantee's agreement to indemnify and hold the City harmless.

A. Grantee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantee, his officers, agents, servants or employees. All policies shall name the City of El Paso, its officers, agents, servants, and employees as additional insureds to the full amount of the policy limits.

B. No Permit shall be granted by the Planning and Inspections Director until Grantee files a copy of the policy or certificate of liability insurance as herein set forth with the Planning and Inspections Department and Financial Services Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice as to non-payment of insurance policy premiums. Failure to keep the policy in full force and effect throughout the term of the Permit shall be grounds for

cancellation of the Permit. Certificates of Insurance that state that the insurer shall endeavor to give notice and/or that there shall be no liability for the failure to give the notice required herein shall not meet the requirements of this section.

11. CANCELLATION. Should the City at any time or for any reason decide that the right-of-way onto which the **parking parklet** is encroaching is needed for public use, the City may upon thirty (30) calendar days written notice, cancel this Permit at no cost to the City and may take possession of the public right-of-way. All rights of the Grantee in the Permit Area shall then be terminated. Grantee may cancel this Permit, for any reason, upon thirty (30) calendar days prior written notice to the City, and all rights of the Grantee shall then be terminated. In addition, if, for a period of six (6) months, Grantee shall cease to use or occupy the property for the purposes herein contemplated, or if Grantee defaults in any of his obligations under this Permit and fail to correct such defaults within fifteen (15) calendar days after written notice to do so; the City may cancel this Permit and take possession. All rights of the Grantee on the City right-of-way shall then terminate.

A. Any waiver by the City of any breach of any of Grantee's obligations shall not be deemed a continuing waiver, and shall not prevent the City from exercising any remedy it may have for any succeeding breach of the same or another obligation of the Grantee.

B. Upon termination of this Permit for whatever reason, the encroaching **parking parklet** shall become the property of the City and shall, at the option of the City, be removed by the Grantee without cost to the City.

12. LIENS AND ENCUMBRANCES. Grantee shall defend and indemnify the City against any liability and loss of any type arising from any lien or encumbrance on the property that arises or is alleged to have arisen from Grantee's use of the Premises.

13. ASSIGNMENT. Grantee shall not assign this Permit without the prior written consent of the City Manager or designee.

14. MISCELLANEOUS.

A. RIGHT OF ENTRY AND INSPECTION: The City's authorized representative shall have the right to enter the Permit Area at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this Permit.

B. LAWS AND ORDINANCES: Grantee shall comply with all statutes, laws, codes and ordinances applicable to Grantee's construction and maintenance of the **parking parklet**, as well as Grantee's use of the Premises, except as specifically provided by the grant of this Permit. This Permit shall not grant permission for Grantee to erect the **parking parklet** without first having obtained any required building permits from the City. In addition, Grantee shall obtain any and all other required permits and inspections and shall pay the necessary permit fees.

C. SUCCESSORS AND ASSIGNS: All of the terms, provisions, covenants, and conditions of this Permit inure solely to the benefit the Grantee and City and shall not be a benefit for the successors and assigns of Grantee. This permit shall not be construed as a covenant running with the Permitted Area or the Premises or any other real property leased by Grantee or any other entity. Any assignee or sub grantee of the Permit shall not be entitled to operate under the provisions of this Permit without the express consent of the Planning and Inspections Director.

D. NOTICES: A copy of the agreement shall be provided to the applicant and Financial Services Department. All notices provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City of El Paso
Attn: Planning and Inspections Department
811 Texas Avenue
El Paso, Texas 79901

with a copy to: City of El Paso
Attn: Financial Services Department
Financial Accounting & Reporting
300 North Campbell
El Paso, Texas 79901-1196

and: _____

Or to such other address as the parties may designate to each other from time to time.

E. ENTIRE AGREEMENT: This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by both parties.

F. SEVERABILITY: Every provision of this Permit is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of the Permit.

G. LAWS GOVERNING: The laws of the State of Texas shall govern the validity, performances, and enforcement of this Permit and if legal action is necessary to enforce it, exclusive venue shall be in El Paso County, Texas.

15. RESTRICTIONS AND RESERVATIONS. This Permit is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. If, at any time during the initial term of this Permit, or any extension thereof, any such rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land, preclude, interrupt or interfere with Grantee’s use of the Permit Area, Grantee shall have the right to terminate this Permit upon giving the City prior written notice of its intention to do so.

16. NO WAIVER. Any waiver by the City of any breach of any of Grantee’s obligations shall not be deemed a continuing waiver, and shall not prevent the City from exercising any remedy it may have for any succeeding breach of the same or another obligation of the Grantee.

17. WARRANTY OF CAPACITY TO EXECUTE CONTRACT. If Grantee accepts the terms and conditions of this License, each of the persons accepting on behalf of such Grantee warrant to the City that the corporate Grantee is a duly authorized and existing corporation, that the corporate Grantee is qualified to do business in the State of Texas, that the corporate Grantee has full right and authority to accept the terms and conditions of this License and each and every person signing on behalf of the corporate Grantee is authorized to do so. Upon the City’s request, the corporate Grantee will provide evidence satisfactory to the City confirming these representations.

18. **EFFECTIVE DATE.** This Permit shall not take effect unless Grantee files its written acceptance with the Planning and Inspections Department, pays the consideration of the Permit and provides the certificate of insurance. This contract is effective as of the last date of entered below.

WITNESS THE FOLLOWING SIGNATURES AND SEALS

APPROVED this ____ day of _____, 2023.

GRANTEE:

Applicant Signature

Name: _____

Title: _____

ACKNOWLEDGEMENT

THE STATE OF TEXAS)

)

COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2023,
by _____, as _____, on behalf of _____ as Grantee.

Notary Public, State of Texas

My Commission Expires:

EXHIBIT A

Right-of-way Café Program

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interpreter

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Key Milestones



Sun City
Safe

Pilot Program
in response to
COVID 19
safety orders



Right of
Way Café
Program

- Sidewalk
Café Permit
- Parking
Parklet
Permit

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3 Sun City Safe to ROW Cafe Program

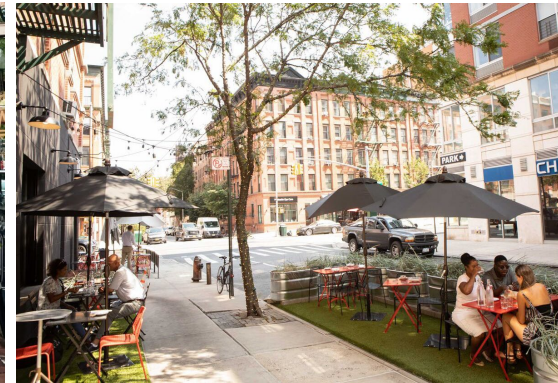
ROW CAFÉ + COMPLETE STREETS

Project Objectives – The Bigger Picture

- ✓ Improve pedestrian **experience**
- ✓ **Expand** seating & dining options
- ✓ Economic **growth** & Job creation
- ✓ **Increase** social interaction & Community engagement
- ✓ Prioritize **safety** & **accessibility**

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Sidewalk Café & Parking Parklet Permit

The ROW Café Program presents the opportunity to transform a designated areas of the city into a vibrant, pedestrian-friendly urban space for Food & Beverage establishments.

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Sidewalk Café



Parking Parkle



5 Process Enhancements



Design Guidelines Handbook

The intent of process enhancements for the new design guidelines is to improve the efficiency, effectiveness, and overall quality of the design review process.

Accessibility of information

- § Online information & Application
- § Design Manual (Handbook)

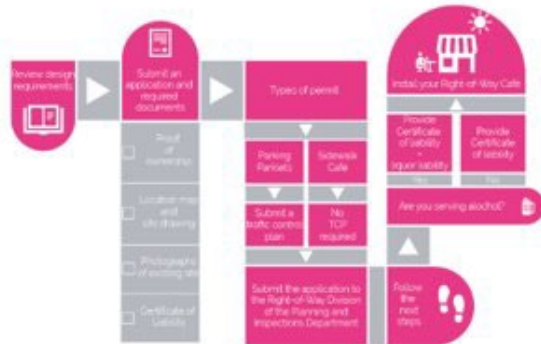
Streamline the process

- § Standardized Development Agreement
- § Simplify Application Procedure
- § Permit duration of 2 years (Sidewalk & Parklet)
- § 3-month advance notice for permit renewals

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3.1 PERMIT PROCESS FLOW CHART



3.1 APPLICATION PROCESS

TABLE OF CONTENTS	<p>01 INTRODUCTION</p> <p>1.1 WHAT IS THE RIGHT-OF-WAY? 8</p> <p>1.2 ABOUT RIGHT-OF-WAY CAFÉS 9</p> <p>1.3 WHEN IS A PERMIT NECESSARY 9</p> <p>1.4 WHO MAY APPLY FOR A PERMIT 9</p>	<p>04 SIDEWALK CAFÉ</p> <p>4.1 INTRODUCTION 22</p> <p>4.2 LOCATION REQUIREMENTS 23</p> <p>4.3 DESIGN REQUIREMENTS 24</p> <p>4.4 ACCESSIBILITY REQUIREMENTS 25</p> <p>4.5 FIRE CODE REQUIREMENTS 26</p> <p>4.6 OTHER REQUIREMENTS 27</p> <p>4.8 CASE STUDY #1 28</p> <p>4.9 CASE STUDY #2 29</p>
	<p>02 TYPES OF PERMITS</p> <p>2.1 SIDEWALK CAFÉ 12</p> <p>2.2 PARKING PARKLET 12</p>	<p>05 PARKING PARKLET</p> <p>5.1 INTRODUCTION 32</p> <p>5.2 LOCATION REQUIREMENTS 33</p> <p>5.3 DESIGN REQUIREMENTS 35</p> <p>5.4 ACCESSIBILITY REQUIREMENTS 36</p> <p>5.5 FIRE CODE REQUIREMENTS 37</p> <p>5.6 OTHER REQUIREMENTS 37</p> <p>5.7 CASE STUDY #1 38</p> <p>5.8 CASE STUDY #2 39</p>
	<p>03 APPLICATION PROCESS</p> <p>3.1 PERMIT PROCESS FLOWCHART 16</p> <p>3.2 INSTRUCTIONS FOR APPLICATION 17</p> <p>3.6 INSURANCE REQUIREMENTS 18</p> <p>3.5 SITE MAP EXAMPLE 19</p>	<p>06 ADDITIONAL INFORMATION</p> <p>6.1 INDEX 48</p> <p>6.2 TRAFFIC CONTROL EXAMPLES 49</p>

ROW CAFÉ PROGRAM

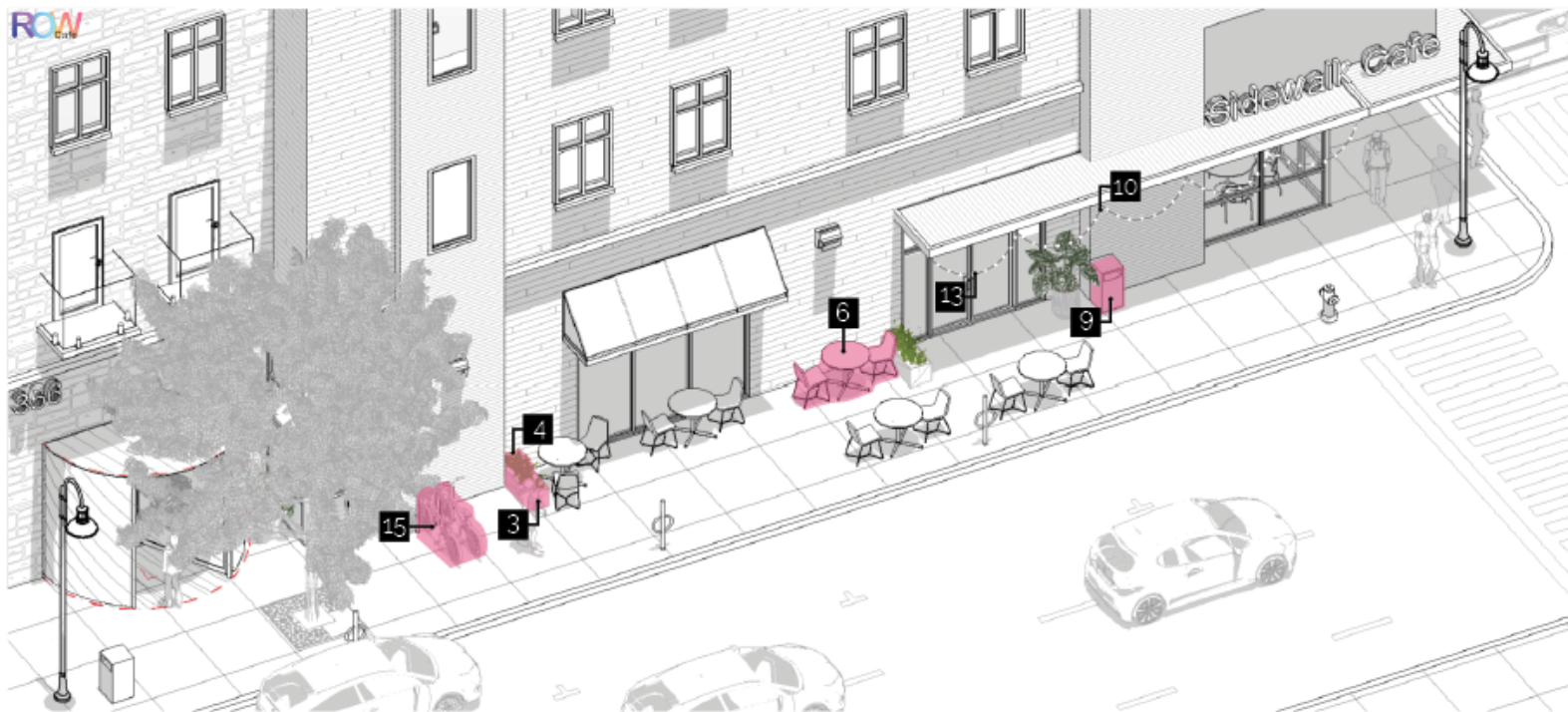
Sidewalk Café Permit

AMENDMENTS TO EXISTING
ORDINANCE/PROCESS TO
FACILITATE & EXPEDITE
APPLICATIONS

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7 Sidewalk Café



4.3 DESIGN REQUIREMENTS

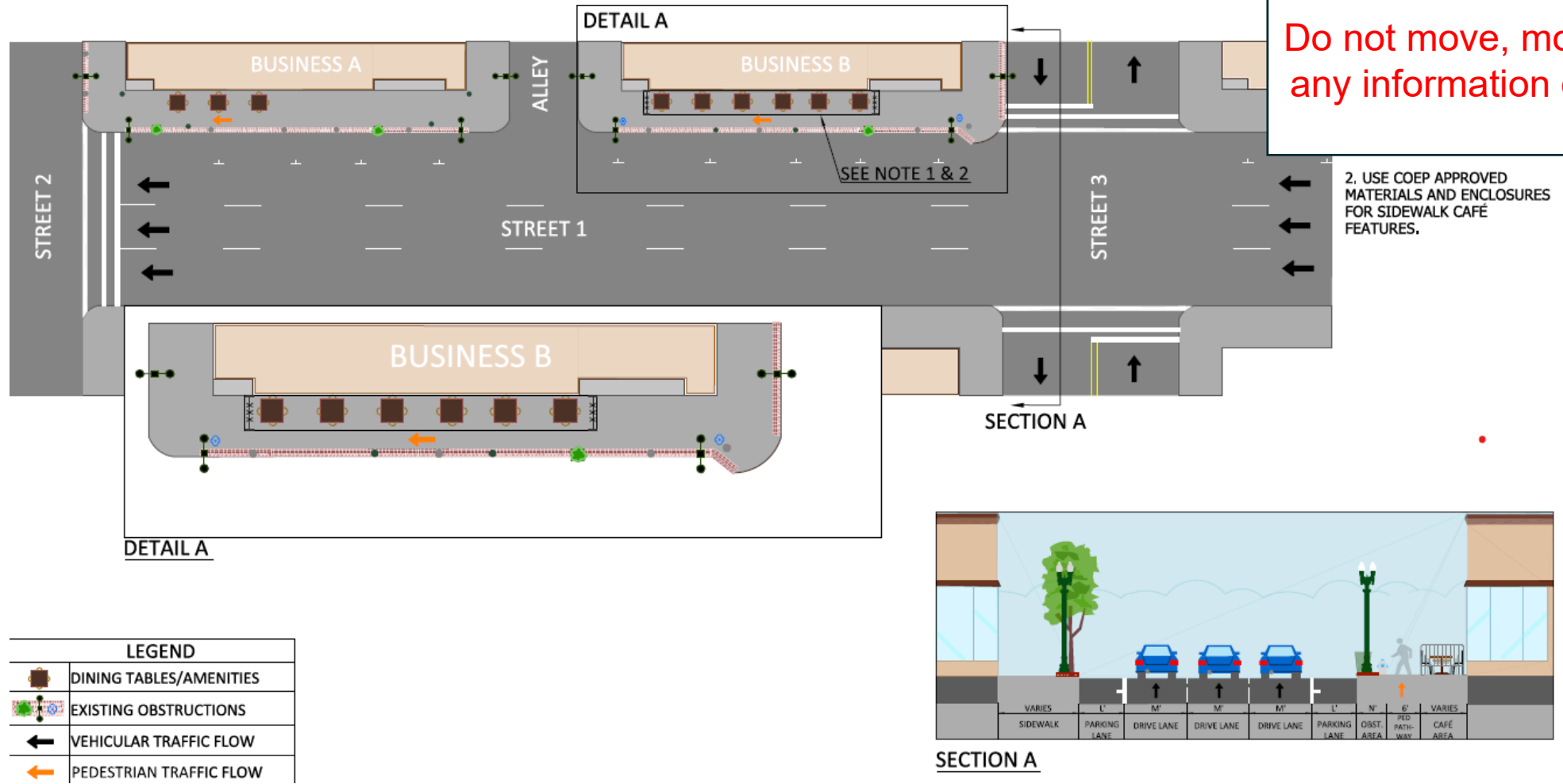
1. The sidewalk café shall not be enclosed by permanent structures.
2. If fencing is provided, fencing shall be continuous around the perimeter of the patio café except for entry points. Fences must have a durable professional finish and shall comply with applicable historic district guidelines.
3. Planters may be used as barriers to delineate the café limits. Barriers must be 30" - 36" in height.
4. All construction and additions shall comply with any applicable historic district design standards and guidelines.
5. The sidewalk café must consist of moveable furniture. All furniture should be designed for outdoor use. Furniture must be able to withstand heavy weather conditions.
6. All materials must be suitable for outdoor use.
7. Each outdoor sidewalk café shall have a trash receptacle within the café limit line, not including the City of El Paso trash receptacles.
8. Any light fixtures, awnings, umbrellas, extension cords, etc., shall not protrude into the clear pedestrian path.
9. Lighting on fencing may be permitted to add a decorative element but shall not be designed to attract attention.
10. Flashing lights are not permitted. Lighting shall be clear or white.
11. Light strands shall be maintained in good repair, and burned-out bulbs shall be replaced promptly.
12. Street furniture and fixtures by the City of El Paso, such as bike racks, benches, light fixtures, and others, must be available at all times.

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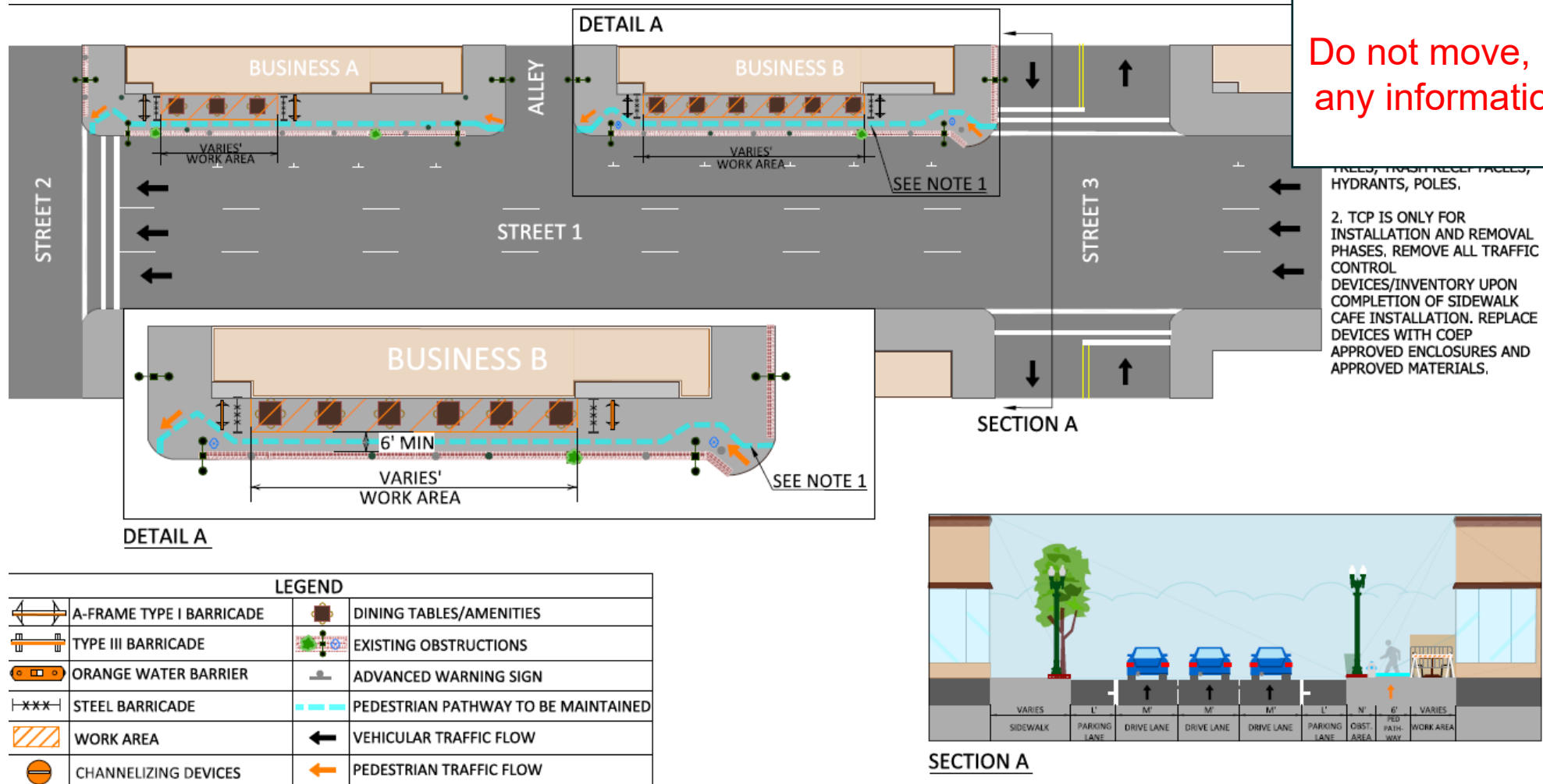
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SIDEWALK CAFE (ONE-WAY STREET) - TCP



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ROW CAFÉ PROGRAM

Parking Parklet Permit

Sidewalk extension that provides more space and amenities for people using the street for parking parklets.

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11 Parking Parklet



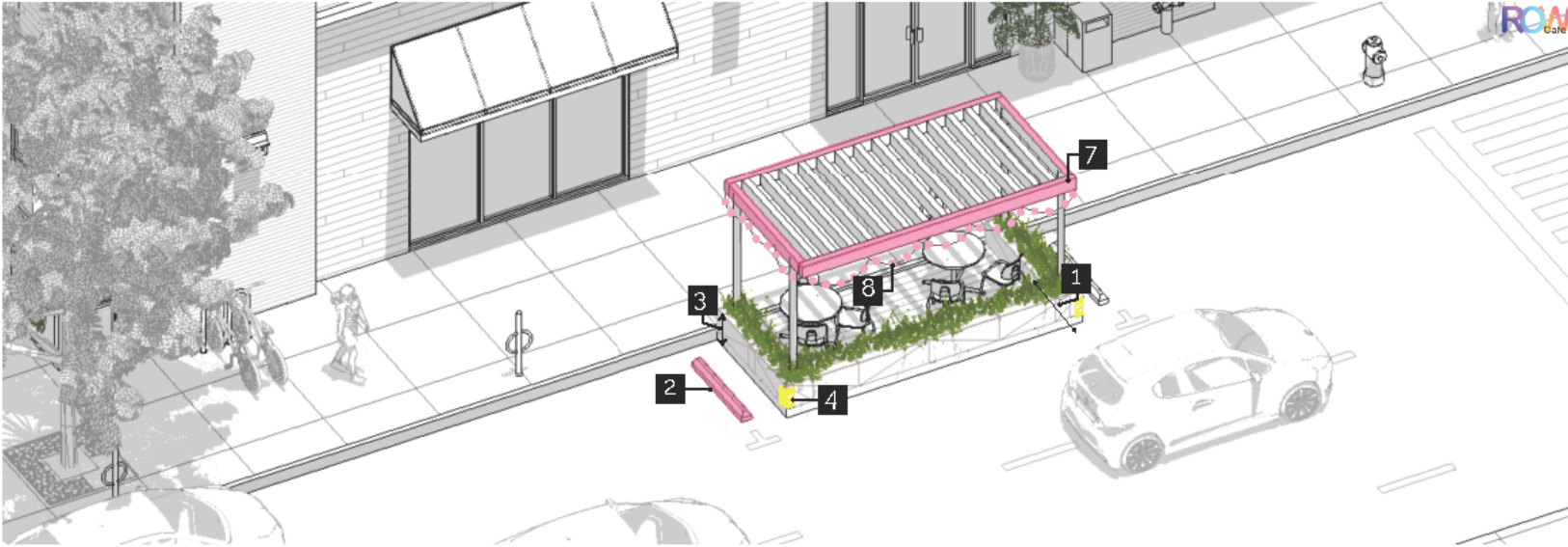
5.2 LOCATION REQUIREMENTS

1. The parklet must utilize the parking spaces directly in front of the business. It should not extend beyond without written permission from the neighboring businesses.
2. Parklets are permitted on streets with speed limits of 35 mph or less; any other will be considered on a case-by-case basis.
3. Parklets are not permitted on streets owned by the Texas Department of Transportation (TxDOT).
4. Parklets must be located at least 20 feet from any adjacent intersection, street corner, or crosswalk.
5. Parklets are not permitted along red and yellow painted curbs.
6. Maintain a 15 feet clear space at the base of existing fire hydrants.
7. Parklets are prohibited at bus stops, loading zones, or designated bike lanes.
8. Parklets are not permitted over utility access panels, manhole covers, transformers, water meters, or water valves. All parklets shall maintain a minimum of 5 feet from any storm drain, inlets, or cleanouts.
9. Parklets proposed along the streetcar route will be considered on a case-by-case basis and must be approved by Sun Metro prior to approval.
10. Parklets located next to driveways must have a minimum 10 feet setback from the outside edge of the driveway.
11. Parklets are not allowed within 50 feet of the nearest rail of a railroad crossing.
12. Maintain a minimum distance of 20 feet from the driveway entrance of a fire station. Additionally, Parklets are prohibited from being directly across from such entrances or within 75 feet of them.
13. Parklets are permitted on metered parking spaces only.

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12 Parking Parklet Safety Standards



5.2 DESIGN REQUIREMENTS

1. Maintain a minimum 2 feet setback between the parking parklet seating area and adjacent on-street parking spaces and travel lanes.
2. Wheel stops, or posts must be included to separate the occupied parking space and the adjacent parking spaces and travel lane.
3. Provide a 42" high barrier at the edge of the parking parklet as a barrier to vehicular traffic. If cable railing is used, spacing between cables must not exceed six inches (see materials section.)
4. Reflectors must be included at each end of the parking parklet.
5. Parklets must include vertical elements that make them visible to traffic, such as reflective delineator posts or reflective plastic drums.
6. Parklets may not occupy more than three parking spaces. No design element may encroach into adjacent parking spaces.
7. Umbrellas or canopies may not encroach on the pedestrian travel path, travel lanes, or adjacent parking spaces.
8. The parklet must include lighting if intended for night use. Any lighting must comply with the dark sky ordinance.
9. Parklets must be equipped with a deck or platform that is flush with the adjacent sidewalk, with a maximum gap of 1/2 inch.
10. Maintain an equal grade with the adjoining sidewalk.
11. The parklet base must not be attached or bolted to the street in any manner. Instead, it should be constructed as a self-supporting structural foundation that rests directly on the street surface. The frame of the parklet should not be permanently affixed to the street or curb, and no permanent modifications or alterations to the street are permitted.
12. Access must be provided underneath the flooring of the parklet for cleaning purposes.
13. No loose particles such as sand or loose stone are permitted as surface materials.
14. The parklet must be designed to allow rainwater to flow along the curb without obstructions. The entire parklet structure should be built to allow for easy removal of the parklet if necessary.
15. All materials must be high quality, durable, non-reflective, and weather-resistant.

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The parklet must be located:

- On streets with a speed limit of **35mph or less**
- At least **20 feet** from any **intersection or crosswalk**
- At least **10 feet** from any **driveway**
- At least **15 feet** from **fire hydrants**

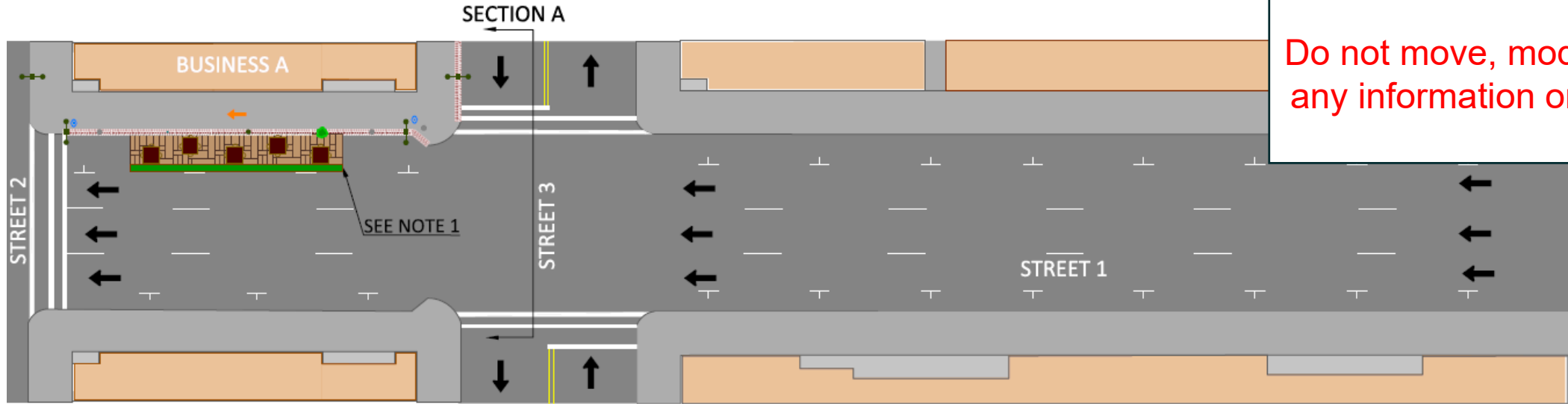
Parklets may not be located:

- In TxDOT right-of-Way
- Along yellow or red painted curbs
- At bus stops, loading zones, or designated bike lanes

PARKLET (ONE-WAY STREET)

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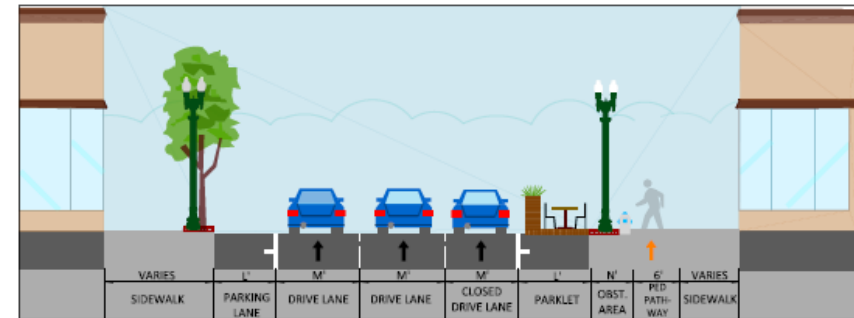
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NOTES:

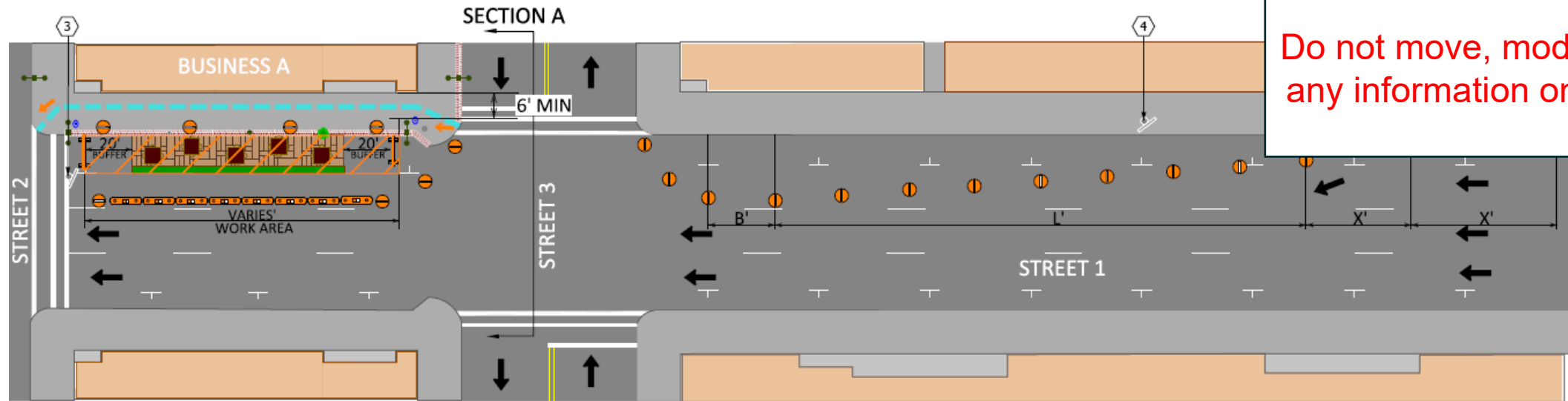
1. ACTUAL PARKLET FEATURES WILL VARY, ENCLOSURE TO BE PROVIDED PER COEP APPROVED MATERIALS.

LEGEND	
	DINING TABLES/AMENITIES
	EXISTING OBSTRUCTIONS
	VEHICULAR TRAFFIC FLOW
	PEDESTRIAN TRAFFIC FLOW



SECTION A

PARKLET (ONE-WAY STREET) - TCP



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NOTES:

1. TCP IS ONLY FOR INSTALLATION AND REMOVAL PHASES. REMOVE ALL TRAFFIC CONTROL DEVICES/INVENTORY UPON COMPLETION OF PARKLET INSTALLATION. REPLACE DEVICES WITH COEP APPROVED ENCLOSURES AND APPROVED MATERIALS.

LEGEND			
	A-FRAME TYPE I BARRICADE		DINING TABLES/AMENITIES
	TYPE III BARRICADE		EXISTING OBSTRUCTIONS
	ORANGE WATER BARRIER		ADVANCED WARNING SIGN
	STEEL BARRICADE		PEDESTRIAN PATHWAY TO BE MAINTAINED
	WORK AREA		VEHICULAR TRAFFIC FLOW
	CHANNELIZING DEVICES		PEDESTRIAN TRAFFIC FLOW



CW20-1D
36"X36"
1



CW20-5TR
36"X36"
2

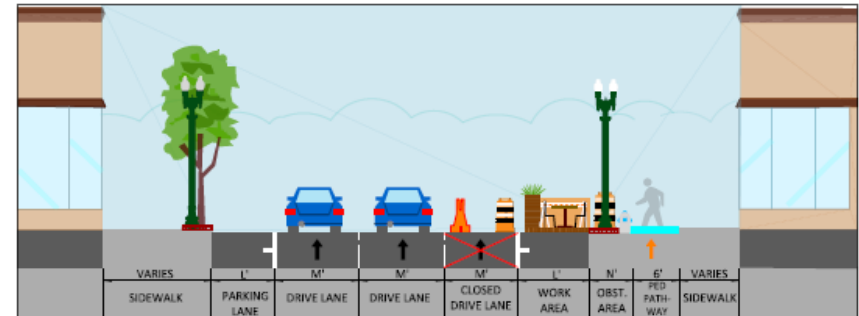


G20-2
36"X18"
3



R7-1 DBL
12"X18"
4
(INSTALL TEMPORARY NO PARKING SIGN DURING WORK ACTIVITIES)

POSTED SPEED LIMIT	CHANNELIZING DEVICE "B" (FT)	SIGN SPACING "X" (FT)	CLOSED LANE WIDTH (FT):		
			10	11	12
25	25	100	105	115	125
30	30	120	150	165	180
35	35	160	205	225	245



SECTION A

Proposed Code Amendments

Title 15

- Add provisions to 15.08 for Parklets
- Add references to new **Design Guidelines** for ROW Café Program
 - Sidewalk Café (Revised)
 - Parking Parklet (New)
- Establish a permit duration of two years and stipulate a three-month notice period for permit renewal

Space reserved for the ASL interpreter

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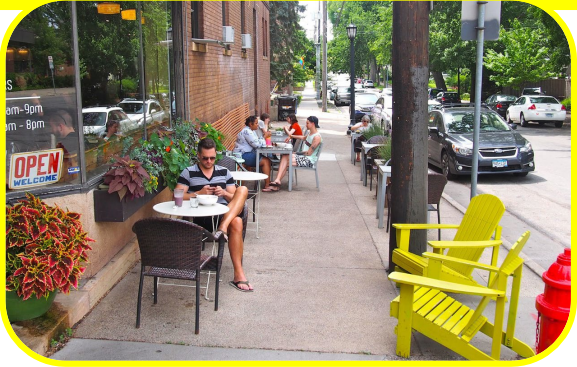
Permit Fees



Space reserved for the ASL interpreter

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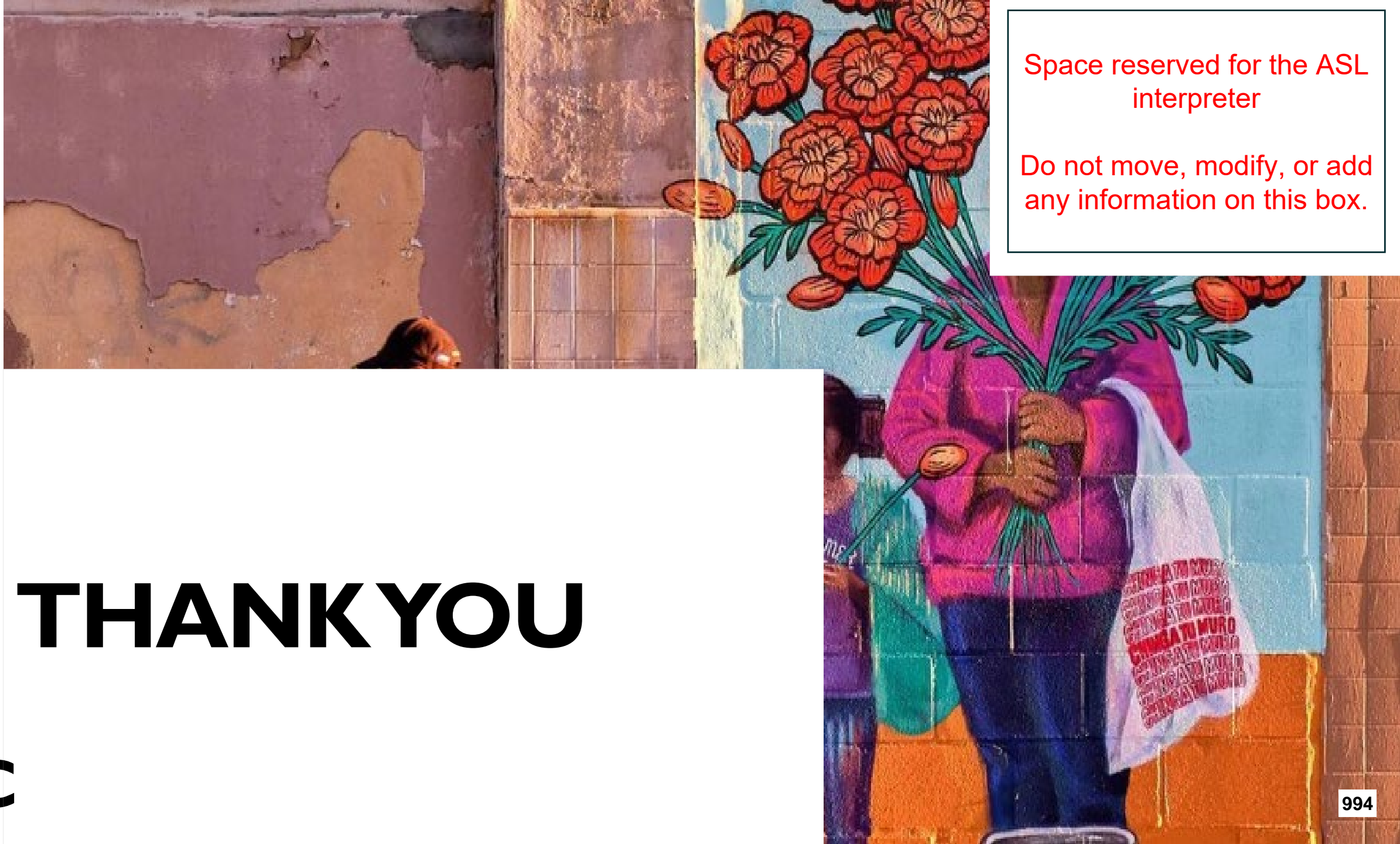
Right-of-Way Café Program	Sidewalk Café Permit	Parking Parklet
Application Fee	\$371.00 + applicable technology fee	\$371.00 + applicable technology fee
Annual Fee	\$159.00 per site	\$2,000.00 per metered space
Total	\$530.00	\$2,371.00



THANK YOU

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.



Case Studies: Parking Parklets

(One Metered Parking Space cost)

Space reserved for the ASL interpreter

Do not move, modify, or add any information on this box.

City	New York	Atlanta	Austin	Seattle	Phoenix	Current Meter Rental Fee (A)	Proposed ROW Café Permit
Daily fee	\$0	\$1.37 - \$18.37	\$33 - \$80	±\$8.21 day	\$4.93	\$20	-
Annual fee	\$0	\$500 - \$6,705	\$12,045 - \$29,200	\$3,000 per year	\$1,800	\$7,300	\$2,000
Application fee	\$0	\$250	\$410	\$1,500	\$500	\$35	\$371
Total	\$0	\$750 - \$6,955	\$12,455 - \$29,610	\$4,500	\$2,300	\$7,335	\$2,371

*Sidewalk café will remain with current fees



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-499, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 8

Economic and International Development, Karina Brasgalla, (915) 212-0094

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance of the City Council of the City of El Paso, Texas, approving amendment number twenty-three to the Project and Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas, amending the plan to update the projected tax increment reinvestment zone revenue and establishing project cost categories.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 9, 2024
PUBLIC HEARING: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karina Brasgalla, (915) 212-0094

DISTRICT(S) AFFECTED: 8

STRATEGIC GOAL: Goal 1 - Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

An ordinance of the City Council of the City of El Paso, Texas, approving amendment number twenty-three to the Project and Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas, amending the plan to update the projected tax increment reinvestment zone revenue and establishing project cost categories.

BACKGROUND / DISCUSSION:

The proposed amendment would update the Project and Financing Plan for Tax Increment Reinvestment Zone #5 (TIRZ #5). The Plan is the governing document for TIRZ #5. The previous Plan was adopted on February 12, 2009 and has been amended piecemeal in the years since. The revised Plan aligns with the recommendations and priorities of the recently adopted Downtown, Uptown, and Surrounding Neighborhoods Plan. It also updates the projections for the tax increment fund and the allowable project cost categories.

PRIOR COUNCIL ACTION:

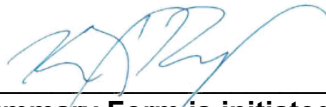
On February 12, 2009, City Council approved the TIRZ #5 Final Project and Financing Plan.

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, APPROVING AMENDMENT NUMBER TWENTY-THREE TO THE PROJECT AND FINANCING PLAN FOR TAX INCREMENT REINVESTMENT ZONE NUMBER FIVE, CITY OF EL PASO, TEXAS, AMENDING THE PLAN TO UPDATE THE PROJECTED TAX INCREMENT REINVESTMENT ZONE REVENUE AND ESTABLISHING PROJECT COST CATEGORIES

WHEREAS, by the City of El Paso Ordinance No. 016528, adopted December 19, 2006, the City Council created Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas (the “Zone”), establishing the boundaries of the Zone as described therein, pursuant to the provisions of the Tax Increment Financing Act, Chapter 311, Texas Tax Code (as amended, the “Act”); and later amended by Ordinances No. 016803 and 016804 on December 18, 2007, by Ordinance No. 017821 on July 17, 2012, and by Ordinance No. 018049 on July 30, 2013; and

WHEREAS, by City of El Paso Ordinance No. 017081, adopted March 10, 2009, the City Council approved and adopted the Project Plan and Reinvestment Zone Financing Plan for the Zone, pursuant to Section 311.011(d) of the Act after their adoption by the Board of Directors (the “Board”) of the Zone; later amended on: April 7, 2009 by Ordinance No. 017102; November 17, 2009 by Ordinance No. 017239; December 22, 2009 by Ordinance No. 017258; November 8, 2011 by Ordinance No. 017674; May 15, 2012 by Ordinance No. 017788; July 17, 2012 by Ordinance No. 017821; August 28, 2012 by Ordinance No. 017861; July 30, 2013 by Ordinance No. 018049; March 4, 2014 by Ordinance No. 018132; January 6, 2015 by Ordinance No. 018302; September 6, 2016 by Ordinance No. 018566; October 4, 2016 by Ordinance No. 018578; March 21, 2017 by Ordinance No. 018645; June 13, 2017 by Ordinance No. 018689; February 20, 2018 by Ordinance No. 018756; July 9, 2019 by Ordinance No. 018940; February 4, 2020 by Ordinance No. 019021; October 27, 2020 by Ordinance No. 019110; and on March 16, 2021 by this Ordinance No. 019152; and on August 3, 2021 by this Ordinance No. 019211; and on January 4, 2022 by this Ordinance No. 019280 ; and on March 28, 2023 by this Ordinance No. 019449; and;

WHEREAS, on July 5, 2023 the City Council adopted the “Downtown, Uptown, and Surrounding Neighborhoods Plan” (the “Plan”) as the master plan and guiding document for the Downtown, Uptown, and Surrounding Neighborhoods planning area which overlaps with the Zone; and,

WHEREAS, the Board supports the City in development activities for the Zone and actively participates in planning and identifying potential projects within the Zone that are consistent with and implement the Zone’s Project Plan; and

ORDINANCE NO. _____

WHEREAS, on July 12, 2023, the Board recommended approval of an amendment to the Zone's Project Plan and Reinvestment Zone Plan that updates the Tax Increment Reinvestment Zone revenue projections to account for projected catalyst developments and future growth for the remainder of the term and establishes project categories and total costs per Chapter 311 of the Texas Tax Code; and

WHEREAS, the proposed amendment is consistent with the other City of El Paso Tax Increment Financing Districts created that allow expenditures from the Zone through approval by the Board and final approval by City Council and do not require individual amendments to the Zone's Project Plan and Reinvestment Zone Plan Ordinance for expenditures; and

WHEREAS, pursuant to Section 311.011(e) of the Act, the Board may adopt amendments to the plans consistent with the requirements and limitations of the Act, which become effective when approved by the governing body of the municipality by a duly authorized ordinance; and

WHEREAS, the City desires to amend the Zone's Project Plan and Reinvestment Zone Financing Plan as approved by the Board, in support of community revitalization and economic development within the Zone; and

WHEREAS, it is found that inclusion of the aforementioned amendment and projects contained therein are economically feasible; and

WHEREAS, it is further found and determined that the meeting at which this Ordinance was passed was open to the public and public notice of the time, place and subject of said meeting was given all as required by Chapter 551, Texas Government Code; and

WHEREAS, the City Council, as the governing body of the City, approves the amendment to the Zone's Project Plan and Reinvestment Zone Financing Plan, as evidenced by this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

SECTION 1. Except as amended herein and by properly adopted prior amendments, Ordinance 016528 shall remain in full force and effect.

SECTION 2. The amended Project Plan and Reinvestment Zone Financing Plan for Tax Increment Reinvestment Zone Number Five, City of El Paso, Texas, attached hereto as Exhibit A, is hereby determined to be feasible and in conformity with the City's comprehensive plan and said amendments are hereby approved.

ORDINANCE NO. _____

SECTION 3. The statements set forth in the recitals of this Ordinance are declared to be true and correct and are incorporated as part of this Ordinance.

SECTION 4. The provisions of this Ordinance are severable. If any provision of this Ordinance or the application thereof to any circumstances shall be held to be invalid or unconstitutional, the remainder of this Ordinance shall nevertheless be valid.

ADOPTED this _____ day of _____, 2024


CITY OF EL PASO

Oscar Leeson
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Karina Brasgalla, Interim Director
Economic & International Development

ORDINANCE NO. _____

TIRZ 5 PFP Amendment
23-330-TRAN-505920-23RD Amendment-JSG

EXHIBIT A

Amended Project Plan and Reinvestment Zone Financing Plan
for Tax Increment Reinvestment Zone Number Five
of the City of El Paso, Texas

ORDINANCE NO. _____

TIRZ 5 PFP Amendment
23-330-TRAN-505920-23RD Amendment-JSG

Tax Increment Reinvestment Zone #5

City of El Paso, Texas

AMENDED PROJECT AND FINANCING PLAN
JANUARY 2024



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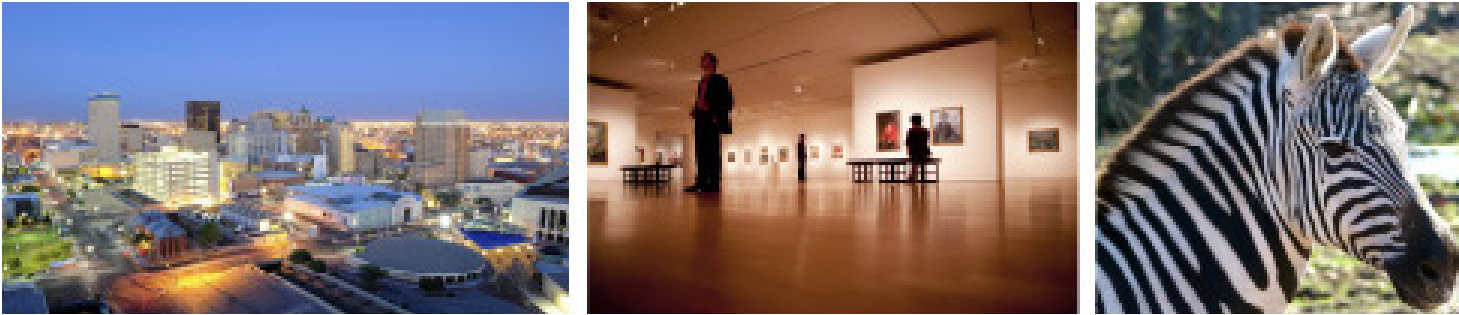
Appendix A

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DISCLAIMER

Our conclusions and recommendations are based on current market conditions and the expected performance of the national, and/or local economy and real estate market. Given that economic conditions can change and real estate markets are cyclical, it is critical to monitor the economy and real estate market continuously, and to revisit key project assumptions periodically to ensure that they are still justified.

The future is difficult to predict, particularly given that the economy and housing markets can be cyclical, as well as subject to changing consumer and market psychology. There will usually be differences between projected and actual results because events and circumstances frequently do not occur as expected, and the differences may be material.



El Paso is the largest metro area along the Texas-Mexico border which boasts a best-in-class, business friendly operating environment while also offering a great living experience. The region represents one of the largest manufacturing centers in North America and is recognized as globally competitive. This is largely due to El Paso’s unique quality of possessing the largest bilingual and bi-cultural workforce in the Western Hemisphere.

As the sixth-largest city in Texas, El Paso is a top 20% U.S. performing economy and continues to experience positive economic growth by attracting new businesses and helping existing companies to grow. The City’s focus is to create new employment opportunities in 21st century industries, maintain a great quality of life, and facilitate business growth at the local and international levels.



Tax Increment Reinvestment Zone #5, City of El Paso

Tax Increment Reinvestment Zone #5 (TIRZ) was created on December 19, 2006 by Ordinance No. 016528, approved by the City Council of the City of El Paso, Texas. The TIRZ was later amended by Ordinances No. 016803 and 016804 on December 18, 2007, by Ordinance No. 017821 on July 17, 2012, and by Ordinance No. 018049 on July 30, 2013. The goal of TIRZ #5 is to fund the construction of needed public infrastructure and to encourage private development that will yield additional tax revenue to all local taxing jurisdictions. TIRZ #5 will promote the development of new construction within the boundaries of the TIRZ.

The amended project and financing plan outlines the funding of \$46,424,698 in public improvements related to water, sanitary sewer, and storm water facilities, as well as street and intersection improvements, utilities and street lighting, and economic development grants. The TIRZ can fund these improvements through ad valorem participation of eligible taxing jurisdictions.

Without the implementation of the TIRZ, the specified property would continue to impair the sound growth of the municipality.



 - TIRZ Boundary

TIRZ Boundary

Boundary Description

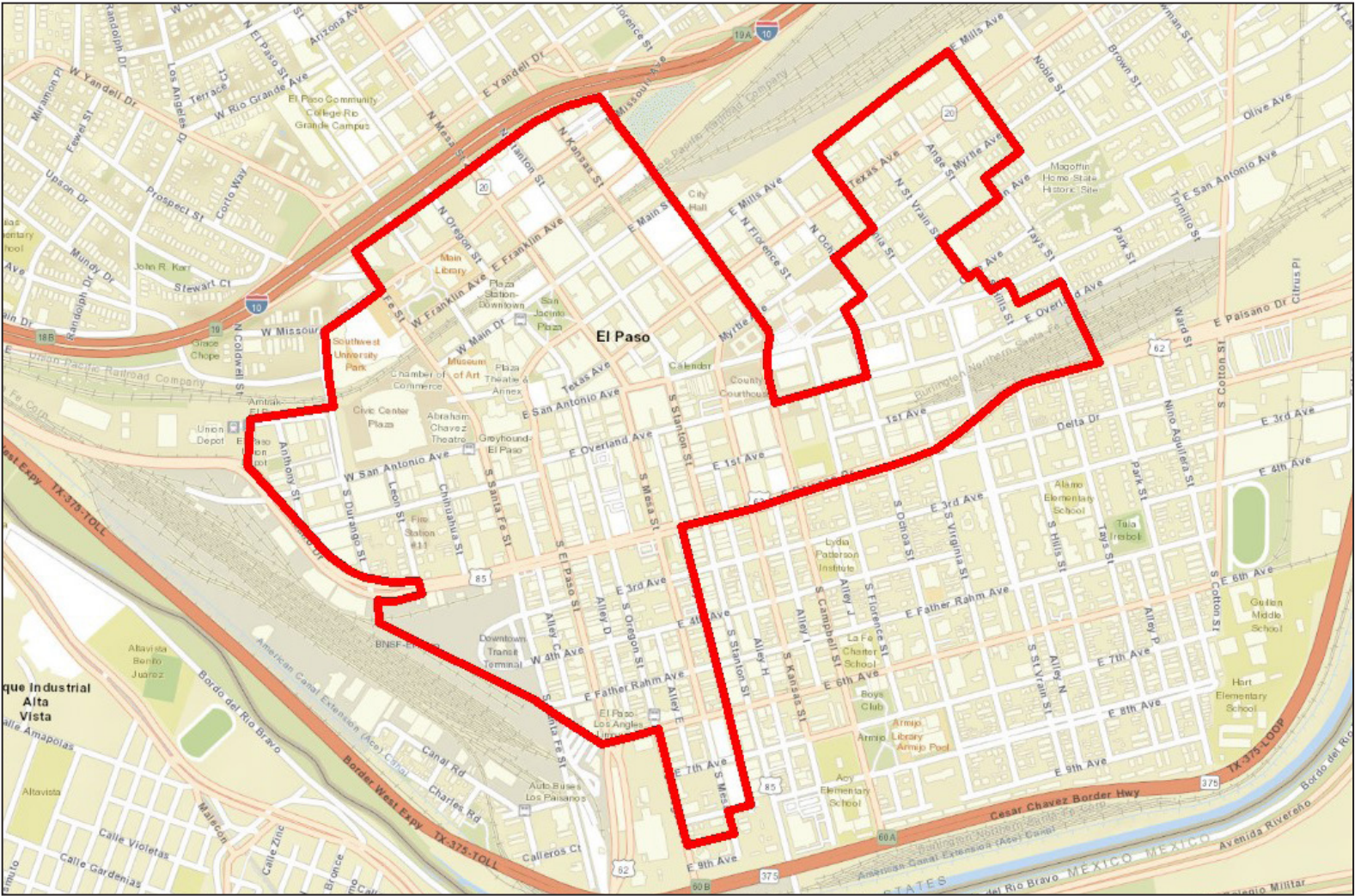
TIRZ #5 is approximately 306 acres located wholly within the city limits of the City of El Paso. When the TIRZ was created on December 19, 2006 by Ordinance No. 016528, it consisted of approximately 188.42 acres.

The TIRZ was later amended by Ordinances No. 016803 on December 18, 2007, which expanded the TIRZ by approximately 0.584 acres.

The TIRZ was also amended by Ordinances No. 016804 on December 18, 2007, which expanded the TIRZ by approximately 99.281 acres.

The TIRZ was later amended by Ordinance No. 017821 on July 17, 2012, which expanded the TIRZ by approximately 9.45 acres.

The TIRZ was later amended by Ordinance No. 018049 on July 30, 2013. which expanded the TIRZ by approximately 8.4 acres.



 - TIRZ Boundary

Original Boundaries per Ordinance 016528 (2006):

Beginning at the northernmost portion of the Downtown El Paso Redevelopment Plan TIRZ which is the northeast corner of the proposed eastern extension of E. Mills Avenue and Octavia Street following the east edge of Octavia Street south to northwest corner of the alley between Myrtle Avenue and Magoffin Avenue; then west following the south edge of the alley to N. Ange Street; then south following the east edge of Ange Street to the southern edge of Magoffin Avenue; then west following the southern edge of Magoffin Avenue to the southeast corner of Magoffin Avenue and Saint Vrain Street then south following the eastern edge of Saint Vrain Street; to the northeast corner of Saint Vrain Street and Olive Avenue; then south crossing Olive Avenue to the northeast corner of Parcel 128; then east following the northern edge of E. San Antonio Avenue to the eastern extension S. Hills Street; then south following the eastern edge of S. Hills Street to the northeast corner of the alley between E. San Antonio Avenue and E. Overland Avenue; then east following the north edge of the alley and crossing N. Tays Street to the northeast corner of the alley between E. San Antonio Avenue and E. Overland Avenue; then south across E. Overland Avenue and following the eastern boundary of Parcel 477 (identified as railroad property) continuing south to the southern edge of E. Paisano Drive; then west following the southern edge of E. Paisano Drive to the southeast corner of the alley between S. Mesa Street and S. Stanton Street; then south following the eastern edge of the alley south to the southern edge of E. Eighth Avenue; then west to the southeast corner of E. Eighth Avenue and S. Mesa Street; then south to an extension of the south boundary of Parcel 419, (El Paso CAD# C05099904601900); then west following the southern boundary of Parcel 419, crossing the alley between S. Mesa Street and S. Oregon Street and continuing west on the southern edge of Parcel 416 (El Paso CAD # C05099904603700), Parcel 417 (El Paso CAD # C05099904604300) and Parcel 418 (El Paso CAD # C05099904605000); then continuing west to the western edge of S. Oregon Street; then following the western edge of S. Oregon Street north to the southwest corner of S. Oregon Street and E. Sixth Avenue; then west following the southern edge of E Sixth Avenue to the intersection of a line extending the western edge of the alley between S. Oregon Street and S. El Paso Street; then north on the western edge of the alley between S. Oregon Street and S. El Paso Street to the southern edge of E. Paisano Drive; then following the southern edge of E. Paisano Drive west to the southeast corner of E. Paisano Drive and S Santa Fe Street; then south on the eastern edge of S. Santa Fe Street to the northeast corner of S. Santa Fe Street and E. Father Rahm Avenue; then crossing S. Santa Fe Street to the south corner of Parcel 455 (El Paso CAD # C05099912000100); then following the western boundaries of parcel 455, Parcel 458 (El Paso CAD # C05099913109000), Parcel 457 (El Paso CAD # X47099900002500), Parcel 464 (El Paso CAD # C05099913000100) and Parcel 463 (El Paso CAD # X45099900005101) northwest to the southern edge of W. Paisano Drive; then north crossing to the northern edge of W. Paisano Drive then east following the northern edge of W Paisano Drive to the northwest corner of W. Paisano Drive and S. Leon Street; then north following the western edge of S. Leon Street to the southwest corner of S. Leon Street and W. San Antonio Avenue; then west following the south edge of W. San Antonio Avenue to the southwest corner of W. San Antonio Avenue and S. Durango Street; then north following the west edge of S. Durango Street north and northeast to an intersection of the northernmost corner of Parcel 468 (El Paso CAD# S636999000B2000 the City Civic Center); then following the northeastern boundary of Parcel 468 south and east to N. Santa Fe Street then crossing N. Santa Fe Street to the east edge of N. Santa Fe Street; then following the east edge of N. Santa Fe Street south to the northeast corner of N. Santa Fe Street and W. San Antonio Avenue; then east to the western edge of S. El Paso Street; then south following the east edge of S. El Paso Street to the northeast corner of S. El Paso Street and E. Overland Avenue; then east following the northern edge of E. Overland Avenue to the northwest corner of E. Overland Avenue and S. Ochoa Street; then north following the west edge of N. Ochoa Street to southwest corner of S. Ochoa Street and E. San Antonio Avenue; then crossing E. San Antonio Avenue to the western edge of the alley between N. Ochoa Street and N. Florence Street;

then north following the western edge of the alley and crossing Magoffin Avenue to the south edge of Magoffin Avenue; then east to the northwest corner of Magoffin Avenue and N. Ochoa Street; then north following the western edge of N. Ochoa Street to the northwest corner of N. Ochoa Street and Myrtle Avenue; then east following the northern edge of Myrtle Avenue to the northeast corner of N. Virginia Street and Myrtle Avenue; then north following the west edge of N. Virginia Street to the northwest corner of N. Virginia Street and E. Mills Avenue; then east following the northern edge of the proposed E Mills Avenue extension to the point of beginning, containing approximately 188.42 acres.

Expansion per Ordinance 016803 (2007):

A parcel of land consisting of 0.584 acres, beginning at the northeast corner of Lot 20-21 , Block 1, Franklin Addition, thence a distance of 165 feet south and east to the centerline of Magoffin Avenue, thence a distance of 160 feet southwest to the centerline intersection of Magoffin A venue and Ange Street, thence a distance of 165 feet north and west to a point 10 feet south of the centerline of the alley between Magoffin Avenue and Myrtle avenue, thence 165 feet to the point of beginning, and containing Lots 17- 19 and 20-21 , Block 1, Franklin Addition and also known as 1001 and 1009 Magoffin A venue .

Expansion per Ordinance 016804 (2007):

Parcel 1 consisting of 1.134 acres and containing Lots 1-12 and 39-40 and a portion of the closed street and alley of Stevens Addition and also known as 505 N. Santa Fe Street; and

Parcel 2 consisting of 98.147 acres, beginning at the center line intersection of Santa Fe Street and Wyoming A venue, thence northeast a distance of 1,996 feet to the center line intersection of Missouri A venue and Campbell Street, thence southeast a distance of 1,979 feet to the center line intersection of Campbell Street and San Antonio Street, thence south a distance of 289 feet to the centerline intersection of Campbell Street and Overland Street, thence 1,324 feet in an easterly direction to the centerline monument located at the intersection of Overland Street and El Paso Street, thence a distance of 213 feet in a northwesterly direction to the centerline intersection of El Paso Street and San Antonio Street, thence 355 feet in a westerly direction to the centerline intersection of San Antonio Street and Santa Fe Street, thence a distance of 1,599 feet in a northerly direction to the city monument located 10 feet northeast of the center line intersection of Santa Fe Street and Wyoming Avenue, the point of beginning and containing the following Blocks: Block 19 Mills Addition; Block 7 Hart Addition; Blocks 21, 22 and 23 Mills Addition; Block 231 Campbell Addition; Blocks 18, 1, 2, 8, 9, and 43 Mills Addition; Blocks 17, 3, 10, 42 Mills Addition; Blocks 16, 6, 5, 5 ½, 12, 39 and 40 Mills Addition; Block 44 Mills Addition; Blocks 14, 13, 24, and 38 Mills Addition; Block 209 Campbell Addition; Blocks 1 and 5, Satterthwaite; Block Q, Satterthwaite; Block 17 Hart Addition; and Blocks 245, 246 and 24 7 Campbell Addition.

Expansion per Ordinance 017821 (2012):

A parcel of land consisting of 9.45 acres and containing all of Blocks 7, 46, and 51, Mills Addition, and all of Blocks 152, 160, 161, 169, 170, and 171 Campbell Addition.

Expansion per Ordinance 018049 (2013):

From the intersection of Paisano Drive and Santa Fe Avenue, south on Santa Fe to the Santa Fe Railroad train yard; southeasterly on a line between the edge of the buildings on east side of Santa Fe Avenue and the adjacent parking lot to the intersection of Sixth Street; east on Sixth Street to the alley between El Paso Street and Oregon Street; north along the alley to Paisano Drive; and west on Paisano to Santa Fe Avenue, containing approximately 8.4 acres.

Current Conditions

Land Use

The vast majority of the land within the zone is developed with commercial uses, with much of the property well positioned for redevelopment.

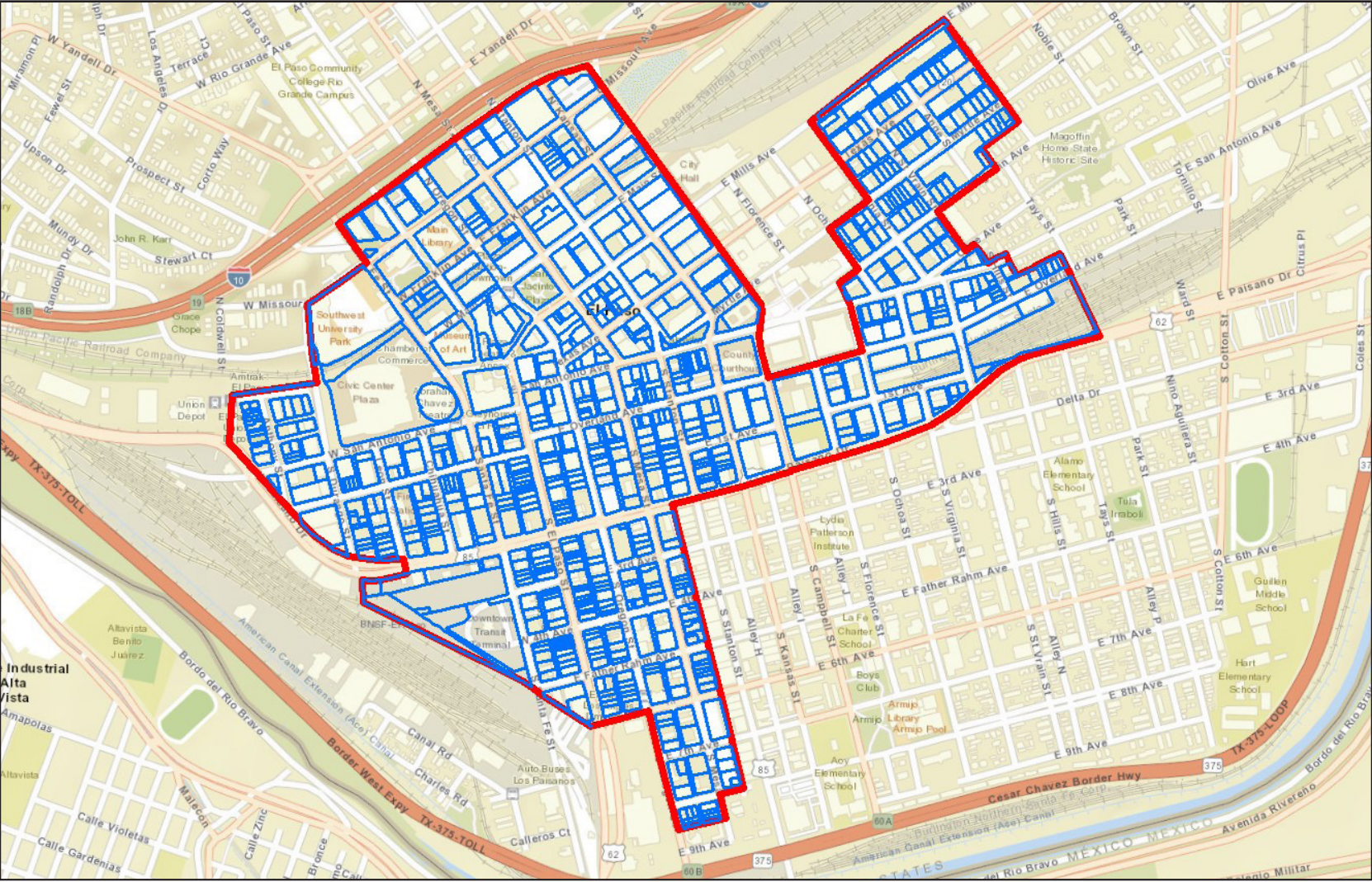
Method of Relocating Persons to be Displaced

It is not anticipated that any persons will be displaced or need to be relocated as result of the implementation of the TIRZ.

Current Ownership Information

There are currently 680 parcels within Tax Increment Reinvestment Zone #5, some of which are tax exempt, including parcels owned by the City of El Paso. It is the City’s desire to have the land developed, facilitated by a direct transfer agreement between the City and a private entity, pursuant to Chapter 272 of the Local Government Code. The estimated 2022 taxable value of the property within the TIRZ is \$326,128,178. The original boundaries of TIRZ #5 have a 2006 base year. As the TIRZ was expanded, the base years for the expanded areas was the year in which it was added to the TIRZ (2007, 2012, and 2013). The combined base value is \$209,228,387. The 2023 taxable values will need to be verified with the El Paso Central Appraisal District.

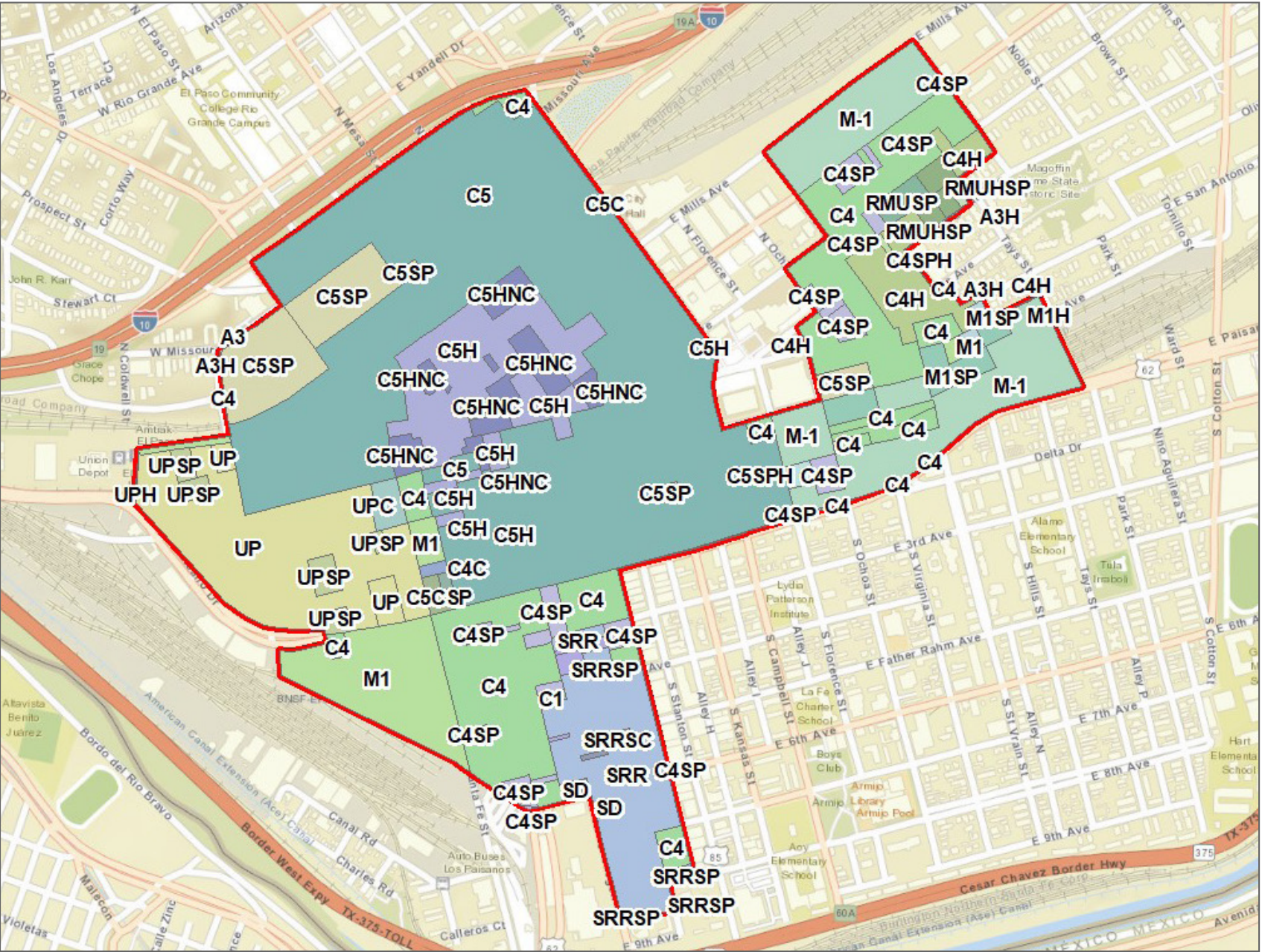
For further details of parcels included within the TIRZ see **Appendix A**.



Zoning

The zoning for the property within the TIRZ can be seen in the map below. The majority of the land within the TIRZ is zoned as Regional Commercial Districts (C-4: Commercial District, C-5: Central Business District). There are also portions of the zone zoned as “SRR” Special Residential Revitalization District and “U-P” Union Plaza District. The special residential revitalization district (SRR) is established in recognition that developments containing both residential and commercial uses can create an appealing and vital urban environment when carefully designed. The SRR district allows for mixing residential environments with workplaces and services. The purposes of the Union Plaza District are: (1) to create a unique mixed-use environment with the provision of standards and guidelines designed to encourage the preservation of existing building architecture; (2) to ensure that reconstruction of existing buildings or new construction projects is consistent with the architectural and design guidelines adopted for the Union Plaza District; and (3) to encourage a variety of commercial and residential uses that coexist in a mixed-use area.

The property may need to be rezoned to accomodate any future development. It is not anticipated there will be any changes to the City of El Paso zoning ordinance, master plan, building codes, subdivision rules and regulations or other municipal ordinances as a result of the TIRZ.



Proposed Development

Anticipated Development

The table below provides an overview of the potential development that could occur within the TIRZ, along with estimated dates of when the development construction would be completed. The development projections listed below do not represent the potential of the entire TIRZ, and are not meant to limit potential development that could generate revenue for the TIRZ. It is anticipated that the projections will be updated in the future to reflect the then current market trends and taking into account the future performance of any catalyst development. It is anticipated that the development that occurs within the TIRZ could be financed in part by incremental real property tax generated within the TIRZ.

	Square Feet/Units	Projected Completion Date	Taxable Value PSF/Unit	Incremental Value
Multifamily	150	2025	\$150,000	\$22,500,000
Hotel	250	2025	\$125,000	\$31,250,000
Multifamily	290	2026	\$150,000	\$43,500,000
Multifamily	210	2028	\$150,000	\$31,500,000
Multifamily	100	2028	\$150,000	\$15,000,000
Retail	50,000	2028	\$250	\$12,500,000
Multifamily	56	2032	\$150,000	\$8,400,000
Multifamily	70	2032	\$150,000	\$10,500,000
Retail	2,000	2032	\$250	\$500,000
TOTAL				\$175,650,000

Project Costs

Project Costs of the Zone

There are a number of improvements within Tax Increment Reinvestment Zone #5 that will be financed by in part by incremental real property tax generated within the TIRZ.

Proposed Project Costs - TIRZ #5		
Public Utilities	\$ 13,927,409	30.0%
Water, Sanitary Sewer, and/or Storm Water Facilities and Improvements, Underground Infrastructure Improvements including electric, gas, water, sewer		
Parking and Transit Improvements	\$ 6,963,705	15.0%
Street and Intersection Improvements	\$ 6,963,705	15.0%
Pedestrian Enhancements	\$ 9,284,940	20.0%
Streetscape, lighting, public art, and other amenities that enhance the pedestrian experience		
Open Space, Park and Recreation Facilities and Improvements, Public Facilities and Improvements	\$ 4,178,223	9.0%
Economic Development Grants	\$ 4,642,470	10.0%
Administrative Costs	\$ 464,247	1.0%
Total	\$ 46,424,698	100.0%

The categories listed in the table above outline various public improvements, and are meant to include all projects eligible under Chapter 311, Section 311.002 of the Texas Tax Code. The costs illustrated in the table above are estimates and may be revised. Savings from one line item may be applied to a cost increase in another line item. The \$46,424,698 project cost total amount shall not be exceeded without an amendment to the project and financing plan.

Economic Development Grants may include grants, loans, and services for public and private development. Chapter 380 of the Local Government Code grants municipalities in Texas the authority to offer grants and loans of public funds to stimulate economic development. Section 311.010 (h) of the Texas Tax Code details the authority of Chapter 380 within a project and financing plan and limits the aggregate amount not to exceed the amount of tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and simulate business and commercial activity in the zone.

The project costs are anticipated to be incurred over the term of the TIRZ, subject to demand for development driven by market conditions. It is anticipated that the individual TIRZ project costs will be evaluated on a case-by-case basis consistent with Chapter 311, Section 311.002, and brought forward to the TIRZ Board and City Council for consideration.

Chapter 311 of the Texas Tax Code

Sec. 311.002.

- (1) “Project costs” means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating a reinvestment zone that are listed in the project plan as costs of public works, public improvements, programs, or other projects benefiting the zone, plus other costs incidental to those expenditures and obligations. “Project costs” include:
- (A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;
 - (B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;
 - (C) real property assembly costs;
 - (D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;
 - (E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;
 - (F) relocation costs;
 - (G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;
 - (H) interest before and during construction and for one year after completion of construction, whether or not capitalized;
 - (I) the cost of operating the reinvestment zone and project facilities;
 - (J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan;
 - (K) the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state; and
 - (L) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

Method of Financing

To fund the public improvements outlined on the previous page, the City of El Paso will contribute 100% of the real property increment within the zone generated from the City tax rate.

Debt Service

It is not anticipated at this time that the TIRZ will incur any bonded indebtedness.

Economic Feasibility Study

A taxable value analysis was developed as part of the project and financing plan to determine the economic feasibility of the project. The study examined the expected tax revenue the TIRZ would receive based on the previously outlined developments. A summary overview of the anticipated development square footages and the anticipated taxable value per square foot can be found on Page 7.

The following pages show the estimated captured appraised value of the zone during each year of its existence and the net benefits of the zone to each of the local taxing jurisdictions as well as the method of financing and debt service.

Utilizing the information outlined in this feasibility study, DPED has found that the TIRZ is economically feasible and will provide the City and other taxing jurisdictions with economic benefits that would not occur without its implementation.

Real Property Tax - 2023 Rates		Participation	
City of El Paso	0.81887500	100%	0.8188750
El Paso County	0.45888900	0%	0.0000000
EPCC	0.11571700	0%	0.0000000
University Medical	0.23565000	0%	0.0000000
El Paso ISD	1.13710000	0%	0.0000000
	2.76623100		0.8188750

Personal Property Tax		Participation	
City of El Paso	0.81887500	0%	0.0000000
El Paso County	0.45888900	0%	0.0000000
EPCC	0.11571700	0%	0.0000000
University Medical	0.23565000	0%	0.0000000
El Paso ISD	1.13710000	0%	0.0000000
	2.76623100		0.0000000

Sales Tax Rates		Participation	
City Sales Tax Rate	0.0100000	0.00%	0.0000000
County of El Paso	0.0050000	0.00%	0.0000000
City Mass Transit	0.0050000	0.00%	0.0000000
State Sales Tax Rate	0.0625000	0.00%	0.0000000
	0.0825000		0.0000000

Hotel Occupancy Tax		Participation	
City HOT	0.0900000	0.00%	0.0000000
County HOT	0.0250000	0.00%	0.0000000
State HOT	0.0600000	0.00%	0.0000000
	0.1750000		0.0000000

INPUT & OUTPUT

INPUT

INFLATION RATE	3.00%
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DISCOUNT RATE	6.00%
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REAL PROPERTY TAX		PARTICIPATION	
City of El Paso	0.81887500	100.00%	0.8188750
El Paso County	0.45888900	0.00%	0.0000000
EPCC	0.11571700	0.00%	0.0000000
University Medical	0.23565000	0.00%	0.0000000
El Paso ISD	1.13710000	0.00%	0.0000000
	2.76623100		0.8188750

PERSONAL PROPERTY TAX		PARTICIPATION	
City of El Paso	0.81887500	0%	0.0000000
El Paso County	0.45888900	0%	0.0000000
EPCC	0.11571700	0%	0.0000000
University Medical	0.23565000	0%	0.0000000
El Paso ISD	1.13710000	0%	0.0000000
	2.76623100		0.0000000

City Sales Tax Rate	0.0100000	0.00%	0.0000000
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Assumptions	Year	AREA SF	REAL PROPERTY		PERSONAL PROPERTY		SALES	
			\$ / SF	TAX VALUE	\$ / SF	TAX VALUE	\$ / SF	TAX VALUE
Multifamily	2025	150	\$ 150,000.00	\$ 22,500,000	\$ -	\$ -	\$ -	\$ -
Hotel	2025	250	\$ 125,000.00	\$ 31,250,000	\$ -	\$ -	\$ -	\$ -
Multifamily	2026	290	\$ 150,000.00	\$ 43,500,000	\$ -	\$ -	\$ -	\$ -
Multifamily	2028	210	\$ 150,000.00	\$ 31,500,000	\$ -	\$ -	\$ -	\$ -
Multifamily	2028	100	\$ 150,000.00	\$ 15,000,000	\$ -	\$ -	\$ -	\$ -
Retail	2028	50,000	\$ 250.00	\$ 12,500,000	\$ 15.00	\$ 750,000	\$ 250.00	\$ 12,500,000
Multifamily	2032	56	\$ 150,000.00	\$ 8,400,000	\$ -	\$ -	\$ -	\$ -
Multifamily	2032	70	\$ 150,000.00	\$ 10,500,000	\$ -	\$ -	\$ -	\$ -
Retail	2032	2,000	\$ 250.00	\$ 500,000	\$ 15.00	\$ 30,000	\$ 250.00	\$ 500,000
TOTAL				175,650,000		780,000		13,000,000

OUTPUT

TOTAL TAX REVENUE		TOTAL	REAL PROPERTY		PERSONAL PROPERTY		SALES	
City of El Paso	31.7%	\$ 14,619,725	=	\$ 13,197,782	+	\$ 66,592	+	\$ 1,355,352
El Paso County	16.1%	\$ 7,433,216	=	\$ 7,395,899	+	\$ 37,317	+	\$ -
EPCC	4.1%	\$ 1,874,417	=	\$ 1,865,007	+	\$ 9,410	+	\$ -
University Medical	8.3%	\$ 3,817,127	=	\$ 3,797,963	+	\$ 19,163	+	\$ -
El Paso ISD	39.9%	\$ 18,419,074	=	\$ 18,326,604	+	\$ 92,470	+	\$ -
TOTAL		46,163,559		\$ 44,583,255		\$ 224,953		\$ 1,355,352

TOTAL PARTICIPATION		TOTAL	REAL PROPERTY	PERSONAL PROPERTY	SALES	
City of El Paso	100.0%	\$ 13,197,782	= \$ 13,197,782	+ \$ -	+ \$ -	
El Paso County	0.0%	\$ -	= \$ -	+ \$ -	+ \$ -	
EPCC	0.0%	\$ -	= \$ -	+ \$ -	+ \$ -	
University Medical	0.0%	\$ -	= \$ -	+ \$ -	+ \$ -	
El Paso ISD	0.0%	\$ -	= \$ -	+ \$ -	+ \$ -	
100.0%		\$ 13,197,782	\$ 13,197,782	\$ -	\$ -	

NET BENEFIT		TOTAL	REAL PROPERTY	PERSONAL PROPERTY	SALES	
City of El Paso	4.3%	\$ 1,421,943	= \$ -	+ \$ 66,592	+	\$ 1,355,352
El Paso County	22.5%	\$ 7,433,216	= \$ 7,395,899	+ \$ 37,317	+	\$ -
EPCC	5.7%	\$ 1,874,417	= \$ 1,865,007	+ \$ 9,410	+	\$ -
University Medical	11.6%	\$ 3,817,127	= \$ 3,797,963	+ \$ 19,163	+	\$ -
El Paso ISD	55.9%	\$ 18,419,074	= \$ 18,326,604	+ \$ 92,470	+	\$ -
	100.0%	\$ 32,965,778	\$ 31,385,473	\$ 224,953		\$ 1,355,352

TAX REVENUE PROJECTIONS & COST-BENEFIT ANALYSIS

Calendar Year		0	1	2	3	4	5	6	7	8	9	10	11	12	13
TOTAL TAX REVENUE															
REAL PROPERTY		2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Multifamily	Taxable Value Per Unit	150,000	154,500	159,135	163,909	168,826	173,891	179,108	184,481	190,016	195,716	201,587	207,635	213,864	220,280
	Cumulative Units	-	-	-	24,586,358	74,283,581	76,512,089	134,320,883	138,360,810	142,511,634	146,786,983	176,590,612	181,888,331	187,344,891	192,965,330
Hotel	Taxable Value Per Unit	125,000	128,750	132,613	136,591	140,689	144,909	149,257	153,734	158,346	163,097	167,990	173,029	178,220	183,567
	Cumulative Units	-	-	-	250	250	250	250	250	250	250	250	250	250	250
Retail	Taxable Value Per SF	250	258	265	273	281	290	299	307	317	326	336	346	356	367
	Cumulative SF	-	-	-	-	-	-	50,000	50,000	50,000	50,000	52,000	52,000	52,000	52,000
	TAXABLE VALUE	-	-	-	-	-	-	14,925,654	15,373,423	15,834,626	16,309,665	17,470,913	17,995,040	18,534,892	19,090,938
REAL PROPERTY	Cumulative Taxable Value	-	-	-	24,586,358	74,283,581	76,512,089	149,256,537	153,734,233	158,346,260	163,096,648	194,061,525	199,883,371	205,879,872	212,056,268
City of El Paso		-	-	-	201,332	608,290	626,538	1,222,224	1,258,891	1,296,658	1,335,558	1,589,121	1,636,795	1,685,899	1,736,476
El Paso County		-	-	-	112,824	340,879	351,106	684,922	705,469	726,634	748,433	890,527	917,243	944,760	973,103
EPCC		-	-	-	28,451	85,959	88,537	172,715	177,897	183,234	188,731	224,562	231,299	238,238	245,385
University Medical		-	-	-	57,938	175,049	180,301	351,723	362,275	373,143	384,337	457,306	471,025	485,156	499,711
El Paso ISD		-	-	-	279,571	844,679	870,019	1,697,196	1,748,112	1,800,555	1,854,572	2,206,674	2,272,874	2,341,060	2,411,292
Total		-	-	-	680,115	2,054,855	2,116,501	4,128,781	4,252,644	4,380,223	4,511,630	5,368,190	5,529,236	5,695,113	5,865,966
PERSONAL PROPERTY		2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Retail	Taxable Value Per SF	15	15	16	16	17	17	18	18	19	20	20	21	21	22
	Cumulative SF	-	-	-	-	-	-	50,000	50,000	50,000	50,000	52,000	52,000	52,000	52,000
	TAXABLE VALUE	-	-	-	-	-	-	895,539	922,405	950,078	978,580	1,048,255	1,079,702	1,112,093	1,145,456
PERSONAL PROPERTY	Cumulative Taxable Value	-	-	-	-	-	-	895,539	922,405	950,078	978,580	1,048,255	1,079,702	1,112,093	1,145,456
City of El Paso		-	-	-	-	-	-	7,333	7,553	7,780	8,013	8,584	8,841	9,107	9,380
El Paso County		-	-	-	-	-	-	4,110	4,233	4,360	4,491	4,810	4,955	5,103	5,256
EPCC		-	-	-	-	-	-	1,036	1,067	1,099	1,132	1,213	1,249	1,287	1,325
University Medical		-	-	-	-	-	-	2,110	2,174	2,239	2,306	2,470	2,544	2,621	2,699
El Paso ISD		-	-	-	-	-	-	10,183	10,489	10,803	11,127	11,920	12,277	12,646	13,025
Total		-	-	-	-	-	-	24,773	25,516	26,281	27,070	28,997	29,867	30,763	31,686
SALES TAX		2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Retail	Taxable Value Per SF	250	258	265	273	281	290	299	307	317	326	336	346	356	367
	Cumulative SF	-	-	-	-	-	-	50,000	50,000	50,000	50,000	52,000	52,000	52,000	52,000
	TAXABLE VALUE	-	-	-	-	-	-	14,925,654	15,373,423	15,834,626	16,309,665	17,470,913	17,995,040	18,534,892	19,090,938
SALES TAX	Cumulative Taxable Value	-	-	-	-	-	-	14,925,654	15,373,423	15,834,626	16,309,665	17,470,913	17,995,040	18,534,892	19,090,938
Total		-	-	-	-	-	-	149,257	153,734	158,346	163,097	174,709	179,950	185,349	190,909
SUMMARY		2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
City of El Paso		-	-	-	201,332	608,290	626,538	1,378,814	1,420,179	1,462,784	1,506,668	1,772,414	1,825,587	1,880,354	1,936,765
El Paso County		-	-	-	112,824	340,879	351,106	689,031	709,702	730,993	752,923	895,337	922,197	949,863	978,359
EPCC		-	-	-	28,451	85,959	88,537	173,751	178,964	184,333	189,863	225,775	232,548	239,525	246,711
University Medical		-	-	-	57,938	175,049	180,301	353,833	364,448	375,382	386,643	459,776	473,569	487,777	502,410
El Paso ISD		-	-	-	279,571	844,679	870,019	1,707,379	1,758,601	1,811,359	1,865,699	2,218,593	2,285,151	2,353,706	2,424,317
Total		-	-	-	680,115	2,054,855	2,116,501	4,302,810	4,431,894	4,564,851	4,701,796	5,571,896	5,739,053	5,911,225	6,088,562
PARTICIPATION															
REAL PROPERTY	Taxable Value	-	-	-	24,586,358	74,283,581	76,512,089	149,256,537	153,734,233	158,346,260	163,096,648	194,061,525	199,883,371	205,879,872	212,056,268
City of El Paso		-	-	-	201,332	608,290	626,538	1,222,224	1,258,891	1,296,658	1,335,558	1,589,121	1,636,795	1,685,899	1,736,476
El Paso County		-	-	-	-	-	-	-	-	-	-	-	-	-	-
EPCC		-	-	-	-	-	-	-	-	-	-	-	-	-	-
University Medical		-	-	-	-	-	-	-	-	-	-	-	-	-	-
El Paso ISD		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		-	-	-	201,332	608,290	626,538	1,222,224	1,258,891	1,296,658	1,335,558	1,589,121	1,636,795	1,685,899	1,736,476
PERSONAL PROPERTY	Taxable Value	-	-	-	-	-	-	895,539	922,405	950,078	978,580	1,048,255	1,079,702	1,112,093	1,145,456
City of El Paso		-	-	-	-	-	-	-	-	-	-	-	-	-	-
El Paso County		-	-	-	-	-	-	-	-	-	-	-	-	-	-
EPCC		-	-	-	-	-	-	-	-	-	-	-	-	-	-
University Medical		-	-	-	-	-	-	-	-	-	-	-	-	-	-
El Paso ISD		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		-	-	-	-	-	-	-	-	-	-	-	-	-	-
SALES TAX	Taxable Value	-	-	-	-	-	-	14,925,654	15,373,423	15,834,626	16,309,665	17,470,913	17,995,040	18,534,892	19,090,938
Total		-	-	-	-	-	-	-	-	-	-	-	-	-	-
SUMMARY		-	-	-	-	-	-	-	-	-	-	-	-	-	-
City of El Paso		-	-	-	201,332	608,290	626,538	1,222,224	1,258,891	1,296,658	1,335,558	1,589,121	1,636,795	1,685,899	1,736,476
El Paso County		-	-	-	-	-	-	-	-	-	-	-	-	-	-
EPCC		-	-	-	-	-	-	-	-	-	-	-	-	-	-
University Medical		-	-	-	-	-	-	-	-	-	-	-	-	-	-
El Paso ISD		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		-	-	-	201,332	608,290	626,538	1,222,224	1,258,891	1,296,658	1,335,558	1,589,121	1,636,795	1,685,899	1,736,476
TOTAL TAX REVENUE - PARTICIPATION = NET BENEFIT															
SUMMARY		-	-	-	-	-	-	156,590	161,288	166,126	171,110	183,293	188,792	194,456	200,289
City of El Paso		-	-	-	-	-	-	156,590	161,288	166,126	171,110	183,293	188,792	194,456	200,289
El Paso County		-	-	-	112,824	340,879	351,106	689,031	709,702	730,993	752,923	895,337	922,197	949,863	978,359
EPCC		-	-	-	28,451	85,959	88,537	173,751	178,964	184,333	189,863	225,775	232,548	239,525	246,711
University Medical		-	-	-	57,938	175,049	180,301	353,833	364,448	375,382	386,643	459,776	473,569	487,777	502,410
El Paso ISD		-	-	-	279,571	844,679	870,019	1,707,379	1,758,601	1,811,359	1,865,699	2,218,593	2,285,151	2,353,706	2,424,317
Total		-	-	-	478,784	1,446,566	1,489,963	3,080,585	3,173,003	3,268,193	3,366,239	3,982,775	4,102,258	4,225,326	4,352,086

HOT Generated																	
Revenue Year		0 2023	1 2024	2 2025	3 2026	4 2027	5 2028	6 2029	7 2030	8 2031	9 2032	10 2033	11 2034	12 2035	13 2036		
Hotel Rooms		0	0	0	250	250	250	250	250	250	250	250	250	250	250		
Occupancy		0%	0%	0%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%		
Hotel Occupancy Tax																	
# of Available Rooms		-	-	-	91,250	91,250	91,250	91,250	91,250	91,250	91,250	91,250	91,250	91,250	91,250		
# of Occupied Rooms		0	0	0	63,875	63,875	63,875	63,875	63,875	63,875	63,875	63,875	63,875	63,875	63,875		
Average Daily Rate		\$ -	\$ 150.00	\$ 153.00	\$ 156.06	\$ 159.18	\$ 162.36	\$ 165.61	\$ 168.92	\$ 172.30	\$ 175.75	\$ 179.26	\$ 182.85	\$ 186.51	\$ 190.24		
Annual Taxable Revenue		\$ -	\$ -	\$ -	\$ 9,968,333	\$ 10,167,699	\$ 10,371,053	\$ 10,578,474	\$ 10,790,044	\$ 11,005,845	\$ 11,225,961	\$ 11,450,481	\$ 11,679,490	\$ 11,913,080	\$ 12,151,342		
City Tax Rate	9%	\$ -	\$ -	\$ -	\$ 897,150	\$ 915,093	\$ 933,395	\$ 952,063	\$ 971,104	\$ 990,526	\$ 1,010,337	\$ 1,030,543	\$ 1,051,154	\$ 1,072,177	\$ 1,093,621	\$10,917,162	
County Tax Rate	2.5%	\$ -	\$ -	\$ -	\$ 249,208	\$ 254,192	\$ 259,276	\$ 264,462	\$ 269,751	\$ 275,146	\$ 280,649	\$ 286,262	\$ 291,987	\$ 297,827	\$ 303,784	\$3,032,545	
State Tax Rate	6%	\$ -	\$ -	\$ -	\$ 598,100	\$ 610,062	\$ 622,263	\$ 634,708	\$ 647,403	\$ 660,351	\$ 673,558	\$ 687,029	\$ 700,769	\$ 714,785	\$ 729,081	\$7,278,108	
		\$ -	\$ -	\$ -	\$ 1,744,458	\$ 1,779,347	\$ 1,814,934	\$ 1,851,233	\$ 1,888,258	\$ 1,926,023	\$ 1,964,543	\$ 2,003,834	\$ 2,043,911	\$ 2,084,789	\$ 2,126,485	\$21,227,815	

Financial Feasibility Analysis - Projected TIRZ Revenue

ESTIMATE OF GENERAL IMPACT OF PROPOSED ZONE PROPERTY VALUES AND TAX REVENUES

[illegible]

Financial Feasibility Analysis - 100% Projected Tax Revenue

ESTIMATE OF GENERAL IMPACT OF PROPOSED ZONE PROPERTY VALUES AND TAX REVENUES

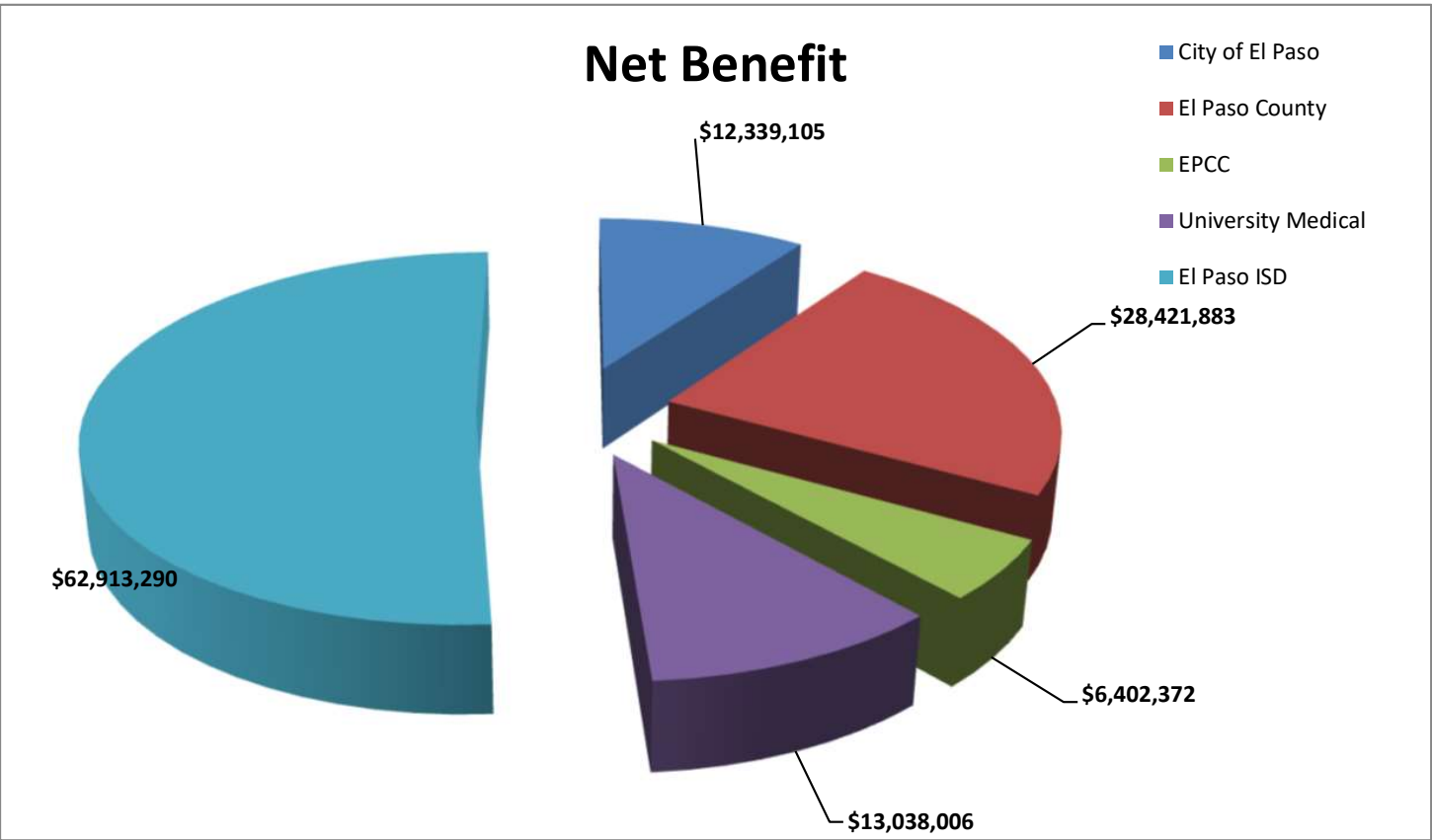
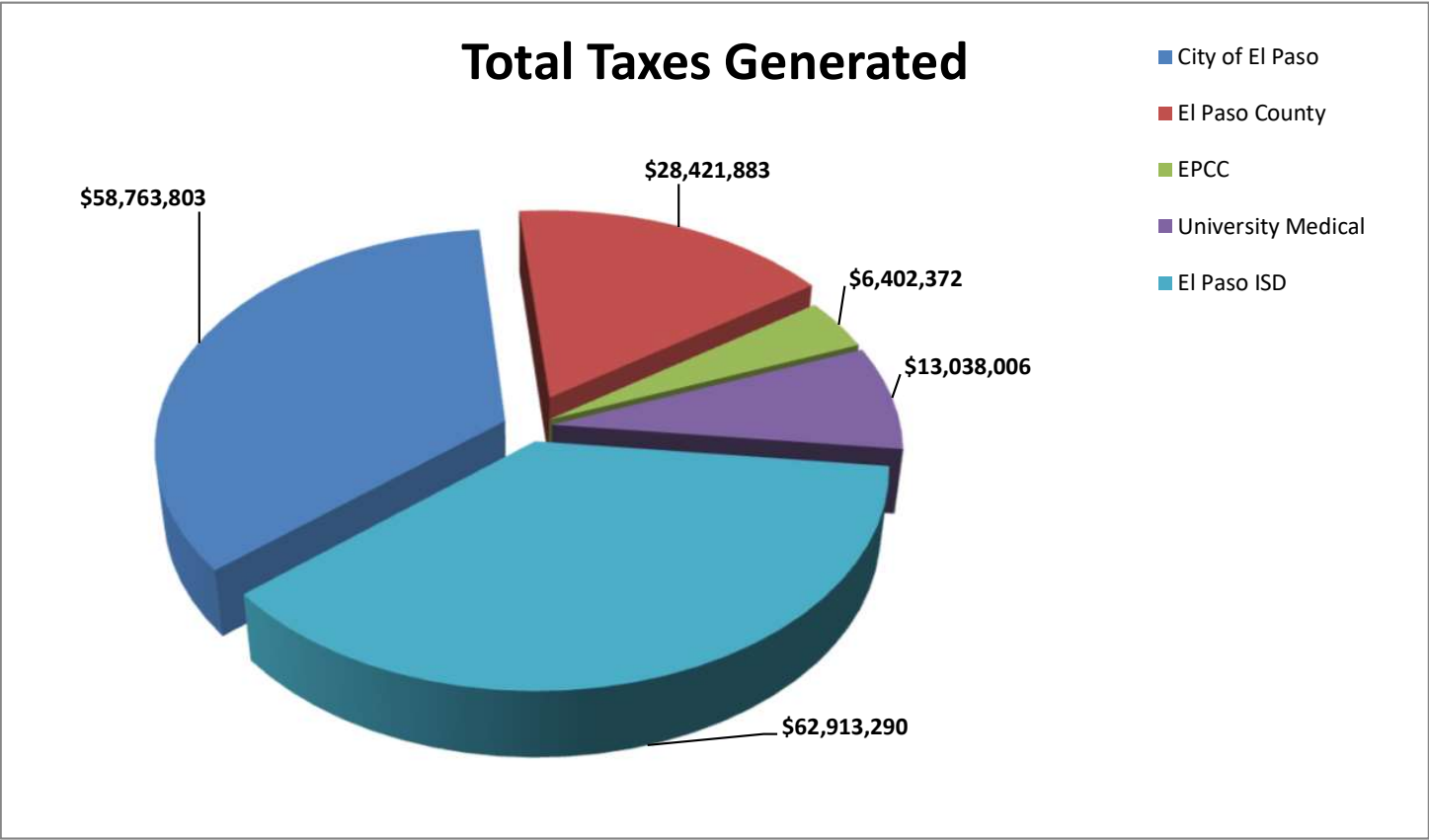
TAXABLE BASE YEAR GROWTH										3.00%																								
DISCOUNT RATE										6.00%																								
REAL PROPERTY TAX										BUSINESS PERSONAL PROPERTY TAX		SALES TAX		HOT																				
City of El Paso 0.8188750 100.00% 0.8188750 El Paso County 0.4588890 100.00% 0.4588890 EPCC 0.1157170 100.00% 0.1157170 University Medical 0.2356500 100.00% 0.2356500 El Paso ISD 1.1371000 100.00% 1.1371000 2.7662310 2.7662310										City of El Paso 0.8188750 100% 0.8188750 El Paso County 0.4588890 100% 0.4588890 EPCC 0.1157170 100% 0.1157170 University Medical 0.2356500 100% 0.2356500 El Paso ISD 1.1371000 100% 1.1371000 2.7662310 2.7662310		City Sales Tax Rate 0.0100000 100.00% 0.0100000 State Sales Tax Rate 0.0625000 100.00% 0.0625000		City HOT 0.09 100.00% 0.09 County HOT 0.025 100.00% 0.025 State HOT 0.06 100.00% 0.06 0.1750000 0.1750000																				
TAX YEAR	BASE YEAR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	TOTALS		
BASE YEAR	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036			
TAXABLE VALUE	City of El Paso	106,883,525	177,151,502	177,151,502	177,151,502	177,151,502	177,549,189	188,248,651	216,278,918	215,483,546	215,483,546	215,444,031	208,764,947	208,931,395	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387			
	El Paso County	106,883,525	177,151,502	177,151,502	177,151,502	177,151,502	177,549,189	188,248,651	216,278,918	215,483,546	215,483,546	215,444,031	208,764,947	208,931,395	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387			
	EPCC	106,883,525	177,151,502	177,151,502	177,151,502	177,151,502	177,549,189	188,248,651	216,278,918	215,483,546	215,483,546	215,444,031	208,764,947	208,931,395	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387			
	University Medical	106,883,525	177,151,502	177,151,502	177,151,502	177,151,502	177,549,189	188,248,651	216,278,918	215,483,546	215,483,546	215,444,031	208,764,947	208,931,395	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387		
	El Paso ISD	106,883,525	177,151,502	177,151,502	177,151,502	177,151,502	177,549,189	188,248,651	216,278,918	215,483,546	215,483,546	215,444,031	208,764,947	208,931,395	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387	209,228,387		
TAXABLE VALUE INCREMENT	City of El Paso						267,160,873	259,189,380	280,745,731	291,129,271	301,623,810	309,244,235	309,041,038	312,423,207	360,327,593	359,507,156	326,128,178	335,912,023	345,989,384	356,369,066	367,060,138	378,071,942	389,414,100	401,096,523	413,129,419	425,523,301	438,289,000	451,437,670	464,980,800	478,930,224	493,298,131			
	El Paso County						267,160,873	259,189,380	280,745,731	291,129,271	301,623,810	309,244,235	309,041,038	312,423,207	360,327,593	359,507,156	326,128,178	335,912,023	345,989,384	356,369,066	367,060,138	378,071,942	389,414,100	401,096,523	413,129,419	425,523,301	438,289,000	451,437,670	464,980,800	478,930,224	493,298,131			
	EPCC						267,160,873	259,189,380	280,745,731	291,129,271	301,623,810	309,244,235	309,041,038	312,423,207	360,327,593	359,507,156	326,128,178	335,912,023	345,989,384	356,369,066	367,060,138	378,071,942	389,414,100	401,096,523	413,129,419	425,523,301	438,289,000	451,437,670	464,980,800	478,930,224	493,298,131			
	University Medical						267,160,873	259,189,380	280,745,731	291,129,271	301,623,810	309,244,235	309,041,038	312,423,207	360,327,593	359,507,156	326,128,178	335,912,023	345,989,384	356,369,066	367,060,138	378,071,942	389,414,100	401,096,523	413,129,419	425,523,301	438,289,000	451,437,670	464,980,800	478,930,224	493,298,131			
	El Paso ISD						267,160,873	259,189,380	280,745,731	291,129,271	301,623,810	309,244,235	309,041,038	312,423,207	360,327,593	359,507,156	326,128,178	335,912,023	345,989,384	356,369,066	367,060,138	378,071,942	389,414,100	401,096,523	413,129,419	425,523,301	438,289,000	451,437,670	464,980,800	478,930,224	493,298,131			
REVENUE A	City of El Paso						89,611,684	70,940,729	64,466,813	75,645,725	86,140,264	93,800,204	100,276,091	103,491,812	151,099,206	150,278,769	116,899,791	126,683,636	136,760,997	147,140,679	157,831,751	168,843,555	180,185,713	191,868,136	203,901,032	216,294,914	229,060,613	242,209,283	255,752,413	269,701,837	284,069,744			
	El Paso County						89,611,684	70,940,729	64,466,813	75,645,725	86,140,264	93,800,204	100,276,091	103,491,812	151,099,206	150,278,769	116,899,791	126,683,636	136,760,997	147,140,679	157,831,751	168,843,555	180,185,713	191,868,136	203,901,032	216,294,914	229,060,613	242,209,283	255,752,413	269,701,837	284,069,744			
	EPCC						89,611,684	70,940,729	64,466,813	75,645,725	86,140,264	93,800,204	100,276,091	103,491,812	151,099,206	150,278,769	116,899,791	126,683,636	136,760,997	147,140,679	157,831,751	168,843,555	180,185,713	191,868,136	203,901,032	216,294,914	229,060,613	242,209,283	255,752,413	269,701,837	284,069,744			
	University Medical						89,611,684	70,940,729	64,466,813	75,645,725	86,140,264	93,800,204	100,276,091	103,491,812	151,099,206	150,278,769	116,899,791	126,683,636	136,760,997	147,140,679	157,831,751	168,843,555	180,185,713	191,868,136	203,901,032	216,294,914	229,060,613	242,209,283	255,752,413	269,701,837	284,069,744			
	El Paso ISD						89,611,684	70,940,729	64,466,813	75,645,725	86,140,264	93,800,204	100,276,091	103,491,812	151,099,206	150,278,769	116,899,791	126,683,636	136,760,997	147,140,679	157,831,751	168,843,555	180,185,713	191,868,136	203,901,032	216,294,914	229,060,613	242,209,283	255,752,413	269,701,837	284,069,744			
TAXABLE VALUE GROWTH																																		
REVENUE A	0.69667700	0.67232600	0.67109700	0.63300000	0.63300000	0.65370000	0.65840400	0.65840400	0.67837800	0.69978400	0.72972500	0.75965600	0.80343300	0.84333200	0.90730100	0.90730100	0.90730100	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800	0.86239800			
TAXABLE VALUE GROWTH	City of El Paso	111,520	261,177	308,921	268,465	332,431	628,010	467,077	437,329	529,357	628,587	712,559	805,651	872,780	1,370,925	1,363,481	1,060,633	1,092,517	1,119,902	1,204,898	1,292,445	1,382,618	1,475,496	1,571,160	1,669,695	1,771,185	1,875,720	1,983,391	2,094,293	2,208,521	2,326,176	33,226,916	City of El Paso	
	El Paso County	0	0	0	0	0	411,218	325,539	295,831	347,130	395,288	430,439	460,156	474,913	693,378	689,613	536,440	581,337	627,581	675,212	724,273	774,804	826,852	880,462	935,679	992,531	1,051,134	1,111,472	1,173,620	1,237,632	1,303,565	17,956,122	El Paso County	
	EPCC	0	0	0	0	0	103,696	82,090	74,599	87,535	99,679	108,543	116,036	119,758	174,847	173,898	135,273	146,595	158,256	170,267	182,638	195,381	208,508	222,024	235,948	250,290	265,062	279,127	295,949	312,091	328,717	4,527,955	EPCC	
	University Medical	0	0	0	0	0	211,170	167,172	151,916	178,259	202,990	226,301	243,878	255,065	354,132	356,065	221,040	236,301	246,737	259,539	275,474	298,530	322,277	346,737	370,971	396,944	425,925	456,971	484,941	508,981	529,425	551,120	9,220,879	University Medical
	El Paso ISD	0	0	0	0	0	1,018,974	806,667	733,052	860,168	979,501	1,066,602	1,140,239	1,176,805	1,718,149	1,708,820	1,329,268	1,440,520	1,555,109	1,673,137	1,794,705	1,919,920	2,048,692	2,181,733	2,318,559	2,459,489	2,604,648	2,754,122	2,908,161	3,066,780	3,230,157	44,494,216	El Paso ISD	
		111,520	261,177	308,921	268,465	332,431	2,373,069	1,848,545	1,692,727	2,002,448	2,306,045	2,539,183	2,758,384	2,888,134	4,313,364	4,289,943	3,337,088	3,559,499	3,783,125	4,070,251	4,365,991	4,670,603	4,984,353	5,307,516	5,640,374	5,983,217	6,336,346	6,700,068	7,074,703	7,460,576	7,858,025	109,426,088		
TIRZ#5	REVENUE 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	REAL PROPERTY TAX	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	BUSINESS PERSONAL PROPERTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	City of El Paso	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	El Paso County	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
SALES TAX	REVENUE 2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	SALES TAX	0	0	0	0	0	0</																											

Revenue Summary

Taxing Jurisdictions	Total Taxes Generated*	Participation	Total Net Benefit
City of El Paso	\$58,763,803	\$46,424,698	\$12,339,105
El Paso County	\$28,421,883	\$0	\$28,421,883
EPCC	\$6,402,372	\$0	\$6,402,372
University Medical	\$13,038,006	\$0	\$13,038,006
El Paso ISD	\$62,913,290	\$0	\$62,913,290
Total	\$169,539,354	\$46,424,698	\$123,114,656

*Total Taxes Generated includes projected Real Property, Business Personal Property, Sales, and Hotel Occupancy Tax revenue

Tax Revenue Type	Total Taxes Generated
Real Property	\$154,009,343
Business Personal Property	\$224,953
Sales	\$1,355,352
Hotel Occupancy	\$13,949,707
Total	\$169,539,354





Projects Cost Estimates:

All project costs listed in the project plan shall be considered estimates and shall not be considered a cap on expenditures.

Length of TIRZ #5 in Years:

The TIRZ has a 30-year term and is scheduled to end on December 31, 2036 (with the final year’s tax increment to be collected by September 1, 2037).

Powers and Duties of Board of Directors:

The Board shall have all powers granted to it by Chapter 311 of the Texas Tax Code, including powers of a municipality under Chapter 380, Local Government Code. The Board shall not be authorized to:

- issue bonds;
- impose taxes or fees;
- exercise the power of eminent domain; or
- give final approval to the Zone’s project and financing plan.

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS			EXEMPTIONS	
10339	8 MILLS	ALL OF BLK INC CLSD ALY EXC LAND OWNED BY RR(14592.385QFT)BUT INC AIR RIGHTS OVER LAND OWNED BY RR	MILLS PROPERTIES VI LP	215	MAIN	ST	
10871	23 MILLS 60 FT ON STANTON X 120 FT ON FRANKLIN SWC (7200 SQ FT)	NEBHAN JOSEPH M	500	STANTON	ST		
12040	135 CAMPBELL 5 & N 14.00 FT OF 4 (4800.00 SQ FT)	AIDAVA PROPERTIES LLC SERIES B - 413 S MESA	413	MESA	ST		
13312	17 MILLS SWLY PT OF BLK (175.10 FT ON SWLY - 56.25 FT ON NWLY IRREG ON NELY - 68.14 FT ON SELY) (11868.98 SQ FT)	CITY OF EL PASO	109	SAN FRANCISCO	AVE		EX-XV
13463	135 CAMPBELL E 44.25 FT OF 12 & E 44.25 FT OF S 2 FT OF 11 (1239.00 SQ FT)	YI SANTOSCOY REAL ESTATE LLC	210	PAISANO	DR		
14570	200 CAMPBELL 17 TO 20 (12480 SQ FT)	CITY OF EL PASO	216	FLORENCE	ST		EX-XV
14609	1 MILLS	MILLS PLAZA PARKING LP	417	OREGON	ST		
14806	45 MILLS 268.50 FT ON LEON X 120 FT ON OVERLAND (32220.00 SQ FT)	CITY OF EL PASO		LEON	ST		EX-XV
15964	36 MILLS	THE JOHN R ELLIS TRUST & 3	301	STANTON	ST		
18628	34 MILLS 25.1667 FT ON OVERLAND X 115.21 FT BEG 83.02 FT W OF NEC (2894 SQ FT)	KIMMELMAN POLA & KARCHMER DEBORAH S K	116	OVERLAND	AVE		
19334	204 CAMPBELL 81 FT ON OVERLAND X 90 FT BEG 130 FT E OF SWC (4 & E 16 FT OF 5 IN 79 MAGOFFIN) (10980 SQ FT)	ECONOMY CASH & CARRY INC	1015	OVERLAND	AVE		
19718	247 CAMPBELL	EL PASO 614 NORTH MESA LLC	614	MESA	ST		
20289	45 MILLS	323 CHIHUAHUA LLC	323	CHIHUAHUA	ST		
20473	149 CAMPBELL 9 & 10 (6240 SQ FT)	ABDOU ABOUD REAL PROPERTY LP	301	KANSAS	ST		
21334	5 1/2 MILLS 47.5 FT ON TEXAS X 86.667 FT ON MESA & SLY 8 FT X 54 FT NEC (4430.05 SQ FT)	URBAN LION LLC	115	MESA	ST		
21750	88 CAMPBELL 5 & N 9 FT OF 4 (4200 SQ FT)	SALOM GEORGE E FAMILY LMTD PRTSHP	713	OREGON	ST		
21810	36 MILLS	LUHANSK EP LLC	320	OVERLAND	AVE		
21846	117 CAMPBELL LOT 14	510 SOUTH OREGON LLC	510	OREGON	ST		EX-XU
22912	146 CAMPBELL 17 & 18 & N PT OF 19 (120 FT ON N - 59.95 FT ON E - 120.30 FT ON S - 67.60 FT ON W) (7652 SQ FT)	ORO INVESTMENTS LLC	701	PAISANO	DR		
23120	1 FRANKLIN HEIGHTS N 87.5 FT OF 15 & 16	CITY OF EL PASO	1030	MYRTLE	AVE		EX-XV
24426	19 MILLS ALL OF BLK & ALL OF BLK 8 OF HART (67600 SQ FT)	CITY OF EL PASO		CLEVELAND	AVE		EX-XV
24550	86 CAMPBELL LOT 14 (3120 SQ FT)	ATIENZO BONIFACIO	708 1/2	MESA	ST		HS
26543	24 MILLS 80 FT ON SAN ANTONIO X 130 FT ON STANTON NEC (10400 SQ FT)	MJCP LLC	324	SAN ANTONIO	AVE		
26801	80 MAGOFFIN 1 & E 15 FT OF 2 (3601.80 SQ FT)	NORTHINTON-GEASON VALERIE	1127	OVERLAND	AVE		
28669	35 MILLS	CASTILLO SAMUEL O & HILDA O	225	MESA	ST		
28777	33 MILLS	TEX SANTA FE LLC	319	EL PASO	ST		
29116	118 CAMPBELL N 9 FT OF 4 S & 6 & S 9 FT OF 7 (8400.00 SQ FT)	BERG INVESTMENT CO	509	OREGON	ST		
30548	9 MILLS S 111.85 FT OF BLK (29081 SQ FT)	FEDERAL RESERVE BANK	301	MAIN	DR		
32188	144 CAMPBELL W 59 FT OF 8 TO 10 (4602 SQ FT)	SISU ENVIRON DEVELOPMENT LLC	910	1ST	AVE		
32285	7 MILLS	GUILLEN GILBERT	404	DURANGO	ST		
32699	149 CAMPBELL 1 TO 4 (12480 SQ FT)	SAL REAL ESTATE LLC	425	PAISANO	DR		
33007	212 CAMPBELL 1 TO 5 (15600 SQ FT)	LUCIANO DON	801	OLIVE	AVE		
33179	1 FRANKLIN HEIGHTS	EP SHARP INVESTMENTS LLC	1024	MYRTLE	AVE		
33912	24 MILLS 40 FT ON SAN ANTONIO X 96 FT BEG 80 FT E OF NWC & 20 FT X 96.667 FT ADJ ON E (5800 SQ FT)	MARCUS REAL ESTATE LIMITED PARTNER	308	SAN ANTONIO	AVE		
34145	36 MILLS	DOWNTOWN SHALOM LLC	217	STANTON	ST		
34314	102 CAMPBELL 11 TO 20 (31200.00 SQ FT)	CATHOLIC DIOCESE OF EL PASO	602	OREGON	ST		EX-XV
34782	118 CAMPBELL 11 & N 9.55 FT OF 12 & 70 FT BTW BLKS 118 & 134 (12666 SQ FT)	JABALIE VIRGINIA & MARY L	526	EL PASO	ST		
35181	171 CAMPBELL E 1/2 OF 10 & 11 (2544 SQ FT)	CITY OF EL PASO	600	SAN FRANCISCO	AVE		EX-XV
35544	144 CAMPBELL PT OF 16 & 17 (120 FT ON N 0.04 FT ON E 127.42 FT ON S 41.47 FT ON W) (2488 SQ FT)	PEREZ FRANK	314	VIRGINIA	ST		
36543	133 CAMPBELL N PT OF 5 & S 20.00 FT OF 6 (40.29 FT ON W-134.00 FT ON N-40.65 FT ONE-IRREG ON S) (5426.00 FT)	TCHONG KHI TCHIENG & CHONG LIENG TA	511	EL PASO	ST		
36706	44 MILLS ALL OF BLK (55776 SQ FT)	U S DEPARTMENT OF JUSTICE					EX-XV
36841	35 MILLS	VERCHEL PROPERTIES LLC	216	OREGON	ST		
37284	23 MILLS 35 FT ON STANTON X 120 FT BEG 95 FT OF SWC (4200 SQ FT)	KEMP JOHN P JR	508 1/2	STANTON	ST		
37739	103 CAMPBELL 12 & W 65 FT OF 11 (4810.00 SQ FT)	DELGADO CORINA M	600	MESA	ST		
37810	118 CAMPBELL 20 & S 16.50 FT OF 19 (5100 SQ FT)	EL PASO SHOPPING DISTRICT LLC	618	EL PASO	ST		
38544	15 MILLS 51 FT ON EL PASO X 134 FT ON W SAN ANTONIO NEC (6834 SQ FT)	SW T-BIRD LTD	201	EL PASO	ST		
40697	222 CAMPBELL	AVENIDA TEXAS LLC	810	TEXAS	AVE		
41513	149 CAMPBELL 7 & 8 (6240 SQ FT)	ABDOU ABOUD REAL PROPERTY LP	307	KANSAS	ST		
43062	7 MILLS	GOMEZ MARIA D L L M & MARTINEZ ERIKA R	401	PAISANO	DR		
43238	227 CAMPBELL N 104.94 FT OF 11TO13 & 18TO20 W 251/2 FT OF 17 IN BLK 226 ST BTW & STRIP ON N (29522.38 SQ FT) 8	ABRAHAM JEANETTE	220	ST VRAIN	ST		
43366	171 CAMPBELL W 1/2 OF 10 & 11 (2928 SQ FT)	CITY OF EL PASO	608	SAN FRANCISCO	AVE		EX-XV
44196	36 MILLS 104 FT ON STANTON X 120 FT ON PAISANO SEC (12480 SQ FT)	ARG PSELPTX001 LLC	313	STANTON	ST		
44538	246 CAMPBELL	PEOPLE OF THE STATE OF TEXAS	301	MISSOURI	AVE		EX-XV
44600	24 MILLS 30 FT ON OVERLAND X 30.333 FT ON MESA SWC (910 SQ FT)	LR MANAGEMENT LLC	124	MESA	ST		
45050	101 CAMPBELL 12 & S 1.00 FT OF 11 & N 8.00 FT OF 13 OF 13 (4200.00 SQ FT)	SALOM ANTHONY & SOLEDAD	702	EL PASO	ST		
45713	14 MILLS NLY 121 FT OF ELY 72 FT & SLY 139 FT OF E 1/2 OF BLK (25392 SQ FT)	LIM-YOON JOINT VENTURE	119	OVERLAND	AVE		
46341	36 MILLS	RIVER OAKS PROPERTIES LTD	307	STANTON	ST		
46686	210 CAMPBELL E 1/2 OF BLOCK (14596 SQ FT)	CLEAT JOINT VENTURE	747	SAN ANTONIO	AVE		
46741	32 MILLS 84.17 FT ON SANTA FE X 120 FT BEG 173.333 FT S OF NEC	CITY OF EL PASO	309	SANTA FE	ST		EX-XV
47484	35 MILLS 44 FT ON OVERLAND X 108.5 FT ON ALY & 16 FT X 21.8333 FT ADJ REAR (5123 SQ FT)	LEEDS N K & G INC	210	OVERLAND	AVE		
47625	32 MILLS 195.83 FT ON SANTA FE X 120 FT BEG 50 FT N OF SEC (23500.00 SQ FT)	CITY OF EL PASO	325	SANTA FE	ST		EX-XV
48208	212 CAMPBELL 11 TO 13 (9360 SQ FT)	MISSIONARY SOCIETY OF ST COLUMBAN	816	MAGOFFIN	AVE		EX-XV
48261	119 CAMPBELL 11 TO 13 & N 17 FT OF 14 (11400 SQ FT)	LANGE RAFAEL & CRISTIAN	600	SANTA FE	ST		
48684	216 CAMPBELL E 90 FT OF 16 TO 20 (11700 SF)	EL PASO PARK A LOT LP	709	MAGOFFIN	AVE		
50386	205 CAMPBELL E 60 FT OF 6 & 7 & S 5 FT OF 8	ABOUD RUSSELL M	105	ST VRAIN	ST		
50530	23 MILLS NELY PT OF BLK (120.00 FT ON NWLY - 108.70 FT ON NELY - 120.00 FT ON SELY - 108.70 FT ON SWLY)	REY JAMES R & COLLIE MALINDA D	501	KANSAS	ST		
51465	35 MILLS	VERCHEL PROPERTIES LLC	220	OREGON	ST		
51754	205 CAMPBELL N 1/2 OF 3 & S 19.75 FT OF 4 (3930 SQ FT)	LIANG BINGJIN & SIUFUN	115	ST VRAIN	ST		
51807	117 CAMPBELL 1 & 2 (6240 SQ FT)	JB4 PROP LP	521	MESA	ST		
52044	160 CAMPBELL NE PT OF BLK 180 FT ON SAN ANTONIO X 102 FT ON ANTHONY (18360.00 SQ FT)	3 BALLOONS-518 W SAN ANTONIO LP	518	SAN ANTONIO	AVE		
52216	149 CAMPBELL LOT 6 (3120 SQ FT)	S A L REAL ESTATE LLC	309	KANSAS	ST		
53430	34 MILLS	RIVER OAKS PROPERTIES LTD	412	EL PASO	ST		
54371	31 MILLS NW PT OF BLK (120' ON N - 137.4' ON E - IRREG ON S - 140.4' ON W) (16784.80 SQ FT)	LYNX INDUSTRIES LTD	320	SAN ANTONIO	AVE		
54410	6 MILLS	THE BROKER CO	109	OREGON	ST		
54487	21 MILLS 1 TO 10	CHASE BANK OF TEXAS	501	MESA	ST		
55254	118 CAMPBELL S 17 FT OF 17 & N 18 FT OF 18 (4200 SQ FT)	EL PASO SHOPPING DISTRICT LLC	614	EL PASO	ST		
55536	88 CAMPBELL	SALOM ANTHONY & SOLEDAD	810	EL PASO	ST		
55842	222 CAMPBELL	TPGTX LLC	817	MYRTLE	AVE		
57066	33 MILLS 26.333 FT ON EL PASO X 134 FT BEG 109.42 FT S OF NEC (3528 SQ FT)	ADRON PROPERTIES LLC	311	EL PASO	ST		
58544	34 MILLS	DIVERSAS 426 LLC	426	EL PASO	ST		
58686	10 MILLS	MILLS PARKING LLC	301	STANTON	ST		
58921	35 MILLS 25.25 FT ON OVERLAND X 112 FT BEG 94.75 FT E OF NWC (2828 SQ FT)	IEK #2 LP	208	OVERLAND	AVE		
59030	206 CAMPBELL W 24.5 FT OF 11 TO 15 (2940 SQ FT)	ORO INVESTMENTS LLC	800	SAN ANTONIO	AVE		
61760	O CAMPBELL 180.3 FT ON SAN ANTONIO X 193.87 FT ON OLIVE X 71.26 FT ON E (15000.00 SQ FT)	ANNUNCIATION HOUSE INC	1003	SAN ANTONIO	AVE		EX-XV
61776	36 MILLS 26.667 FT ON MESA X 120 FT BEG 303.333 FT N OF SWC (3199 SQ FT)	EL PASO PARK A LOT LP	216 1/2	MESA	ST		
62106	117 CAMPBELL 20 FT OF 19 & 20 BEG 34 FT E OF SWC (1040 SQ FT)	MENDOZA ALICIA & PESQUEIRA GUADALUPE	203	FOURTH	AVE		

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS		EXEMPTIONS
62472	4 MILLS 70 FT ON MILLS X 86.667 FT BEG 50 FT E OF NWC (E 70 FT OF 22) (6067 SQ FT)	204 MILLS PARTNERS LLC	204	MILLS	AVE
62596	152 CAMPBELL 8 TO 16 & PT OF 7 & 17 TO 21 & 23 TO 25 & CLSD ALY & E PT OF 22 (51887 SQ FT)	SOTOAK REALTY LLC	500	OVERLAND	AVE
62742	37 MILLS 39.667 FT ON STANTON X 120 FT ON FIRST SWC (4760.39 SQ FT)	CITY OF EL PASO	220	STANTON	ST
62981	117 CAMPBELL 10 & PT OF 9 (4432 SQ FT)	LESLIE JEFFREY H & MESA STEVE JR	501	MESA	ST
64204	210 CAMPBELL W 1/2 OF BLOCK (7754 SQ FT)	TOLTEC CLUB EP LLC	717	SAN ANTONIO	AVE
64279	215 CAMPBELL 10 & E 6 1/2 OF 9 (3900 SQ FT)	ROTH ANITA & ALLEN L	815	MAGOFFIN	AVE
64729	79 MAGOFFIN N 59.7 FT OF 31 & 32 (3250 SQ FT)	GONZALEZ-CALVO ACQUISITIONS LLC	1018	SAN ANTONIO	AVE
64882	116 CAMPBELL W 75 FT OF 19 & 20 (3900 SQ FT)	LAM JINNY K	301	FOURTH	AVE
66179	4 MILLS 90 FT ON TEXAS X 86.667 FT ON STANTON SEC (7800 SQ FT)	201 STANTON LLC	201	STANTON	ST
66724	80 MAGOFFIN 3 & W 10 FT OF 2 & E 5 FT OF 4 (3646.80 SQ FT)	STOCKER TERESA	1125	OVERLAND	AVE
66807	216 CAMPBELL E 84.5833 FT OF 11 TO 15 (10995 SQ FT)	EL PASO PARK A LOT LP	708	MYRTLE	AVE
69233	215 CAMPBELL 6 & 7 & W 1/2 OF 8 (7800 SQ FT)	ROTH ANITA L	811	MAGOFFIN	AVE
69900	38 MILLS 17.5 FT ON SAN ANTONIO X 130 FT BEG 116.5 FT E OF NWC (2275 SQ FT)	GAMEZ IRMA	410	SAN ANTONIO	AVE
70269	205 CAMPBELL 17 TO 20 & S 16 FT OF 16 (14400 SQ FT)	THE UNITED MEXICAN STATES	114	VIRGINIA	ST
70519	5 MILLS 65' ON MILLSX80' ON OREGON & 59' ON OREGONX110' BEG 80'S OF NWC & 53' ON MESAX95' BEG 80' S OF NEC	MILLS PLAZA PROPERTIES LP	211	MESA	ST
71218	34 MILLS 37 FT ON EL PASO X 120 FT BEG 34 FT N OF SWC	ALTUS FRANK	416	EL PASO	ST
71799	34 MILLS 44 FT ON OREGON X 120 FT BEG 339 FT S OF NEC	LOPEZ MONTSERRAT CH & MARTINEZ LILY C & 1	301	OREGON	ST
72725	88 CAMPBELL N 18 FT OF 3 & S 17 FT OF 4 (4200 SQ FT)	SALOM GEORGE E FAMILY LD PRTSHP	715	OREGON	ST
73058	25 MILLS 76.5 FT ON CHIHUAHUA X 120 FT ON SAN ANTONIO NWC (9180 SQ FT)	HELLA GROUP LLC	210	SAN ANTONIO	AVE
73954	131 CAMPBELL S 8.5 FT OF W 50 FT OF 20 & PT OF THIRD & LEON STS CLSD ADJ (2683.00 SQ FT)	ONE GAS INC		PAISANO	DR
74723	144 CAMPBELL W PT OF 6 & 7 (42.72 FT ON W 59 FT ON N 15.13 FT ON E 65.26 FT ON SE) (1707 SQ FT)	SISU ENVIRON DEVELOPMENT LLC-SERIES B	911	PAISANO	DR
75300	38 MILLS PT OF BLK BEG 117.00 FT NE OF SWC (36.00 FT ON ST- 79.00 FT ON N- IRREG ON E- 130.00 FT ON S) (3680.82 QFT)	UNKNOWN OWNER	108	STANTON	ST
75441	149 CAMPBELL 17 & N 6 FT OF 18 (3840 SQ FT)	NADLER FAMILY LIMITED PARTNERSHIP	312 1/2	STANTON	ST
76130	1 MILLS S 112.2 FT OF E 260 FT OF BLK (29124.40 SQ FT)	MILLS PLAZA PROPERTIES LP	401	OREGON	ST
76306	89 CAMPBELL 1 TO 6 & S 24.67 FT OF 7 (21101 SQ FT)	GSJ-FAM LP	807	EL PASO	ST
76443	88 CAMPBELL ELY 62.20 FT OF (11 TO 13) & ELY 62.20 FT OF NLY 17.0 FT OF 14 (5909.00 SQ FT)	SUNVIEW INC	106	FATHER RAHM	AVE
77002	227 CAMPBELL 9 & 10 (6240 SQ FT)	INTERNATIONAL LAUNDRY SERVICES INC	817	TEXAS	AVE
78147	116 CAMPBELL 11 TO 15 (15600.00 SQ FT)	VIEL ALEXANDER L	502	MESA	ST
79377	18 MILLS 40.5 FT ON FRANKLIN X 78.667 FT BEG 79.5 FT E OF NWC (3186 SQ FT)	PEARSON RAY	214	FRANKLIN	AVE
80113	198 CAMPBELL 1 TO 6 & S 19 FT OF 7 (21000 SQ FT)	CITY OF EL PASO	215	CAMPBELL	ST
80515	33 MILLS 43.333 FT ON EL PASO X 134 FT BEG 43.333 FT S OF NEC	SW T-BIRD LTD	305	EL PASO	ST
81279	7 MILLS 60 FT ON OVERLAND X 120 FT ON LEON SEC (7200 SQ FT)	GUAJARDO ENRIQUE	400	OVERLAND	AVE
81355	149 CAMPBELL LOT 5 (3120 SQ FT)	S A L REAL ESTATE LLC	311	KANSAS	ST
81431	21 MILLS 18 & S 12 FT OF 17 & N 5.25 FT OF 19 (5190 SQ FT)	502 N OREGON LLC	502	OREGON	ST
82218	100 CAMPBELL 14 & 15 & S 18.00 FT OF 13 (8400.00 SQ FT)	SALOM GEORGE E FAMILY LD PRTSHP	708	SANTA FE	ST
82515	36 MILLS 22.9 FT ON OVERLAND X 81.667 FT BEG 37.1 FT E OF NWC (1855 SQ FT)	L R MANAGEMENT LLC	304	OVERLAND	AVE
82838	16 MILLS ALL OF BLOCK & CLSD ALLEY BTWN (75036.2699 SQ FT)	CITY OF EL PASO	10	HENRY TROST	CT
84189	37 MILLS 84 FT ON OVERLAND X 113.333 FT BEG 36 FT W OF NEC (9520 SQ FT)	BELCLAIRE REALTY LTD	418	OVERLAND	AVE
84362	171 CAMPBELL LOT 7 (3120.00 SQ FT)	CITY OF EL PASO	610	COLDWELL	ST
86303	87 CAMPBELL LOT 11 (3120.00 SQ FT)	MILO TX2 LLC	700	OREGON	ST
87305	118 CAMPBELL S 8 FT OF 16 & N 9 FT OF 17 (2040 SQ FT)	PARRADAME FAMILY PARTNERSHIP LP	612 1/2	EL PASO	ST
87802	119 CAMPBELL 6 & 7 & N 10 FT OF 5 & S 17.8 FT OF 8 (10693 SQ FT)	SOUTH EL PASO STREET PROPERTIES LLC	605	EL PASO	ST
88005	24 MILLS 30 FT ON OVERLAND X 86.667 FT BEG 90 FT W OF SEC (2600 SQ FT)	CAPLES LAND COMPANY LLC	311 1/2	OVERLAND	AVE
88750	215 CAMPBELL 11 TO 12	OPPORTUNITY CENTER FOR THE HOMELESS	818	MYRTLE	AVE
89537	33 MILLS 181.78 FT ON SANTA FE X 120 FT ON PAISANO SWC OF BLK (21813.78 SQ FT)	LLH & W LLC	378	SANTA FE	ST
89878	35 MILLS 70 FT ON OREGON X 120 FT BEG 190 FT N OF SWC (8400 SQ FT)	MARKS ANN	300	OREGON	ST
90642	222 CAMPBELL 18 TO 20 (9360 SQ FT)	JTC STORES LLC	800	TEXAS	AVE
91683	116 CAMPBELL LOT 16 (3120 SQ FT)	LAM JINNY K	514	MESA	ST
92219	34 MILLS 96.47 FT ON EL PASO X 120 FT BEG 163.53 FT S OF NWC	BURROWS LLOYD A	312	EL PASO	ST
92402	3 FRANKLIN HEIGHTS 23 & 24 (6000 SQ FT)	PEREZ FRANCISCO	1015	TEXAS	AVE
92419	100 CAMPBELL S 14.75 FT OF N 18.75 FT OF 9 (1799.50 SQ FT)	KIM WON T	705	EL PASO	ST
92889	4 MILLS 60 FT ON TEXAS X 86.667 FT ON MESA SWC (W 60 FT OF 24) (5200 SQ FT)	200 EP MESA LLC	200	MESA	ST
92972	215 CAMPBELL 1 TO 3 & W 2 FT OF 4 (9600 SQ FT)	CDA CORTE 1581 401K PLAN	801	MAGOFFIN	AVE
93216	45 MILLS 30.333 FT ON CHIHUAHUA X 120 FT BEG 303.333 FT S OF NEC	CITY OF EL PASO	325	CHIHUAHUA	ST
93782	31 MILLS 120 FT ON SAN ANTONIO X 65 FT ON CHIHUAHUA (7800 SQ FT)	LYNX INDUSTRIES LT		SAN ANTONIO	AVE
95346	24 MILLS 86.67 FT ON STANTON X 60 FT ON OVERLAND SEC (5199.80 SQ FT)	CAPLES LAND COMPANY LLC	119	STANTON	ST
95628	21 MILLS 20 & S 20.75 FT OF 19 (5610 SQ FT)	MARCEP GROUP LLC	500	OREGON	ST
95762	2 MILLS S 1/2 OF BLK INC CLOSED ALLEY (30800 SQ FT)	MILLS PLAZA PARKING III LP	401	MESA	ST
96594	33 MILLS 32.5 FT ON EL PASO X 134 FT BEG 135.75 FT S OF NEC	DRENNAN PROPERTIES LLC	315	EL PASO	ST
96941	45 MILLS 50 FT ON CHIHUAHUA X 120 FT BEG 162 FT S OF NEC	CITY OF EL PASO	315	CHIHUAHUA	ST
97187	215 CAMPBELL 18 & PT OF 17 NWC (2 FT ON S 35 FT ON E 2.25 FT ON S 35 FT ON W) (3190 SQ FT)	ROTH ALLEN L	804	MYRTLE	AVE
97657	171 CAMPBELL LOT 9 (3120.0 SQ FT)	CITY OF EL PASO		ANTHONY	ST
98779	17 MILLS 203 FT ON SAN FRANCISCO - 176.75 FT ON SANTA FE - 266 FT ON MAIN 96.98 FT & 199.928 FT ON EL PASO	CITY OF EL PASO	117	SAN FRANCISCO	AVE
100162	133 CAMPBELL PT OF 4 & 5 BEG 1.41 FT N OF SWC OF 4 (32.47 FT ON W - 134.00 FT ON N-31.20 FT ON E-134.00 FT ON S) (4111.00 SQ FT)	STRATEMEYER MARY L	515	EL PASO	ST
100863	13 MILLS 40.1667 FT ON OREGON X 78 FT ON OVERLAND SWC (3133 SQ FT)	RIVER OAKS PROPERTIES LTD	201	OVERLAND	AVE
101330	35 MILLS 190 FT ON OREGON X 120 FT ON PAISANO SWC (22800.00 SQ FT)	WALGREEN CO	302	OREGON	ST
101520	36 MILLS 50 FT ON MESA X 120 FT BEG 253.333 FT N OF SWC (6000 SQ FT)	EL PASO PARK A LOT LP	218	MESA	ST
101907	120 CAMPBELL ALL OF BLK & PTS OF (BLK 99 & 121) & ADJ ALLYS & CLSD STS BTW(475' ON ST-87.02' ON S-545.93' ON W-IRREG ON N)	EL PASO MASS TRANSIT DEPT BOARD	601	SANTA FE	ST
104373	6 MILLS W 120 FT OF BLK (120 FT ON SAN ANTONIO X 167.67 FT ON EL PASO) (20120.40 SQ FT)	MILLS PLAZA PARKING II LP	104	EL PASO	ST
104585	222 CAMPBELL 8 & W 1/2 OF 9 (4680 SQ FT)	ANNUNCIATION HOUSE INC	815	MYRTLE	AVE
104608	100 CAMPBELL 5 & N 9 FT OF 4 & S 5 FT OF 6 (5360 SQ FT)	BURROLA MANUELA A	711	EL PASO	ST
104928	215 CAMPBELL 19 & 20 (6240 SQ FT)	UTOPIA LLC	800	MYRTLE	AVE
105228	88 CAMPBELL WLY 57.80 FT OF (11 TO 13) & WLY 57.80 FT OF NLY 17.0 FT OF 14 (5491.00 SQ FT)	EP PASEO SOUTH HOLDINGS LLC	800	EL PASO	ST
108332	144 CAMPBELL 11 TO 15 (15600 SQ FT)	SISU ENVIRON DEVELOPMENT LLC-SERIES B	300	VIRGINIA	ST
110040	24 MILLS 80 FT ON SAN ANTONIO X 119.17 FT ON MESA & ADJ 23.17 FT X 40 FT NWC	CAPLES LLC	300	SAN ANTONIO	AVE
110335	133 CAMPBELL PT OF 2 & 3 BEG 4.50 FT S OF NWC OF 2 (134.00 FT ON S - 14.35 FT ON W-IRREG ON N -15.60 FT ON E) (1971.00 SQ FT)	THE CHRISTINE KIM LIVING TRUST	521	EL PASO	ST
110936	46 CAMPBELL LOT 6 (3120 SQ FT)	VALENZUELA MARGARITA	1009	MESA	ST
111178	117 CAMPBELL 6 TO 8 & SLY PT OF 9 (11167.00 SQ FT)	HERNANDEZ ARNOLDO	507	MESA	ST
112220	33 MILLS 22.9 FT ON EL PASO X 134 FT BEG 168.25 FT S OF NEC	GAMEZ CELIA T	317	EL PASO	ST
112700	1 FRANKLIN HEIGHTS 22 & 23 6000.00 SQ FT	YANEZ ANNETTE	1015	MAGOFFIN	AVE
113540	172 CAMPBELL ALL OF FR BLK & TRIANGLE (1621 SQ FT) (52277.1 SQ FT)	CITY OF EL PASO	700	SAN FRANCISCO	AVE
113657	103 CAMPBELL E 80 FT OF 18 & E 40 FT OF 19 & 20	ALVARADO STEVEN D	309	FIFTH	AVE
114442	146 CAMPBELL 15 & 16 (6240 SQ FT)	SEPULVEDA LUCILLE (TR)	308	FLORENCE	ST
116006	33 MILLS 142.50 FT ON EL PASO X 134 FT ON PAISANO SEC (0.4419 AC)	L L H & W L L C	423	EL PASO	ST
116258	118 CAMPBELL S 25 FT OF 1 (3000 SQ FT)	THREE SONS PROPERTIES LLC	519	OREGON	ST
116715	46 CAMPBELL FRC LOT 14 EXC RR R/W (HOMESITE) (1274.00 SQ FT)	URIAS JOSE T M & CARDENAS MARIA C	1006	OREGON	ST

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS			EXEMPTIONS
117113	10 MILLS W 206 FT OF N 1/2 OF BLK (26780 SQ FT)	GAURANGA ENTERPRISES LLC	300	MAIN	DR	
117539	131 CAMPBELL E 45 FT OF 11 TO 14 & W 10 FT OF ADJ ALLEY & 7 TO 9 & S PT OF 10 & PT OF ALLEY & CHIHUAHUAST CLSD & (12 TO 14 & S 2 FT OF 11 BLK 132) (30000.0	GOLDCROSS PROPERTIES	310	PAISANO	DR	
117682	87 CAMPBELL 1 TO 3 (9360 SQ FT)	HENDERSON BABY CLINIC	721	MESA	ST	EX-XV
118072	17 MILLS NWLY PT OF BLK (151.77' ON NWLY - 298.23' ON NELY-73.00' ON SELY - IRREG ON SWLY) (23600.00 SQ FT)	CITY OF EL PASO	125	PIONEER	PLZ	EX-XV
118625	88 CAMPBELL 19 & 20 & S 8 FT OF 18 (7200 SQ FT)	EP PASEO SOUTH HOLDINGS LLC	820	EL PASO	ST	
119983	46 CAMPBELL 9 & 10 (6240 SQ FT)	MEUCHADIM OF TEXAS LTD	1001	MESA	ST	
120486	12 MILLS 66.05 FT ON STANTON BEG 93.033 FT N OF SAN ANTONIO & 37.53 FT IN REAR (5327 SQ FT)	BASSETT PARTNERS EP LLC	107	STANTON	ST	
120613	46 MILLS 51 FT ON LEON X 120 FT ON SAN ANTONIO NEC (6120.00 SQ FT)	EL PASO MASS TRANSIT DEPT BOARD	400	SAN ANTONIO	AVE	EX-XV
121762	7 HART ALL OF BLK & ALL OF BLK 20 OF MILLS (67600 SQ FT)	CITY OF EL PASO	201	FRANKLIN		EX-XV
123073	1 FRANKLIN HEIGHTS 14 & S 50 FT OF E 16 FT OF 13 & N 70 FT OF E 9 FT OF 13 (4430 SQ FT)	SUMMERSAULT PROPERTIES LLC	1026	MYRTLE	AVE	
123235	38 MILLS 20 FT ON SAN ANTONIO X 135 FT BEG 106 FT W OF NEC (2700 SQ FT)	COURTRON LLC	410 1/2	SAN ANTONIO	AVE	
123268	45 MILLS 40 FT ON LEON X 120 FT BEG 268.5 FT S OF NWC (4800.00 SQ FT)	THE CLEAN GROUP LP	328	LEON	ST	
123806	170 CAMPBELL W 1/2 OF 9 TO 11 (4740 SQ FT)	THE CLEAN GROUP LP	200	ANTHONY	ST	
123987	2 FRANKLIN HEIGHTS 17 TO 19 & WLY 12.5 FT OF 20 (10501.00 SQ FT)	WESTSTAR BANK	1001	MYRTLE	AVE	
124590	38 MILLS 39 FT ON STANTON X 130 FT BEG 78 FT N OF SWC (5070.00 SQ FT)	L & T REAL ESTATE LLC	112	STANTON	ST	
124767	34 MILLS 207 FT ON OREGON X 120 FT ON PAISANO SEC	BEST CHICKEN OF EL PASO LLC	119	PAISANO	DR	
125762	34 MILLS 102.00 FT ON EL PASO X 120.00 FT BEG 158.00 N OF SWC (12240.00 SQ FT)	HOLLAND SAL INC	402	EL PASO	ST	
126366	5 MILLS PT OF BLK BEG 139' S OF NWC (213.9' ON N-37'ON E-IRREG ON S-64.85' ON W & 5' ADJ ON S ABOVE 30.7'	EP OHM HOLDINGS LLC	209	MESA	ST	
126704	1 FRANKLIN HEIGHTS S 32.5 FT OF 15 & 16 (1625 SQ FT)	GOMEZ ROBERTO	311	OCTAVIA	ST	
127073	119 CAMPBELL 3 & 4 & N 4.5 FT OF 2 & S 16 FT OF 5 (9715 SQ FT)	TERAN PROPERTIES LLC	615	EL PASO	ST	
127133	RAILROADS 11 MI BRANCH LN & 24.091 MI SIDE TR OPER PROP IN CTY & ISD & LOTS 1 OF (BLKS 130 TO 132 CAMPBELL) (0.0002 AC)	EL PASO & SANTA FE RAILROAD	805	SANTA FE	ST	
127623	80 MAGOFFIN 11 TO 16 (13500 SQ FT)	ECONOMY CASH & CARRY INC	1109	OVERLAND	AVE	
128176	15 MILLS 21.5 FT ON EL PASO X 134 FT BEG 115 FT S OF NEC (2881 SQ FT)	THE ANDERSON IMMIGRATION LAW GROUP LLC	213	EL PASO	ST	
128691	33 MILLS 22.75 FT ON EL PASO X 134 FT BEG 86.667 FT S OF NEC	RIVERA ALICIA	309	EL PASO	ST	
128916	2 FRANKLIN HEIGHTS 24 TO 26 (9000 SQ FT)	ABA PROPERTIES LLC	1015	MYRTLE	AVE	
130223	149 CAMPBELL 19 & 20 (6245.00 SQ FT)	SANTOSCOY NORMAN R	316	STANTON	ST	
131093	33 MILLS 20.68 ON EL PASO X 134.00 FT BEG 211.51 FT S OF NEC (2771.12 SQ FT)	MARCEP GROUP LLC	321	EL PASO	ST	
131133	42 MILLS N 100 FT OF BLK (100 FT X 260 FT (26000 SQ FT)	THE CITY OF EL PASO	400	MAIN	DR	EX-XV
133208	34 MILLS 29.5 FT ON EL PASO X 120 FT BEG 134.20 FT S OF NWC	BORJAS LORENZO & GUADALUPE	310	EL PASO	ST	
135259	59 CAMPBELL 18 TO 20 & S 3.00 FT OF 17 (9720.00 SQ FT)	EL PASO VILLA MARIA INC	920	OREGON	ST	EX-XV
136471	5 MILLS 30.5 FT OF TEXAS X 42.7 FT ON W IRREG ON N 50.4 FT ON E BEG 86 FT E OF SWC (1371 SQ FT)	SANTOSCOY NORMAN R	105	TEXAS	AVE	
137092	46 MILLS 120 FT ON OVERLAND X 173 FT ON LEON SEC (20760 SQ FT)	CITY OF EL PASO	215	LEON	ST	EX-XV
137244	134 CAMPBELL 2 & N 7.666 FT OF 1 & S 8 FT OF 3 (5000.00 SQ FT)	ADRON PROPERTIES LLC	417	OREGON	ST	
137895	33 MILLS 43.333 FT ON EL PASO X 134 FT ON OVERLAND NEC	VILLANUEVA MIGUEL & JULIO	301	EL PASO	ST	
138124	46 CAMPBELL LOT 8 (3120 SQ FT)	MEUCHADIM OF TEXAS LTD	1005	MESA	ST	
138608	34 MILLS 35 FT ON OREGON X 120 FT BEG 260 FT S OF NEC	XICALI RAUL	223	OREGON	ST	
138677	7 MILLS 45.5 FT ON LEON X 120 FT BEG 328.50 FT S OF NEC (5460.00 SQ FT)	FLORES LUZ MARIA	331 1/2	LEON	ST	HS
138696	46 CAMPBELL LOT 7 (3120 SQ FT)	MEUCHADIM OF TEXAS LTD	1005	MESA	ST	
139364	200 CAMPBELL 1 TO 10 (31200 SQ FT)	DIPP REALTY TRUST	720	OVERLAND	AVE	
139708	223 CAMPBELL 11 TO 14 (12480 SQ FT)	GODINEZ ANTONIO	912	TEXAS	AVE	
139962	38 MILLS 40 FT ON SAN ANTONIO X 120 FT ON KANSAS NEC (4800 SQ FT)	VALLE DE BRAVO INVESTMENTS INC	420	SAN ANTONIO	AVE	
141079	32 MILLS 30 FT ON OVERLAND X 110 FT ON CHIHUAHUA NWC	CITY OF EL PASO	224	OVERLAND	AVE	EX-XV
141188	22 MILLS ALL OF BLK & CLSD ALLEY BTW (67600 SQ FT)	BANK OF TEXAS	500	MESA	ST	
142923	198 CAMPBELL 8 TO 10 & N 7.00 FT OF 7 (10200.00 SQ FT)	COUNTY OF EL PASO	530	OVERLAND	AVE	EX-XV
144563	51 MILLS 141.333 FT ON WESTERN X 85 FT ON ANTHONY SWC	AOL INVESTMENTS LLC	511	WESTERN	ST	
145212	34 MILLS 130 FT ON OREGON X 120 FT BEG 130 FT S OF NEC	CINCO SISTERS PROPERTIES LP	215	OREGON	ST	
146051	58 CAMPBELL 14 TO 16 (9360 SQ FT)	SILVA DIVERSIFIED INC	904	MESA	ST	
146395	23 MILLS 80 FT ON FRANKLIN X 95 FT BEG 40 FT W OF SEC	T & R CHEMICALS INC	315	FRANKLIN	AVE	
146853	46 CAMPBELL 1 TO 5 (14844 SQ FT)	BORJAS LORENZO & GUADALUPE	1021	MESA	ST	
148711	80 MAGOFFIN W 22.52 FT OF 7 & E 5 FT OF 8	PARRA MAURICIO Z & ROSA M	1119	OVERLAND	AVE	HS, OTHER
149189	3 FRANKLIN HEIGHTS 27 TO 32 (18000 SQ FT)	1031 FIRESTONE LLC	1025	TEXAS	AVE	
149528	74 CAMPBELL 13 & N 10 FT OF 14 (4320 SQ FT)	OLIVAR PHILLIP	804	OREGON	ST	
149659	118 CAMPBELL N 18 FT OF 16 (2160.00 SQ FT)	PARRADAME FAMILY PARTNERSHIP LP	612	EL PASO	ST	
150821	101 CAMPBELL 2 & N 1.00 FT OF 1 & S 25.5 FT OF 3 (6300.00 SQ FT)	GSJ FAM LP	619	OREGON	ST	
151581	35 MILLS 94.75' ON OVERLAND X 112' ON OREGON (10612.00 SQ FT)	YEK #4 LP	200	OVERLAND	AVE	
152317	37 MILLS 47 FT ON STANTON X 120 FT BEG 39.667 FT N OF SWC (5640 SQ FT)	ABDOU ABOUD REAL PROPERTY LP	214	STANTON	ST	
153663	133 CAMPBELL N 24 FT OF 9 & S 2 FT OF 10 (3484.00 SQ FT)	EAST SMART CHOICE LLC	501	EL PASO	ST	
154362	100 CAMPBELL N 7.5 FT OF 8 & 7.25 FT OF 9 (1799.50 SQ FT)	KIM WON T	705	EL PASO	ST	
157541	36 MILLS 35 FT ON STANTON X 120 FT BEG 260 FT S OF NEC (4200 SQ FT)	ADRON PROPERTIES LLC	223 1/2	STANTON	ST	
158462	10 MILLS 110 FT ON MILLS X 130 FT ON KANSAS SEC (14300 SQ FT)	COURTON LLC	313	MILLS	AVE	
158754	216 CAMPBELL E 60 FT OF 1 TO 5	UTOPIA LLC	717	MAGOFFIN	AVE	
159791	46 MILLS 30 FT ON OVERLAND X 86.667 FT BEG 30 FT E OF SWC (2600 SQ FT)	PACHECO MARIA I V	417	OVERLAND	AVE	
160764	117 CAMPBELL E 65.50 FT OF 19 & 20 (3432.00 SQ FT)	BORJAS LORENZO & GUADALUPE	209	FOURTH	AVE	
160922	38 MILLS 40 FT ON SAN ANTONIO X 140 FT BEG 66 FT W OF NEC (5600 SQ FT)	PRONTO MORTGAGE LLC	412	SAN ANTONIO	AVE	
161950	14 MILLS 48 FT ON EL PASO X 120 FT ON OVERLAND SWC (5760 SQ FT)	SCHONBERG JOANI	220	EL PASO	ST	
162174	Q SATTERTHWAITE ALL OF BLOCK (799,436 SQ FT)	CITY OF EL PASO		HENDERSONS TRIA		EX-XV
162938	45 MILLS 60 FT ON OVERLAND X 120 FT BEG 60 FT W OF NEC (7200 SQ FT)	CITY OF EL PASO	306	OVERLAND	AVE	EX-XV
162972	25 MILLS 35.5 FT ON CHIHUAHUA X 120 FT BEG 112 FT N OF SWC (4260 SQ FT)	OLIVAR PHILLIP & ELVA	202	CHIHUAHUA	ST	
163247	101 CAMPBELL 4 & 5 & N 0.50 FT OF 3 (6300.00 SQ FT)	ALBA RAYMUNDO JR	613	OREGON	ST	
163334	31 MILLS 159 FT ON CHIHUAHUA X 120 FT ON OVERLAND	LYNX INDUSTRIES LTD	301	OVERLAND	AVE	
163927	12 MILLS 8.87 FT ON SAN ANTONIO 100 FT ON W 54.44 FT ON N 93.03 FT ON STANTON (3222.11 SQ FT)	KOCHINDIO LLC	321	SAN ANTONIO	AVE	
164041	46 MILLS 15 FT ON OVERLAND X 86.67 FT ON DURANGO (1300.05 SQ FT)	CITY OF EL PASO	419	OVERLAND	AVE	EX-XV
164259	17 MILLS PT OF BLK BEG 68.14 FT NE OF SWC (76.31' ON ST - 91.00' ON SWLY -50.48' ON NWLY - IRREG ON NELY) (6202.31 SQ FT)	CITY OF EL PASO	127	PIONEER	PLZ	EX-XV
165057	74 CAMPBELL 19 & 20 & S 13.5 FT OF 18 (7860 SQ FT)	COHEVA GROUP LLC	820	OREGON	ST	
165097	144 CAMPBELL ELY PT OF 8 TO 10 (61.00 FT ON N 64.52 FT ON E - IRREG ON S - 78.00 FT ON W) (4564.02 SQ FT)	SISU ENVIRON DEVELOPMENT LLC-SERIES B	915	PAISANO	DR	
165846	36 MILLS 35.17 FT ON MESA X 120 FT BEG 218.17 FT N OF SWC (4224 SQ FT)	VALUTA CORPORATION	300	MESA	ST	
165966	1 SATTERTHWAITE 42 TO 46 & S 19.5 FT OF 41 (18240 SQ FT)	HOTEL DON QUIXOTE LTD	600	EL PASO	ST	
166281	40 MILLS UND 66.67% INT ON IMPS ONLY ON 240 FT ON TEXAS X 120 FT BEG 20 FT E OF NWC	122KPF LP	420	TEXAS	AVE	
167093	O CAMPBELL E 80 FT OF BLOCK (9600 SQ FT)	PEREA FAMILY REVOCABLE TRUST	902	OLIVE	AVE	
167448	149 CAMPBELL 15 & 16 (6240 SQ FT)	NADLER FAMILY LIMITED PARTNERSHIP	312	STANTON	ST	
168003	36 MILLS 39 FT ON OVERLAND X 86.667 FT BEG 81 FT W OF NEC (3380 SQ FT)	COMANCHE EP LLC	312	OVERLAND	AVE	
169529	32 MILLS W 30 FT OF E 60 FT OF N 100 FT OF W 1/2 OF BLK (3000.00 SQ FT)	CITY OF EL PASO	216	OVERLAND	AVE	EX-XV
170042	88 CAMPBELL 9 & 10 & N 8 FT OF 8 (7200 SQ FT)	SALOM GEORGE E FAMILY LMTD PTNSHP	701	OREGON	ST	
170360	26 & 27 MILLS ALL OF BLKS	CITY OF EL PASO	1	CIVIC CENTER PLAZA		EX-XV
170477	205 CAMPBELL 1 & 2 & S 1/2 OF 3 (7800 SQ FT)	SAYKLAY PROPERTIES LLC	911	OVERLAND	AVE	
170533	46 MILLS 30 FT ON OVERLAND X 86.667 FT BEG 60 FT E OF SWC (2600.09 SQ FT)	CITY OF EL PASO	415	OVERLAND	AVE	EX-XV

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS		EXEMPTIONS
171649	12 MILLS 86.667 FT ON STANTON X 120 FT (10400.00 SQ FT)	JMK5 INTERNATIONAL BUILDING LLC	119	STANTON	ST
171672	36 MILLS 60 FT ON OVERLAND X 86.667 FT BEG 60 FT E OF NWC (5200 SQ FT)	ROSEN RICHARD J ENTERPRISES	306	OVERLAND	AVE
171938	36 MILLS 90.5 FT ON MESA X 120 FT ON PAISANO SWC (10860 SQ FT)	ORELLANA BRUNO SR & RAMON Y	301	PAISANO	DR
172333	120 CAMPBELL PTS OF (BLK 99 & 121) & ADJ ALLYS & CLSD STS (301.89 FT ON N-IRREG ON E-878.59 FT ON W)	EL PASO ELECTRIC CO	601	SANTA FE	ST
173810	23 MILLS 32.5 FT ON MISSOURI X 60 FT IN NEC (1950 SQ FT)	MATER BAR CORP	310	MISSOURI	AVE
174073	12 MILLS WLY PT OF BLK & PT OF CLSD ALLEY BTW (120' ON NLY - IRREG ON ELY -190.48' ON SLY - 183.05' ON WLY) (30527.09 SQ FT)	J&M PROPERTIES LP	301	SAN ANTONIO	AVE
174805	80 MAGOFFIN 9 & 10 & W 20 FT OF 8 (6303.60 SQ FT)	FLORES ALBERT	1111	OVERLAND	AVE
175065	18 MILLS 47 FT ON EL PASO X 120 FT ON FRANKLIN NEC	PEARSON OFFICE COMPLEX LLC	419	EL PASO	ST
175700	45 MILLS 66 FT ON LEON X 120 FT BEG 308.5 FT S OF NWC (7920 SQ FT)	YELLOW BALLOON LP	332	LEON	ST
176768	34 MILLS 99.52 FT ON EL PASO X 117.42 FT ON OVERLAND & 24.53 FT X 15.24 FT IN REAR NWC (12067 SQ FT)	300SEP LLC TEXAS LIMITED LIABILITY CO	300	EL PASO	ST
176848	4 MILLS 61.333 FT ON N STANTON X 120 FT BEG 86.667 FT N OF SEC	HASIERAN LLC	209	STANTON	ST
176878	100 CAMPBELL N 15.25 FT OF 10 (2043 SQ FT)	CHANG RAE S	701	EL PASO	ST
179229	5 SATTERTHWAITE 1 TO 9 & S 17.5 FT OF 10 30225.00 SQ FT	BANK OF AMERICA NA	615	EL PASO	ST
179473	205 CAMPBELL W 60 FT OF 6 TO 10 (7800 SQ FT)	ABDOU ABOUD REAL PROPERTY LP	916	SAN ANTONIO	AVE
179871	247 CAMPBELL 1 TO 5 (15600.00 SQ FT)	WESTSTAR BANK	601	STANTON	ST
180625	86 CAMPBELL 11 & 12 (6240 SQ FT)	ROSENBAUM FAMILY TRUST	700	MESA	ST
181807	79 MAGOFFIN S 28 FT OF 1 TO 3 (2100 SQ FT)	ESPARZA JORGE & ROSA M	115	HILLS	ST
185141	204 CAMPBELL 16 TO 20 (13936 SQ FT)	ECONOMY CASH & CARRY INC	1001	OVERLAND	AVE
185603	170 CAMPBELL LOT 13 (3240.0 SQ FT)	THE CLEAN GROUP LP	513	SAN ANTONIO	AVE
185842	204 CAMPBELL 11 TO 15 (15600 SQ FT)	SAYKLAY PROPERTIES LLC	1000	SAN ANTONIO	AVE
186806	227 CAMPBELL S PT OF N 58 FT OF 16 TO 20 (6272 SQ FT)	PAXTON JACK T & JUNE	214	VIRGINIA	ST
186896	37 MILLS 60 FT ON STANTON X 120 FT BEG 113.333 FT S OF NWC (7200 SQ FT)	ABOUD ABDOU M	210	STANTON	ST
187299	227 CAMPBELL S 110 FT OF 14 & 15 & S 62 FT OF 16 TO 20 (13780 SQ FT)	SAN FRANCISCO DISTRICT LLC	210	VIRGINIA	ST
188935	4 MILLS 60 FT ON MILLS X 100 FT BEG 60 FT W OF NEC (6000 SQ FT)	MARTIN BUILDING LLC	212 1/2	MILLS	AVE
188999	14 MILLS 48 FT ON SAN ANTONIO X 121 FT BEG 72 FT W OF NEC (5808.00 SQ FT)	EMMAUS VENTURES LLC	110	SAN ANTONIO	AVE
189222	117 CAMPBELL LOT 5 (3120 SQ FT)	MENDEZ ROMAN D	515	MESA	ST
190830	171 CAMPBELL LOT 8 (3120.0 SQ FT)	CITY OF EL PASO		ANTHONY	ST
191256	46 CAMPBELL E 35 FT OF 11 TO 13 (2730 SQ FT)	FRENCH HILDA L L	208	EIGHTH	AVE
191277	133 CAMPBELL 7 & 8 & N 6 FT OF 6 & S 2 FT OF 9 (8040.00 SQ FT)	COLON SUR EP LLC	509	EL PASO	ST
192605	9 MILLS N 148.15 FT OF BLOCK (38518 SQ FT)	CH PROPERTY PARTNERS LLC	416	STANTON	ST
193386	100 CAMPBELL N 7 FT OF 7 & S 6 FT OF 8 (1742 SQ FT)	HMST FAMILY LP	707	EL PASO	ST
194529	79 MAGOFFIN 31.5 FT OF 1 TO 3 BEG 28 FT N OF SEC (2363 SQ FT)	RUIZ VIOLETA G & CRISTIAN A G	113	HILLS	ST
194581	100 CAMPBELL 1 & 2 & S 3.25 FT OF 3 (7403 SQ FT)	GSJ FAM LP	717	EL PASO	ST
194954	145 CAMPBELL 11 TO 16 (18720 SQ FT)	EL PASO MANAGEMENT GROUP LTD	300	OCHOA	ST
195454	32 MILLS 245.30 FT ON CHIHUAHUA X 120 FT ON SWC (29436 SQ FT)	CITY OF EL PASO	215	PAISANO	DR
196775					EX-XV
197474	222 CAMPBELL 1 TO 4 (12480 SQ FT)	MARIVANI L L C	801	MYRTLE	AVE
197868	160 CAMPBELL S 1/2 OF BLK & CLSD ALLEY (26520 SQ FT)	WILTEL COMMUNICATIONS LLC	501	OVERLAND	AVE
197973	69 MAGOFFIN PT OF FIRST ST CLSD & NW PT OF BLK 69 (EXC SELY PT) (72.69 FT ON W- 135.50 FT ON N- 26.43 FT ON E- IRREG ON S) (7922 SQ FT)	MARTINEZ RAUL G	1001	PAISANO	DR
198062	212 CAMPBELL 6 & W 19 FT OF 7 (5400 SQ FT)	TRONCOSO RODOLFO A	815	OLIVE	AVE
198243	247 CAMPBELL 6 TO 10 (15600.00 SQ FT)	MSDW BUILDING EL PASO LP	641	STANTON	ST
198396	58 CAMPBELL 11 TO 13 (9360 SQ FT)	SILVA DIVERSIFIED INC	304	SEVENTH	AVE
198407	118 CAMPBELL 2 & N 1 FT OF 1 & S 3 FT OF 3 (3600 SQ FT)	HOUNG SU HUA	517	OREGON	ST
198663	45 MILLS 30.333 FT ON CHIHUAHUA X 120 FT BEG 333.667 FT S OF NEC	RODRIGUEZ ROMELIA M & MUNIZ SOLEDAD	327	CHIHUAHUA	ST
198707	103 CAMPBELL N 18 FT OF 15 & W 60 FT OF S 8 FT OF 15 & W 60 FT OF N 6.5 FT OF 16 (3030.00 SQ FT)	DELGADO C M	612	MESA	ST
200047	202 CAMPBELL N 120 FT OF BLK INC ALY (31200 SQ FT)	DIPP REALTY TRUST	900	OVERLAND	AVE
200173	206 CAMPBELL LOT E 57.58' OF N 6.63' OF 8 & E 57.58' OF 9 & 10	ORO INVESTMENTS LLC	830	SAN ANTONIO	AVE
200315	25 MILLS E 1/2 OF BLK & CLSD ALY (120 FT ON SAN ANTONIO - 224 FT ON SANTA FE - 120 FT ON OVERLAND - 224 FT ON W)	FIRST GROUP SERVICES INC	200	SAN ANTONIO	AVE
201294	35 MILLS 26 FT ON OREGON X 120 FT BEG 112 FT S OF NWC (3120 SQ FT)	PEREZ FRANCISCO	208	OREGON	ST
201575	39 MILLS NEC OF BLK 150 FT ON TEXAS X 115 FT ON KANSAS EXC 193.91 SQ FT IN SWC (17250 SQ FT)	ORO INVESTMENTS LLC	320	TEXAS	AVE
201983	31 MILLS SW PT OF BLK (IRREG ON N - 81.67' ON E - 79' ON S - 83.6' ON W) (6541.73 SQ FT)	LYNX PROPERTIES LTD	315	OVERLAND	AVE
203018	33 MILLS 43.333 FT ON EL PASO X 134 FT BEG 275.16 FT S OF NEC	GNIAZDOWITZ GIL M	405	EL PASO	ST
203355	25 MILLS 16.5 FT ON OVERLAND X 112 FT BEG 55 FT E OF SWC (1848 SQ FT)	LUCMOR LLC	217	OVERLAND	AVE
204814	216 CAMPBELL E 52 FT OF 6 TO 10 (6760 SQ FT)	MORALES & DEKOATZ LLC	718	MYRTLE	AVE
205403	6 MILLS 112 FT ON OREGON X 120 FT ON E (13440 SQ FT)	MONTWOOD PROPERTIES INC	105	OREGON	ST
206087	206 CAMPBELL E 52' OF (11 TO 15) & W 36.666 FT OF (6 TO 10) (10640.0 SQ FT)	ORO INVESTMENTS LLC	810	SAN ANTONIO	AVE
206200	148 CAMPBELL 2 TO 19 & N PT OF 1 & 20 & CLSD ALLEY (63865.0735 SQ FT)	OUR LADY'S YOUTH CENTER	307	CAMPBELL	ST
206917	203 CAMPBELL PT OF BLK 203 & PT OF T & P RR CO (39323.00 SQ FT)	ECONOMY CASH & CARRY INC	1000	OVERLAND	AVE
207080	37 MILLS 36 FT ON OVERLAND X 113.333 FT ON KANSAS NEC (4080.00 SQ FT)	BELCLAIRE REALTY LTD	420	OVERLAND	AVE
207255	2 FRANKLIN HEIGHTS 27 & 28 (6000 SQ FT)	RUBIO DANIEL A & HOLTZ LETICIA M	1021	MYRTLE	AVE
207395	36 MILLS 40 FT ON OVERLAND X 86.667 FT BEG 41 FT W OF NEC	LUHANSK EP LLC	318	OVERLAND	AVE
208030	212 CAMPBELL 16 TO 20 (15600.00 SQ FT)	EL PASO PARK A LOT LP		MAGOFFIN	AVE
208283	44 MILLS PT OF UNOPENED KANSAS STREET (54.96 FT ON ST- IRREG ON WLY- 4.30 FT ON NLY-118.30 FT ON ELY)	UNITED STATES OF AMERICA (TR)			EX-XV
208521	117 CAMPBELL 3 & 4 (6240 SQ FT)	JB4 PROP LP	517	MESA	ST
208988	101 CAMPBELL S 17.4375 FT OF 17 & N 17.71 FT OF 18 (4252.00 SQ FT)	SALOM GEORGE E FAMILY LD PRTSH	712	EL PASO	ST
209685	1 SATTERTHWAITE 37 TO 40 & N 5.5 FT OF 41 (12660 SQ FT)	UNKNOWN OWNER	626	EL PASO	ST
210228	215 CAMPBELL 16 & W 8.75 FT OF 15 (4170 SQ FT)	MARTINEZ GUSTAVO R	808	MYRTLE	AVE
210934	209 CAMPBELL ALL OF BLK (67600 SQ FT)	COUNTY OF EL PASO	500	SAN ANTONIO	AVE
211032	118 CAMPBELL S 8 FT OF 18 & N 9.5 FT OF 19 (2100 SQ FT)	DOW SARA & MARIAN		EL PASO	ST
211678	46 CAMPBELL 35 FT OF 11 TO 13 BEG 50 FT E OF NWC (2730 SQ FT)	LANDEROS FELIX	204	EIGHTH	AVE
212024	7 MILLS 48 FT ON ALLEY X 60 FT BEG 120 FT S OF OVERLAND & 5 FT X 6 FT ON W (2910.00 SQ FT)	SOTOAK REALTY LLC	412	DURANGO	ST
212210	74 CAMPBELL 11 & 12 (6240 SQ FT)	ANISTRUM INVESTMENTS LTD	800	OREGON	ST
212303	11 MILLS ALL OF BLK (EXC SWC) (52553.92 SQ FT)	MILLS PLAZA PROPERTIES VII LP	221	KANSAS	ST
212599	201 CAMPBELL SLY 140 FT OF (BLKS 201 & 202 & ALLEY & CLOSED ST BTW) (82611.53 SQ FT)	BLK INVESTMENTS 2 FAMILY LP	811	1ST	AVE
213078	15 MILLS N 99 FT OF W 60 FT & E 60 FT OF W 120 FT OF BLK 15	CITY OF EL PASO	120	SAN ANTONIO	AVE
213163	222 CAMPBELL N 41 FT OF 10 & N 41 FT OF E 1/2 OF 9 (1599 SQ FT)	TPGTX LLC	149	ST VRAIN	ST
214035	35 MILLS 76 FT ON OVERLAND X 108.5 FT ON MESA EXC 16 FT X 21.8333 FT IN REAR NEC OF BLK (7896 SQ FT)	GAT0Z GROUP LLC	216	OVERLAND	AVE
215621	118 CAMPBELL N 23 FT OF 3 & S 17 FT OF 4 (4800 SQ FT)	OREGON STREET INC	511 1/2	OREGON	ST
216707	170 CAMPBELL E 1/2 OF 9 TO 11 (4740.00 SQ FT)	THE CLEAN GROUP LP	510	WESTERN	ST
216827	223 CAMPBELL 18 TO 20 (9360 SQ FT)	AVENIDA TEXAS LLC	904	TEXAS	AVE
218001	46 CAMPBELL FRC 15 & 16 EXC RR R/W (3380 SQ FT)	GONZALEZ GLORIA & 17	1008	OREGON	ST
218022	17 MILLS NELY PT OF BLK & A PT. OF ST (126.0 FT ON NELY - 121.77 FT ON SELY - IRREG ON SWLY- 87.76 FT ON NWLY) (13388.41 SQ FT)	MILLS PLAZA PROPERTIES LP	333	OREGON	ST
218029	45 MILLS 42 FT ON CHIHUAHUA X 120 FT BEG 120 FT S OF NEC (5040 SQ FT)	CITY OF EL PASO	311	CHIHUAHUA	ST
218447	86 CAMPBELL LOT 13 (3120 SQ FT)	ROSENBAUM FAMILY TRUST	704	MESA	ST
218709	46 MILLS E 15 FT OF W 30 FT OF S 86.67 FT OF BLK (1300.05 SQ FT)	CITY OF EL PASO	421	OVERLAND	AVE
219869	59 CAMPBELL 1 TO 5 (15600 SQ FT)	COHEVA GROUP LLC	911	MESA	ST
					EX-XV

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS		EXEMPTIONS
220205	51 MILLS PT OF BLK 51 BEG 82.25' NE OF NWLY COR (58.21' ON ST-135.09' ON ELY-62.02' ON SLY-141.28' ON WLY) (8289.13 SQ FT)	CREATIVE KIDS INC	504	SAN FRANCISCO AVE	EX-XV
221609	5 1/2 MILLS SELY PT OF BLK (58.67' ON MESA- 93.50' ON SAN ANTONIO-63.92' ON WLY-IRREG ON NLY) (5752.14 SQ FT)	101 N MESA LTD PARTNERSHIP	101	MESA ST	
223019	119 CAMPBELL 1 & S 21.5 FT OF 2 (6365 SQ FT)	SALAS RICHARD & RUBEN & 2	623	EL PASO ST	
223203	133 CAMPBELL 12 & 13 & S 2 FT OF 11 & N 17 FT OF 14 (8520.00 SQ FT)	SALOM IRMA	400	SANTA FE ST	
224207	223 CAMPBELL 8 TO 10 (9360 SQ FT)	MORENO LUZ M	915	MYRTLE AVE	
225083	247 CAMPBELL 15 TO 20 & S 9 FT OF 14 (19800 SQ FT)	WESTSTAR BANK	600	MESA ST	
225247	136 CAMPBELL 19 & 20 (6240.00 SQ FT)	ALAMEDA GROUP LLC	422	MESA ST	
225291	3 MILLS 60 FT ON N STANTON X 120 FT ON MAIN NEC (7200 SQ FT)	BULNIT INC	321	STANTON ST	
225496	40 MILLS 141.5 FT ON MYRTLE X 120 FT BEG 98.5 FT W OF SEC (16980.00 SQ FT)	FRANKLIN DAVID G CORP OF 1883	401	MYRTLE AVE	
225764	45 MILLS 131.27 FT ON CHIHUAHUA BEG 364 FT OF NEC (120 FT ON N 117.36 FT ON W 120.8 FT ON S)	CITY OF EL PASO	301	PAISANO DR	EX-XV
225771	118 CAMPBELL S 2.45 FT OF 12 & N 11.55 FT OF 13 (1680 SQ FT)	JAMES A DICK CO	604	EL PASO ST	
225819	86 CAMPBELL 17 & 18 6240.00 SQ FT	SOUTHSIDE LOW INCOME CORP	714	MESA ST	EX-XV
226754	2 FRANKLIN HEIGHTS 29 & 30 (HOMESITE)(2000.00 SQ FT)	FUENTES MARIA	1023	MYRTLE AVE	HS, OTHER
227478	88 CAMPBELL N 17 FT OF 7 & S 18 FT OF 8 (4200.00 SQ.FT)	SOUTHSIDE LOW INCOME DEVELO	705	OREGON ST	EX-XV
229628	222 CAMPBELL 17 & W 22.5 FT OF 16 (5820 SQ.FT)	NADLER FAMILY LP	806	TEXAS AVE	
230045	43 MILLS N 1/2 OF BLK EXC RRR/W) 89.65' ON NW 260 'ON N 89.43' ON E 119.44' ON S 7.18' ON W 20.66' ON S 7.18' ON E 119.90' ON S	CH PROPERTY PARTNERS LLC	400	FRANKLIN AVE	
230858	75 CAMPBELL 11 TO 20 (31200 SQ FT)	JRV PROPERTIES	800	MESA ST	
231408	23 MILLS 39.25 FT ON STANTON X 120 FT BEG 90.7 FT S OF NWC (4710 SQ.FT)	NEBHAN JOSEPH M	510	STANTON ST	
231569	14 MILLS 120.00 FT ON SAN ANTONIO X 98.33 FT ON EL PASO (11800.40 SQ FT)	MILLS PLAZA PARKING II LP	104	SAN ANTONIO AVE	AB
231812	7 MILLS PT OF BLK BEG 101.06 FT S OF NWC (60 FT ON ST- IRREG ON N- 64 FT ON E- 60 FT ON S) (3781 SQ FT)	GUILLEN GILBERTO	406	DURANGO ST	
232074	223 CAMPBELL 15 & E 1/2 OF 16 (4680 SQ FT)	GODINEZ ANTONIO	910	TEXAS AVE	
233034	215 CAMPBELL 5 & E 24 FT OF 4 (6000 SQ FT)	UTOPIA LLC	809	MAGOFFIN AVE	
234038	35 MILLS 86.667 FT ON MESA X 120 FT BEG 173.667 FT S OF NEC	GALLARDO JOSE A	215	MESA ST	
234456	7 MILLS 25.333 FT ON DURANGO X 120 FT BEG 162 FT S OF NWC EXC 6 FT X 65 FT IN NEC (3040 SQ.FT)	GUILLEN GILBERTO	414	DURANGO ST	
234788	205 CAMPBELL 5 & N 6.25 FT OF 4 (3870 SQ.FT)	ARMENDARIZ SERGIO	113	ST VRAIN ST	
234995	25 MILLS 48.5 FT ON OVERLAND X 112 FT (BEG 71.5 FT E OF SWC) (5432 SQ.FT)	FIRST GROUP SERVICES INC	215	OVERLAND AVE	
235380	100 CAMPBELL 12 & S 1.00 FT OF 11 & N 8.00 FT OF 13 (4200.00 SQ FT)	PARRADAME FAMILY PARTNERSHIP LP	702	SANTA FE ST	
235531	134 CAMPBELL S 18.33 FT OF 1 & N 64.67 FT OF CLSD ST ADJ ON S (9960.00 SQ FT)	RAMOS RICARDO	423	OREGON ST	
236137	135 CAMPBELL 13 TO 20 & W 75.75 FT OF 12 & W 75.75 FT OF S 2 FT OF 11 (27081.00 SQ FT)	MILO TX3 LLC	400	OREGON AVE	
237109	O CAMPBELL 94.5 FT ON OLIVE BEG 90.5 FT W OF NEC 107.92 FT ON SE 103.77 ON SAN ANTONIO (10003 SQ.FT)	BGMR INVESTMENTS INC A TX CORP	1013	SAN ANTONIO AVE	
238160	160 CAMPBELL 80 FT ON SAN ANTONIO X 102 FT ON DURANGO NEC (8160 SQ.FT)	HUN SEO	500	SAN ANTONIO AVE	
238688	46 CAMPBELL PT OF 1 & PT OF 13 TO 20 (147.25 ON OREGON ST 255.96 FT ON N 136.16 FT ON S 55.41 FT ON E)	SIN FRONTERAS ORGANIZING PROJ (CS)		OREGON ST	EX-XV
238966	46 MILLS 30 FT ON OVERLAND X 86.667 FT BEG 90 FT E OF SWC (2600 SQ.FT)	CITY OF EL PASO	409	OVERLAND AVE	EX-XV
239250	33 MILLS 40 FT X 120 FT BEG 209.16 FT S OF NWC	RED BALLOON LP	318	SANTA FE ST	
239340	24 MILLS 30 FT ON OVERLAND X 86.667 FT BEG 60 FT W OF SEC (2600 SQ.FT)	LR MANAGEMENT LLC	315	OVERLAND AVE	
240073	146 CAMPBELL 4 TO 10 (21840 SQ.FT)	BLK INVESTMENTS 2 FAMILY LP	301	OCHOA ST	
240383	134 CAMPBELL 19 & 20 & S 8.00 FT OF 18 (7200.00 SQ.FT)	JABALIE VIRGINIA & MARY L	516	EL PASO ST	
240499	216 CAMPBELL W 30 FT OF 16 TO 20 (3900 SQ.FT)	PRESTIGIO PROPERTIES VIII LLC	701	MAGOFFIN AVE	
241117	45 MILLS 60 FT ON OVERLAND X 99 FT ON CHIHUAHUA NEC (5940.00 SQ.FT)	CITY OF EL PASO	305	CHIHUAHUA ST	EX-XV
242111	34 MILLS 25 FT ON EL PASO X 120 FT BEG 133 FT N OF SWC	TEX-SANTA FE LLC	408	EL PASO ST	
242604	11 MILLS SWC OF BLK (160.57 FT ON S- 129.89 FT ON W-144.07 FT ON N-IRREG ON E) (19890.38 SQ.FT)	BASSETT PARTNERS EP LLC	301	TEXAS AVE	
242730	7 MILLS 60 FT ON OVERLAND X 120 FT BEG 60 E OF NWC & 60 FT ON OVERLAND LAND X 73.5 FT ON DURANGO NWC	SOTOAK REALTY LLC	414	OVERLAND AVE	
243528	87 CAMPBELL 9 & 10 & N 8 FT OF 8 (7200 SQ.FT)	SOUTHSIDE LOW INCOME HOUSING	701	MESA ST	EX-XV
244349	117 CAMPBELL W 34 FT OF 19 & 20 (1768 SQ.FT)	BORJAS LORENZO & GUADALUPE	520	OREGON ST	
245030	34 MILLS 25 FT ON EL PASO X 120 FT BEG 108 FT N OF SWC (3000 SQ.FT)	TEX-STANTON LLC	410	EL PASO ST	
245272	24 MILLS 40 FT ON SAN ANTONIO X 130 FT BEG 80 FT W OF NEC (5200 SQ.FT)	CAPLES LAND COMPANY LLC	314	SAN ANTONIO AVE	
245459	134 CAMPBELL 4 TO 9 & N 18 FT OF 3 & S 1 FT OF 10 (21000.00 SQ.FT)	CHEW DIN REAL ESTATE COMPANY	120	PAISANO DR	
245979	45 MILLS 56 FT ON CHIHUAHUA X 120 FT BEG 212 FT S OF NEC	CITY OF EL PASO	321	CHIHUAHUA ST	EX-XV
248712	245 CAMPBELL 1 TO 5 EXC TRIA IN E PT OF 5 & 13 TO 20 EXC TRIA IN E PT OF 13 & ALY CLSD BTW 1 TO 5 & 16 TO	LANDSTAR DOWNTOWN EP LLC	409	MISSOURI AVE	
249392	100 CAMPBELL 19 & 20 & S 8.00 FT OF 18 (7200.00 SQ.FT)	SANTA ANA MARIA	730	SANTA FE ST	
249404	2 FRANKLIN HEIGHTS 31 & 32 (6000 SQ.FT)	FERNANDEZ ALEJANDRO	1025	MYRTLE AVE	
249618	38 MILLS 26 FT ON SAN ANTONIO X 120 FT BEG 40 FT W OF NEC & 20 FT X 66 FT BEG 120 FT S OF NEC	FRED LOYA INSURANCE AGENCY INC	416	SAN ANTONIO AVE	
249969	36 MILLS 52 FT ON STANTON X 120 FT BEG 156 FT N OF SEC (6240 SQ.FT)	RIVER OAKS PROPERTIES LTD	305	STANTON ST	
251329	231 CAMPBELL ALL OF BLK (EXC W 78 FT OF N 41 FT OF NWC & TRIA IN SEC) & ALLEY (65343.76 SQ.FT)	PEOPLE OF THE STATE OF TEXAS	401	FRANKLIN AVE	EX-XV
252024	36 MILLS 111.33 FT ON STANTON X 120.00 FT BEG 86.67 FT S OF NEC (13360.00 SQ.FT)	CARRANZA JOSE L & CARRANZA GABRIELA	205	STANTON ST	
252660	206 CAMPBELL E PT OF 6 TO 8 (65.37''' ON ST - 67.51' ON SLY - IRREG ON WLY - 54.69' ON NLY) (4235.38 SQ.FT)	ORO INVESTMENTS LLC	109	VIRGINIA ST	
253149	222 CAMPBELL 7 & E 1/2 OF 6 (4680 SQ.FT)	RAGO JEFFREY & CHRISTINE R	813	MYRTLE AVE	
253240	42 MILLS 5160 FT OF BLK & CLSD ALY (260 FT X 160 FT)	THE CITY OF EL PASO	401	MILLS AVE	EX-XV
253250	32 MILLS 50 FT ON SANTA FE X 120 FT ON PAISANO SEC	CITY OF EL PASO		FIRE STATION	EX-XV
253864	118 CAMPBELL LOT 15 (3120.00 SQ.FT)	CHO YONG IN & CHO HYON SUK	610	EL PASO ST	
254156	41 MILLS E 240 FT OF S 1/2 OF BLK (28800 SQ.FT)	CITY OF EL PASO	200	KANSAS ST	EX-XV
254830	3 MILLS 120 FT ON MILLS X 200 FT ON N STANTON SEC (24000 SQ.FT)	UNITED STATES POSTAL SERVICE	219	MILLS AVE	EX-XV
255145	199 CAMPBELL 1 TO 20 (62400 SQ.FT)	CITY OF EL PASO	222	CAMPBELL ST	EX-XV
255546	103 CAMPBELL 13 & 14 (6240.00 SQ.FT)	ALFATRIX INVESTMENTS LLC	610	MESA ST	
255797	38 MILLS PT OF BLK BEG 79.00 FT E OF NWC (20.00 FT ON ST- 125.00 FT ON E- 21.69 FT ON S- 116.60 FT ON W) (2138.80 SQFT)	KEMP JOHN P JR	406	SAN ANTONIO AVE	
256099	88 CAMPBELL S 17 FT OF 17 & N 18 FT OF 18 (4200 SQ.FT)	KIM SUK M & SOOK H	816	EL PASO ST	
256169	1 FRANKLIN HEIGHTS 20 & 21 (6000 SQ.FT)	EL PASO ELECTRIC CO	1109	MAGOFFIN AVE	
256386	38 MILLS 160 FT ON OVERLAND X 120 FT ON KANSAS & IRREG ON NW SEC (18028.00 SQ.FT)	EL PASO PARK A LOT LP	419	OVERLAND AVE	
258222	2 MILLS LOT 10 (10400.00 SQ.FT)	MILLS PLAZA PROPERTIES VIII LP	414	OREGON ST	
258233	133 CAMPBELL S 17 FT OF 17 & N 13 FT OF 18 (3600.00 SQ.FT)	URBINA VICTOR	414	SANTA FE ST	
258519	87 CAMPBELL 14 TO 20 & S 20.5 FT OF 13 (24,300.00 SQ.FT)	MILO TX2 LLC	708	OREGON ST	
258928	101 CAMPBELL N 25.00 FT OF 10 (3000.00 SQ.FT)	SALOM OLGA M BROCKHAUS	114	FOURTH AVE	
259286	23 MILLS 35 FT ON STANTON X 120 FT BEG 60 FT N OF SWC (4200 SQ.FT)	PROPERTY HAIFA LLC	506	STANTON ST	
259421	4 MILLS 60 FT ON MILLS X 112 FT ON N STANTON & ADJ 12 FT X 60 FT TO ALY NEC (7440 SQ.FT)	MARTIN BUILDING LLC	215	STANTON ST	
260130	215 CAMPBELL 17 EXC PT NWC (2 FT ON ST 35 FT ON E 2.25 FT ON S 35 FT ON W) (3050 SQ.FT)	ROTH ALLEN & ANITA	806	MYRTLE AVE	
261842	40 MILLS 98.5 FT ON MYRTLE X 120 FT ON CAMPBELL SEC (11820 SQ.FT)	FRIEDMAN KARL & SCHERR JAMES F & 3	125	CAMPBELL ST	
261877	119 CAMPBELL 15 & 16 & S 9 FT OF 14 & N 9 FT OF 17 (8400 SQ.FT)	LANESTONE I LLC	608	SANTA FE ST	
261913	O CAMPBELL 38.4 FT ON SAN ANTONIO BEG 80 FT OF SEC 107.92 FT ON NW 10.5 FT O OLIVE 116.92 FT ON E	GONZALEZ ESPERANZA	1015	SAN ANTONIO AVE	
263289	TEXAS & PACIFIC RESERVATION IMPS ONLY	PITTSBURG PLATE GLASS CO	1106	OVERLAND AVE	
264215	5 MILLS 68.73 FT ON OREGON 85.70 FT ON TEXAS IRREG ON E 91.17 FT ON N SWC (5219.70 SQ.FT)	NATIONAL AMERICAN INVESTMEN	200	OREGON ST	
265189	21 MILLS 11 TO 15 (15600 SQ.FT)	HUNT OREGON LLC	510	OREGON ST	
265568	130 CAMPBELL 4 TO 8 (EXC W TRIA OF 8) & W 1/2 OF LEON ST CLSD ADJ & TRIA IN RRRSV & W 75 FT OF 11 TO 14 & E 35 FT OF LEON ST ADJ (31803.16 SQ.FT)	VASQUEZ HOLDING GROUP LLC	314	PAISANO DR	
265761	118 CAMPBELL N 17 FT OF 7 & S 11 FT OF 8 (3360 SQ.FT)	BERG INVESTMENT CO INC	507	OREGON ST	
266337	149 CAMPBELL 11 & 12 (6240 SQ.FT)	4MAT FAMILY LP	300	STANTON ST	
266779	170 CAMPBELL LOT 12 (3120.00 SQ.FT)	THE CLEAN GROUP LP	120	ANTHONY ST	
266886	149 CAMPBELL 13 & N 0.5 FT OF 14 (3180 SQ.FT)	NADLER FAMILY LIMITED PARTNERSHIP	304	STANTON ST	

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS			EXEMPTIONS
267011	74 CAMPBELL 15 TO 17 & S 16 FT OF 14 & N 12.5 FT OF 18 (12780 SQ FT)	COHEVA GROUP LLC	812	OREGON	ST	
268261	37 MILLS 120 FT ON OVERLAND X 113.333 FT ON STANTON NWC (13600 SQ FT)	ABDOU ABOUD REAL PROPERTY LP	200	STANTON	ST	
269492	3 FRANKLIN HEIGHTS 17 TO 20 (12000 SQ FT)	ENERGY WORKS LLC	1001	TEXAS	AVE	
269886	18 MILLS 39.667 FT ON EL PASO X 120 FT BEG 47 FT S OF NEC (4760 SQ FT)	PEARSON OFFICE COMPLEX LLC	417	EL PASO	ST	
270409	33 MILLS 42.95 FT ON SANTA FE X 120 FT BEG 211.22 FT N OF SWC	BEL CLAIRE REALTY LTD	360	SANTA FE	ST	
270945	206 CAMPBELL 53.5 FT OF 11 TO 15 BEG 24.5 FT E OF NWC (6420 SQ FT)	ORO INVESTMENTS LLC	802	SAN ANTONIO	AVE	
271224	59 CAMPBELL 15 & 16 & N 23 FT OF 17 & W 1/2 OF 11 TO 14 15240 SQ FT	COHEVA GROUP LLC	900	OREGON	ST	
272715	227 CAMPBELL 1 TO 5 (15600 SQ FT)	CITY OF EL PASO	801	TEXAS	AVE	EX-XV
272918	34 MILLS 26.333 FT ON EL PASO X 120 FT BEG 260 FT S OF NWC	MILLS PLAZA PROPERTIES DIVEST LP	320	EL PASO	ST	
273022	226 CAMPBELL 1 TO 3 (9360 SQ FT)	ESPERANTO PROPERTIES LLC	901	TEXAS	AVE	
274457	33 MILLS 42.5 FT ON EL PASO X 134 FT BEG 318.49 FT S OF NEC	MESA FOOD GTS LLC	409	EL PASO	ST	
274690	118 CAMPBELL N 14 FT OF S 16.45 FT OF 12 (1680 SQ FT)	BORJAS INVESTMENTS LLC	602	EL PASO	ST	
275003	18 MILLS 79.5 FT ON FRANKLIN X 78.667 FT BEG ON NWC (6254.03 SQ FT)	PEARSON RAY & ROBERT T	216	FRANKLIN	AVE	
275402	133 CAMPBELL PT OF 3 & 4 BEG 11.10 FT N OF SEC OF 3 (IRREG ON S-17.55 FT ON W -134.00 FT ON N- 15.05 FT ON E) (2228.00 SQ FT)	REALTY EMPIRE R8A LLC	519	EL PASO	ST	
276218	226 CAMPBELL 8 & E 4 FT OF 7 (3600 SQ FT)	AVENIDA TEXAS LLC	915	TEXAS	AVE	
277512	34 MILLS 83.02 FT ON OVERLAND X 115.2 FT ON OREGON NEC (9565 SQ FT)	IEK # 1 LP	118	OVERLAND	AVE	
277725	JUAN MA PONCE DE LEON SURV PT OF SURV & W PT OF BLK 130 CAMPBELL (403.13' ON ST-94.47' ON ELY-IRREG ON SLY-133.18' ON WLY) (DOWNTOWN MANAGEMENT DI	GOLDCROSS PROPERTIES	500	PAISANO	DR	
278007	36 MILLS 127.67 FT ON MESA X 120 FT BEG 90.5 FT N OF SWC (15320 SQ FT)	BELCLAIRE REALTY LTD	306	MESA	ST	
278276	133 CAMPBELL 15 & 16 & S 9 FT OF 14 & N 9 FT OF 17 (8400.00 SQ FT)	AL-HANNA SALAH & ELIAS WILLIAM A JR	410	SANTA FE	ST	
278826	5-1/2 MILLS 40 FT ON OREGON X 61.667 FT ON SAN ANTONIO X 66 FT ON TEXAS	LEGATE CO TEXAS LLC	201	SAN ANTONIO	AVE	
278930	7 MAGOFFIN HOMESTEAD LOT 1 (7000 SQ FT)	PIEDRA MARIA R & MARTHA E	1103	SAN ANTONIO	AVE	HS
279086	116 CAMPBELL LOT 18 (3120 SQ FT)	LAM JINNY K	518	MESA	ST	
279626	132 CAMPBELL 7 TO 9 & S 2 FT OF 10 (EXC NLY TRIA) (9487.50 SQ FT)	BELCAIRE REALTY LTD	401	SANTA FE	ST	
281043	7 MILLS 56 FT ON LEON X 120 FT BEG 212 FT S OF NEC (6720 SQ FT)	ANNUNCIATION HOUSE INC	325	LEON	ST	EX-XV
281767	13 MILLS 21.5 FT ON OREGON X 78 FT BEG 40.1667 FT N OF SWC (1677 SQ FT)	FAMAR PROPERTIES & INVESTMENT INC	116	OREGON	ST	
282986	80 MAGOFFIN 6 & E 2.48 FT OF 7 (2475.00 SQ FT)	BARRAZA CARLOS & SOLEDAD	1121	OVERLAND	AVE	HS, OTHER
283211	34 MILLS 24.53 FT ON EL PASO X 101.88 FT BEG 99.667 FT S OF NWC (2499 SQ FT)	300SEP LLC TEXAS LIMITED LIABILITY CO	308	EL PASO	ST	
284117	33 MILLS 29.44 FT ON SANTA FE X 120 FT BEG 181.78 FT N OF SWC	RED BALLOON LP	364	SANTA FE	ST	
284496	133 CAMPBELL S 13 FT OF 18 & N 17 FT OF 19	HERRERA MARTIN E & ALICIA S (LE)	416	SANTA FE	ST	
285367	3 FRANKLIN HEIGHTS N 104.94 FT OF 1 TO 16 & 11 TO 16 & E .5 FT OF 17 IN 226 CAMP & STBTW & STRIP 17.26' X 626.95' O	ANGE INVESTMENTS LLC	205	ANGE	ST	
286285	7 MILLS 30 FT ON DURANGO X 120 FT BEG 303.333 FT S OF NWC (3600 SQ FT)	GARCIA LUIS	424	DURANGO	ST	
286378	134 CAMPBELL S 4 FT OF 16 & N 11.60 FT OF 17 (1872.00 SQ FT)	SANCHEZ SONIA & SOTO SILVIA	510	EL PASO	ST	
286671	23 MILLS PT OF BLK BEG 169.25 FT NW OF SWC (90.75 FT ON STANTON- 87.5 FT ON NW- IRREG ON N- 120 FT ON E (8940.0 SQ FT)	T & R CHEMICALS INC	516	STANTON	ST	
286829	149 CAMPBELL S 25.5 FT OF 14 (3060 SQ FT)	RELDAN PARTNERS L P	308	STANTON	ST	
287938	103 CAMPBELL E 55.00 FT OF 11 (1430.00 SQ FT)	DELGADO CORINA M	306	FOURTH	AVE	
288869	36 MILLS 64.85 FT ON MESA X 120 FT BEG 81.667 FT S OF NWC EXC 5 FT X 60 FT IN NEC (7482 SQ FT)	ROSEN RICHARD J ENTERPRISES	206	MESA	ST	
290456	215 CAMPBELL 13 & E 9.25 FT OF 14 (4230 SQ FT)	MARTINEZ GUSTAVO R	814	MYRTLE	AVE	
292775	5 1/2 MILLS 46.56 FT ON SAN ANTONIO BEG 61.667 FT E OF SWC	SALOM OLGA M B	207	SAN ANTONIO	AVE	
295431	12 MILLS 30.24 FT ON STANTON X 120 FT BEG 86.667 FT S OF NEC & 15.667 FT IN REAR (2755 SQ FT)	BASSETT PARTNERS EP LLC	113	STANTON	ST	
295943	31 MILLS 41 FT ON OVERLAND X 86.667 FT BEG 79 FT E OF SWC	LYNX INDUSTRIES LTD	311	OVERLAND	AVE	
297846	51 MILLS 50 FT ON SAN FRANCISCO X 122.333 FT ON DURANGO NEC (6117 SQ FT)	MALAHAT HOLDINGS LLC	500	SAN FRANCISCO	AVE	
298531	13 MILLS N 50 FT OF S 111.667 FT & E 42 FT OF S 61.667 FT OF W 120 FT OF BLK	LORE CORP	114	OREGON	ST	
298606	4 MILLS 50 FT ON MILLS X 86.667 FT ON MESA NWC (W 50 FT OF 22) (4334 SQ FT)	MILLS PLAZA PROPERTIES IX LP	230	MESA	ST	
298850	147 CAMPBELL ALL OF BLK EXC PT IN ST (54450.00 SQ FT)	COUNTY OF EL PASO	320	CAMPBELL	ST	EX-XV
299597	4 MILLS 60 FT ON TEXAS X 86.667 FT BEG 60 FT E OF SWC (E 60 FT OF 24) (5200 SQ FT)	AVENIDA TEXAS LLC	209	TEXAS	AVE	
299658	103 CAMPBELL S 19.17 FT OF W 40 FT OF 18 & N 6.83 FT OF E 8 FT OF W 40 FT OF 18 (821.00 SQ FT)	ALVARADO STEVEN D	616	MESA	ST	
300454	88 CAMPBELL 16 & N 9 FT OF 17 (4200 SQ FT)	SANTA ANA SALVADOR & MARIA T	814	EL PASO	ST	
300676	6 MILLS LOT 28 (14508 SQ FT)	CITY OF EL PASO	106	MILLS	ST	EX-XV
301775	101 CAMPBELL 16 & S 0.4375 FT OF 15 & N 8.5625 FT OF 17 (4200.00 SQ FT)	SALOM MARIA E O	710	EL PASO	ST	
301837	45 MILLS 21 FT ON CHIHUAHUA X 60 FT BEG 99 FT S OF NEC (1260 SQ FT)	CITY OF EL PASO	309	CHIHUAHUA	ST	EX-XV
302007	132 CAMPBELL NLY TRIA OF 9 & 10 (15.00 FT ON SANTA FE - 21.21 FT ON S - 15.00 FT ON N) (112.50.00 SQ FT)	CITY OF EL PASO	401	SANTA FE	ST	EX-XV
302502	35 MILLS 49 FT ON OREGON X 120 FT BEG 138 FT S OF NWC (5880 SQ FT)	PEREZ FRANCISCO	212	OREGON	ST	
302546	35 MILLS 21.5 FT ON MESA X 120 FT BEG 108.5 FT S OF NEC (2580 SQ FT)	DELGADO EVERARDO Y & YOSHIDA MARTHA R	209	MESA	ST	
302843	214 CAMPBELL 11 TO 20 -7 TO 10 -PT OF ALLEY WAY ADJ TO BLK / 1 FRANKLIN HEIGHTS 1 TO 6 & W 15 FT OF 7 - 17 TO 19 - PT OF ALLEY WAY ADJ & PT OF CLOSED A	MPV DEVELOPMENT INC	900	MYRTLE	AVE	
303274	214 CAMPBELL 1 & 2 (6240 SQ FT)	RUVALCABA SYLVIA	901	MAGOFFIN	AVE	
303748	100 CAMPBELL 16 & 17 & N 18.00 FT OF 18 (8400.00 SQ FT)	BORJAS INVESTMENTS LLC	706	SANTA FE	ST	
304485	7 MILLS 60 FT ON OVERLAND X 120 FT BEG 60 FT W OF NEC (7200 SQ FT)	GEZELLIGHIHO LLC	404	OVERLAND	AVE	
304607						
304773	7 MILLS 30.333 FT ON DURANGO X 120 FT BEG 273 FT S OF NWC (3640 SQ FT)	GUILLEN GILBERT	420	DURANGO	ST	
304939	3 FRANKLIN HEIGHTS 21 TO 22 (6000 SQ FT)	NADLER FAMILY LP	1013	TEXAS	AVE	
305191	133 CAMPBELL 1 & 21.5 FT OF 2 (6365.00 SQ FT)	BRECEDA & REYES CORP	195	THIRD	AVE	
306781	87 CAMPBELL 4 TO 7 & S 18 FT OF 8 (14640 SQ FT)	PARRADAME FAMILY PARTNERSHIP LP	709	MESA	ST	
309318	4 MILLS 30 FT ON TEXAS X 86.667 FT BEG 90 FT W OF SEC (2600 SQ FT)	SOUTHWEST DENTAL MANAGEMENT INC	211	TEXAS	AVE	
310986	36 MILLS 35 FT ON STANTON X 120 FT BEG 260 FT N OF SEC (4200 SQ FT)	RIVER OAKS PROPERTIES LTD	225	STANTON	ST	
311249	226 CAMPBELL 4 TO 6 & W 22 FT OF 7 (12000 SQ FT)	ESPERANTO PROPERTIES LLC	909	TEXAS	AVE	
311863	101 CAMPBELL S 25.00 FT 1 (3000.00 SQ FT)	PARRADAME FAMILY PARTNERSHIP LP	621	OREGON	ST	
312437	18 MILLS S 119.33 FT OF E 1/2 OF BLK & CLSD ALY & S 111.85 FT OF W 1/2 OF BLK & CLSD ALY	CITY OF EL PASO	201	MAIN	DR	EX-XV
312583	79 MAGOFFIN 5 30.3 FT OF 31 & 32 (1515 SQ FT)	GONZALEZ-CALVO JAIRO	109	HILLS	ST	
313054	169 CAMPBELL 7 & 8 & 10 FT X 53 FT OF CLSD ALLEY ADJ (6890.00 SQ FT)	WICKER R B TIRE & RUBBER CO	201	ANTHONY	ST	
313270	86 CAMPBELL LOT 15 (3120 SQ FT)	SERRANO MARIA M & SAENZ NORA & 5	710	MESA	ST	
313829	116 CAMPBELL E 45 FT OF 19 & 20 (2340 SQ FT)	LAM JINNY K	307	FOURTH	AVE	
313895	17 MILLS SE PT OF BLK (87.50' ON N - 150.00' ON E - 94.81' ON S - 186.51' ON W) (14722.32 SQ FT)	MILLS PLAZA PROPERTIES LP	303	OREGON	ST	
315040	80 MAGOFFIN 20 & W 10 FT OF 21 (3151.80 SQ FT)	UNKNOWN OWNER	1106	SAN ANTONIO	AVE	
315262	86 CAMPBELL 19 & 20 (6240 SQ FT)	TEXAS 26 LLC	722	MESA	ST	
315735	100 CAMPBELL S 12.5 FT OF N 20 FT OF 8 (1675 SQ FT)	KIM WON T	707	EL PASO	ST	
317317	14 MILLS 72 FT ON EL PASO X 120 FT BEG 90 FT N OF SWC (8640 SQ FT)	SW T-BIRD LTD	210	EL PASO	ST	
318202	59 CAMPBELL E 1/2 OF 11 TO 14 (6240 SQ FT)	COHEVA GROUP LLC	208	SEVENTH	AVE	
318216	200 CAMPBELL 11 & 12 (6240 SQ FT)	CASTANEDA JOSE D & ARACELI	700	OVERLAND	AVE	
318351	10 MILLS E 54 FT OF N 1/2 OF BLK	SUMMIT INDIGO EP LLC	325	KANSAS	ST	
318700	146 CAMPBELL PT OF 2 & 3 (120 FT ON N - 25.01 FT ON E - 120.26 FT ON S - 32.67 FT ON W) (3460.61 SQ FT)	BLK INVESTMENTS 2 FAMILY LP	317	OCHOA	ST	
319385	216 CAMPBELL W 60 FT OF 1 TO 5 (7800 SQ FT)	GARZA MARIA E	711	MAGOFFIN	AVE	
320782	15 MILLS 64 FT ON EL PASO X 134 FT BEG 51 FT S OF NEC	ABUNDANT LIVING FAITH CENTER	207	EL PASO	ST	EX-XV
322626	5 MILLS 25 FT ON MILLS X 80 FT BEG 65 FT OF NWC (2000 SQ FT)	CITY OF EL PASO	112	MILLS	AVE	EX-XV
323012	35 MILLS 43.33 FT ON MESA X 120 FT BEG 130 FT S OF NEC (5200.00 SQ FT)	ARMENDARIZ SERGIO & LUCERO ALEXIS	211	MESA	ST	
323532	7 MILLS 54.15 FT ON DURANGO - 120.00 FT ON N - 99.54 FT ON E - 128.30 FT ON S (9484.23 SQ FT)	CENTRO DE SALUD FAMILIAR LA FE INC	428	DURANGO	ST	EX-XV
323575	79 MAGOFFIN N 30.5 FT OF 1 TO 3 (2288 SQ FT)	SHR INVESTMENTS LLC	111	HILLS	ST	

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS			EXEMPTIONS
323846	2 MILLS	N 65.07 FT OF E 74.62 FT & N 62.87 FT OF W 45.92 FT OF E 120	415	MESA	ST	
324344	211 CAMPBELL 7 TO 10 & N 2' OF 6 (12720 SQ FT)	MILLS PLAZA PROPERTIES VIII LP	716	MAGOFFIN	AVE	
326297	198 CAMPBELL 11 TO 20 (26700 SQ FT)	THE ROSALIE HAMRAH 2015 LIVING TRUST	500	OVERLAND	AVE	EX-XV
326503	1 FRANKLIN HEIGHTS	COUNTY OF EL PASO	1014	MYRTLE	AVE	
327194	215 CAMPBELL	ABA PROPERTIES LLC	810	MYRTLE	AVE	
327375	24 MILLS 45 FT ON OVERLAND X 108.333 FT BEG 75 FT E OF SWC (4875 SQ FT)	MARTINEZ GUSTAVO R	307	OVERLAND	AVE	
327716	45 MILLS 91.46 FT ON LEON BEG 374.5 FT S OF NWC (120 FT ON N 105 FT ON E 120.8 FT ON S) (11810.31 SQ FT)	307 E OVERLAND LLC	311	PAISANO	DR	
328212	2 MILLS	GREEN SOIL PROPERTIES LLC	413	MESA	ST	
329150	34 MILLS	CLARENCE KENNETH C	225	OREGON	ST	
329270	206 CAMPBELL 16 TO 20 (15600.00 SQ FT)	XICALI RAUL	112	OCHOA	ST	EX-XV
329520	119 CAMPBELL LOT 10 (3484 SQ FT)	COUNTY OF EL PASO	601	EL PASO	ST	
330167	7 MILLS	TWINS PIZZA INC	416	DURANGO	ST	
330205	206 CAMPBELL 1 TO 5 (15600.00 SQ FT)	SOTOAK REALTY LLC	821	OVERLAND	AVE	EX-XV
330233	214 CAMPBELL 5 & 6 (6240 SQ FT)	COUNTY OF EL PASO	911	MAGOFFIN	AVE	
330560	101 CAMPBELL 14 & S 18.00 FT OF 13 & N 25.5625 FT OF 15	RUVALCABA SYLVIA	704	EL PASO	ST	
332527	13 MILLS	ALBA RAYMUNDO JR	109	MESA	ST	
333616	58 CAMPBELL	MILLS PLAZA PROPERTIES IV LP	912	MESA	ST	
334747	171 CAMPBELL LOT 3	AUTO ZONE INC	115	ANTHONY	ST	
336262	100 CAMPBELL N 21 FT OF 6 & S 19 FT OF 7 (5360 SQ FT)	SNORTUM MARTIN F	709	EL PASO	ST	
336437	211 CAMPBELL 11 TO 13 & NLY 23 FT OF 14 (12304.85 SQFT)	KOO IL HOE	100	OCHOA	ST	
336865	3 MILLS	THE ROSALIE HAMRAH 2015 LIVING TRUST	310	MESA	ST	
337549	171 CAMPBELL 1 & 2 (6240 SQ FT)	GEORGE R DIPP 2021 SPOUSAL LIFETIME ACCESS TRUST	117	ANTHONY	ST	EX-XV
337996	38 MILLS	CITY OF EL PASO	104	STANTON	ST	
338316	169 CAMPBELL 4 TO 6 & N 1.333 FT OF 3 (9519.00 SQ FT)	YUN HOWARD	701	PAISANO	DR	
338511	222 CAMPBELL 11 TO 13 (9360 SQ FT)	WICKER R B TIRE & RUBBER CO	818	TEXAS	AVE	
338779	51 MILLS 82.25 FT ON SAN FRANCISCO X 149.89 FT ON ANTHONY (11609 SQ FT)	BELTRAN MOISES	522	SAN FRANCISCO	AVE	
338873	80 MAGOFFIN 17 TO 19	MALAHAT HOLDINGS LLC	1104	SAN ANTONIO	AVE	
339235	13 MILLS 89.17 FT ON MESA X 120 FT ON OVERLAND SECTION (10700.40 SQ FT)	INVESTORS HOLDINGS INC	113	MESA	ST	
341054	135 CAMPBELL 1 & S 24.00 FT OF 2 (6000.00 SQ FT)	MILLS PLAZA PROPERTIES IV LP	419	MESA	ST	
342749	34 MILLS 34.98 FT ON OVERLAND X 115.21 FT BEG 117.42 FT E OF NWC (4023 SQ FT)	VAZQUEZ LAURA E	112	OVERLAND	AVE	
343005	102 CAMPBELL 1 TO 5	IEK # 1 LP		MESA	ST	EX-XV
343752	74 CAMPBELL 6 TO 10 (15600 SQ FT)	CATHOLIC DIOCESE OF EL PASO	801	MESA	ST	
345393	117 CAMPBELL 11 TO 13 (9360 SQ FT)	ANISTRUM INVESTMENTS LTD	500	OREGON	ST	
345959	103 CAMPBELL 17 & E 60 FT OF S 8 FT OF 15 & E 60 FT OF N 6.5 FT OF 16 & S 19.5 FT OF 16 & W 32 FT OF N 6.83 FT OF 18	EP 500 SOUTH OREGON LLC	614	MESA	ST	
346253	145 CAMPBELL 4 TO 10 & PT OF 3 (2.47 FT ON E - 44.45 FT & 75.99 FT ON S - 11.61	HERNANDEZ ARNOLDO	827	PAISANO	DR	
347563	3 FRANKLIN HEIGHTS 25 & 26 (6000 SQ FT)	BLK INVESTMENTS 2 FAMILY LP	1017	TEXAS	AVE	
348642	116 CAMPBELL LOT 17 (3120 SQ FT)	NADLER FAMILY LIMITED PARTNERSHIP	516	MESA	ST	
348654	32 MILLS S 10 FT OF N 110 FT OF W 30 FT OF E 60 FT OF W 1/2 OF BLK (300 SQ FT)	LAM JINNY K		CHIHUAHUA	ST	EX-XV
349107	36 MILLS 61.15 FT ON MESA X 120 FT BEG 198.75 FT S OF NWC (7338 SQ FT)	CITY OF EL PASO		MESA	ST	
349975	43 MILLS	DOWNTOWN SHALOM LLC	401	MAIN	DR	
351078	2 FRANKLIN HEIGHTS	UNITED BANK OF EL PASO DEL NORTE	1006	TEXAS	AVE	
352284	226 CAMPBELL 9 & 10 (6240 SQ FT)	1006 TEXAS AVE LLC	921	TEXAS	AVE	
352702	32 MILLS 63.333 FT ON CHIHUAHUA X 120 FT BEG 110 FT S OF NWC (7599.60 SQ FT)	ECHEVERRIA ALEGRE CORPORATION	308	CHIHUAHUA	ST	EX-XV
354343	46 MILLS 137.333 FT ON DURANGO X 120 FT ON SAN ANTONIO NWC (16480 SQ FT)	CITY OF EL PASO	420	SAN ANTONIO	AVE	EX-XV
354562	86 CAMPBELL LOT 16 (3120 SQ FT)	CITY OF EL PASO	712	MESA	ST	
355154	215 CAMPBELL	ESCOBAR ENRIQUE	813	MAGOFFIN	AVE	EX-XV
355211	13 MILLS 60 FT ON SAN ANTONIO X 122.667FT ON OREGON NWC (7360.20 SQ FT)	OPPORTUNITY CENTER FOR THE HOMELESS	200	SAN ANTONIO	AVE	
355410	4 MILLS	EP EL CENTRO LLC	220	MESA	ST	
355459	223 CAMPBELL 17 & W 1/2 OF 16 (4680 SQ FT)	MILLS PLAZA PROPERTIES IX LP	906	TEXAS	AVE	
355690	119 CAMPBELL 18 TO 20 & S 17 FT OF 17 (11400.00 SQ FT)	BARRON IRMA & TORRES RACHEL	630	SANTA FE	ST	
358177	135 CAMPBELL 3 & N 2 FT OF 2 & S 12.00 FT OF 4 (4800.00 SQ FT)	LANESTONE I LLC	415	MESA	ST	
358231	36 MILLS	MILO TX3 LLC	300	OVERLAND	AVE	
359030	118 CAMPBELL 10 & N 11.666 FT OF 9 & 5.333 FT ADJ 10 ON N	MARCUS REAL ESTATE LIMITED PARTNER	501	OREGON	ST	
359643	37 MILLS	BORJAS INVESTMENTS LLC	209	KANSAS	ST	
359956	24 MILLS PT OF BLK	BASSETT TOWER CORPORATION	303	OVERLAND	AVE	
360256	101 CAMPBELL 6 TO 9 & S 1.00 FT OF 10 (12600.00 SQ FT)	GARZA ENRIQUE J & SILVIA E	605	OREGON	ST	
360359	32 MILLS 30 FT ON OVERLAND X 110 FT BEG 90 FT E OF NWC	ANISTRUM INVESTMENTS LTD	212	OVERLAND	AVE	EX-XV
360743	134 CAMPBELL N 22 FT OF 16 (2640.00 SQ FT)	CITY OF EL PASO	508	EL PASO	ST	
360976	161 CAMPBELL PT OF BLK & PT OF S 16.667 FT OF 1 IN 169 CAMPBELL & PT OF 34 FT ST BTW BLKS 161 & 169 (62.2 ON N 137.01 ON E150.44 ON SW	EP PASEO SOUTH HOLDINGS LLC	600	SAN ANTONIO	AVE	
361715	78 MAGOFFIN W 1/2 OF BLOCK	WICKER R B TIRE & RUBBER CO		PAISANO	DR	EX-XV
361721	46 CAMPBELL	CITY OF EL PASO	1002	OREGON	ST	
362264	145 CAMPBELL 17 & N PT OF 18 (46.04 FT ON W 120 FT ON N 38.88 FT ON E 120.3 FT ON S) (5095 SQ FT)	LOPEZ LINO	801	PAISANO	DR	
363332	14 MILLS 42 FT ON EL PASO X 120 FT BEG 48 FT N OF SWC (5040 SQ FT)	ISAIS JUAN M	216	EL PASO	ST	
365067	133 CAMPBELL 20 & S 9 FT OF 19 (4200.00 SQ FT)	BARBROS PROPERTY LTD	418	SANTA FE	ST	
365167	39 MILLS 99.25 FT ON STANTON X 120.00 FT ON TEXAS & 20.00 FT ALLEY ADJ	THREE SONS PROPERTIES LLC	304	TEXAS	AVE	EX-XV
365758	117 CAMPBELL 15 TO 18 (12480 SQ FT)	HOUSING AUTHORITY OF THE CITY OF EL PASO	510	OREGON	ST	EX-XU
366191	15 MILLS 88.25 FT ON EL PASO X 134 FT ON OVERLAND SEC (11826 SQ FT)	510 SOUTH OREGON LLC	215	EL PASO	ST	
366554	204 CAMPBELL 45.59 FT ON SAN ANTONIO BEG 183 FT E OF NWC	JABALIE VIRGINIA & MARY L	1014	SAN ANTONIO	AVE	
366814	34 MILLS	SAYKLAY PROPERTIES LLC	324	EL PASO	ST	
366831	171 CAMPBELL 5 & S 12 FT OF E 1/2 OF 6 & N 1/2 OF 4 EXC 291 SQ FT (5400.00 SQ FT)	MILLS PLAZA PROPERTIES DIVEST LP	113	ANTHONY	ST	EX-XV
368704	201 CAMPBELL N 1/2 OF BLK (31200.00 SQ FT)	CITY OF EL PASO	800	OVERLAND	AVE	EX-XV
370436	72 CAMPBELL PT OF 2 TO 9 & PT OF SANTA FE RR RESERVATION (222.48' ON ST -IRREG ON SW - 177.34' ON NW - IRREG ON E)	COUNTY OF EL PASO	911	EL PASO	DR	
370772	36 MILLS 20 FT ON STANTON X 120 FT BEG 240 FT S OF NEC (2400 SQ FT)	MEUCHADIM OF TEXAS LTD	221	STANTON	ST	
371298	89 CAMPBELL	RIVER OAKS PROPERTIES LTD	805	EL PASO	ST	
372562	5 MILLS	SALOM GEORGE E FAMILY LD PRTSHp	114	MILLS	AVE	
373805	223 CAMPBELL	TEMPE THORN RENTALS LLC	909	MYRTLE	AVE	
373864	118 CAMPBELL 14 & S 14.45 FT OF 13 (4854 SF)	EL PASO EMPLOYEES FEDERAL CREDIT UNION	606	EL PASO	ST	
374043	15 MILLS 60 FT ON OVERLAND X 125.75 FT ON SANTA FE SWC (7545.00 SQ FT)	BERG INVESTMENT CO	117	OVERLAND	AVE	
375606	33 MILLS 43.00 ON EL PASO X 134.00 FT BEG 232.19 FT S OF NEC (5762.00 SQ FT)	FRANKLIN GROUP L P	401	EL PASO	DR	
375805	205 CAMPBELL E 60 FT OF 9 & 10 & N 21 FT OF 8 (4380 SQ FT)	MARCEP GROUP LLC	918	SAN ANTONIO	AVE	
376707	171 CAMPBELL W 1/2 OF 6 & N 14 FT OF E 1/2 OF 6 (2400 SQ FT)	ABOUD RUSSELL M	111	ANTHONY	ST	EX-XV
376878	214 CAMPBELL 3 & 4 (6240 SQ FT)	CITY OF EL PASO	905	MAGOFFIN	AVE	
377035	212 CAMPBELL 8 TO 10 & E 7 FT OF 7 (10200 SQ FT)	SAENZ UBALDO	817	OLIVE	AVE	
378039	135 CAMPBELL 6 TO 9 & S 2.00 FT OF 10 (12720.00 SQ FT)	GREENBELT ASSETS LLC	220	PAISANO	DR	
379213	227 CAMPBELL 6 TO 8 (9360 SQ FT)	LOPEZ JESUS ROMO	811	TEXAS	AVE	EX-XV
379846	5 1/2 MILLS	CITY OF EL PASO	114	TEXAS	AVE	
	101.82 FT ON SAN ANTONIO BEG 108.29 FT E OF SWC & EXTENDING	TROST HILLS BUILDING LLC				

APPENDIX A - TIRZ PARCELS

PROPERTY ID	LEGAL DESCRIPTION	OWNER	ADDRESS		EXEMPTIONS	
380524	87 CAMPBELL 12 & N 5.5 FT OF 13	MILO TX2 LLC	702	OREGON	ST	
380546	205 CAMPBELL 11 TO 15 & N 10 FT OF 16 (16800 SQ.FT)	MEXICAN CONSULATE		SAN ANTONIO	AVE	EX-XV
381316	5 MILLS 80 FT ON MESA X 95 FT ON MILLS NEC (7600 SQ.FT)	BANNER HOTEL LLC	215	MESA	ST	
381892	170 CAMPBELL 4 TO 8 (15867.6 SQ.FT)	PARKHILL SMITH & COOPER PROPERTY HOLDINGS LLC	501	SAN ANTONIO	AVE	
382136	41 MILLS E 240 FT OF N 1/2 OF BLK & CLSD ALLEY ADJ ON S (33600.00 SQ.FT)	MILLS PLAZA PROPERTIES VII LP	222	KANSAS	ST	
383194	1 FRANKLIN HEIGHTS 10 & 11 (6000 SQ.FT)	EPHFC MYRTLE LLC	1020	MYRTLE	AVE	EX-XV
383895	59 CAMPBELL 6 TO 10 (15600 SQ.FT)	ROSENBAUM FAMILY TRUST	907	MESA	ST	
383999	144 CAMPBELL E PT OF 7 (35.55 FT ON ST - 15.13 FT ON W - 32.22 FT ON N) (244.81 SQ.FT)	SISU ENVIRON DEVELOPMENT LLC-SERIES B				
384205	35 MILLS 157.12 FT ON MESA X 120.00 FT BEG 78.00 FT N OF SEC (18852.00 SQ.FT)	SYSTEM CAPITAL REAL PROPERTY	309	MESA	ST	
384254	58 CAMPBELL E 1/2 OF 19 & 20 (3120 SQ.FT)	MEUCHADIM OF TEXAS LTD	303	8TH	ST	
384403	13 MILLS 25.667 FT ON OREGON X 120 FT BEG 122.667 FT S OF NWC (3080 SQ.FT)	110 S OREGON LLC	110	OREGON	ST	
384479	149 CAMPBELL S 20 FT OF 18 (2400 SQ.FT)	SANTOSCOY NORMAN R	314	STANTON	ST	
384543	37 MILLS 96.667 FT ON KANSAS X 120 FT ON FIRST SEC (11600 SQ.FT)	BELCLAIRE REALTY LTD	217	KANSAS	ST	
385828	134 CAMPBELL S 14.4 FT OF 17 & N 18.00 FT OF 18 (3888.00 SQ.FT)	HERRERA ENRIQUE (LE) & ALICIA (LE) & 2	512	EL PASO	ST	
386178	23 MILLS PT OF BLK BEG 108.07' SE OF NELY COR (151.93' ON NELY - 40.00' ON SELY - IRREG ON SWLY - 120.00' ON NWLY)	T & R CHEMICALS INC		KANSAS	ST	
386656	36 MILLS 52.15 FT ON MESA X 120 FT BEG 146.52 FT S OF NWC (6258 SQ.FT)	ROSEN RICHARD J ENTERPRISES	210	MESA	ST	
386759	134 CAMPBELL 14 & 15 & S 18 FT OF 13 (8400.00 SQ.FT)	JABALIE VIRGINIA & MARY L	504	EL PASO	ST	
387576	200 CAMPBELL 13 TO 16 (12480 SQ.FT)	SEGOVIA JUAN M & CYNTHIA	206	FLORENCE	ST	
387848	51 MILLS 71 FT ON SAN FRANCISCO X 140 FT ON W BEG 50 FT W OF NEC (9940 SQ.FT)	JB4 PROPERTIES LP	504	SAN FRANCISCO	AVE	
388300	5 MILLS 90 FT ON MESA X 131 FT ON TEXAS EXC 5 FT X 36 FT IN NWC	CVS PHARMACY INC	201	MESA	ST	
390161	17 MILLS PT OF BLK BEG 95.08' SW OF NEC (13.17' ON NWLY - IRREG ON NELY -69.60' & 65.59' ON SELY - IRREG ON SWLY) (24253.96 SQ.FT)	MILLS PLAZA PROPERTIES LP	123	PIONEER	PLZ	
390162	39 MILLS S 160.75 FT OF W 120 FT & ALY ADJ & E 150 FT OF S 145 FT & 193.91 SQ.FT ADJ TO NWC	EL PASO ELECTRIC COMPANY	112	STANTON	ST	
390628	80 MAGOFFIN 5 & W 20 FT OF 4 (4086 SQ.FT)	HIDALGO JOSE ALBERTO	1123	OVERLAND	AVE	
390725	51 MILLS 120.667 FT ON WESTERN X 85 FT ON DURANGO SEC (10257 SQ.FT)	THE PLACE AT UNION PLAZA INC	115	DURANGO	ST	
391533	35 MILLS 78 FT ON MESA X 120 FT ON PAISANO SEC (9360 SQ.FT)	THE JOHN R ELLIS TRUST & 3	217	PAISANO	DR	
392111	32 MILLS 30 FT ON OVERLAND X 110 FT BEG 30 FT E OF NWC	CITY OF EL PASO	220	OVERLAND	AVE	EX-XV
392685	33 MILLS NWC OF BLK (209.16 FT ON SANTA FE X 120 FT ON OVERLAND) (25165.03 SQ.FT)	RED BALLOON LP	110	OVERLAND	AVE	
393490	103 CAMPBELL W 80 FT OF 19 & 20 (4160.00 SQ.FT)	SOUTHSIDE LOW INCOME HOUSING	620	MESA	ST	EX-XV
394786	32 MILLS 120 FT ON OVERLAND ST X 173.33 FT ON SANTA FE ST (20799.88 SQ.FT)	CITY OF EL PASO	307	SANTA FE	ST	EX-XV
395302	5 SATTERTHWAITE 38 TO 42 & S 16.67 FT OF 37 (20480 SQ.FT)	CITY OF EL PASO	610	SANTA FE	ST	EX-XV
395753	101 CAMPBELL N 25.00 FT OF 11 (3000.00 SQ.FT)	RA GUN HWA & HUR YONG S	700	EL PASO	ST	
395875	100 CAMPBELL 134.00 FT OF N 4.00 FT OF 9 & S 10.75 FT OF 10 (1976.50 SQ.FT)	HERNANDEZ LUIS & MANUELA	703	EL PASO	ST	
395892	118 CAMPBELL N 15 FT OF 8 & S 14.333 FT OF 9 (3519 SQ.FT)	BORJAS INVESTMENTS LLC	505	OREGON	ST	
395897	216 CAMPBELL W 35.4167 FT OF 11 TO 15 (4605 SQ.FT)	CHAVEZ MARIO JR & ANGELINA R	702	MYRTLE	AVE	
396289	35 MILLS 70 FT ON OREGON X 120 FT BEG 260 FT N OF SWC (8400 SQ.FT)	MILO TX3 LLC	222	OREGON	ST	
397927	119 CAMPBELL 9 (EXC SLY PT) (1371.20 SQ.FT)	TWINS PIZZA INC	601	EL PASO	ST	
398864	100 CAMPBELL N 25.00 FT OF 11 (3000.00 SQ.FT)	RIO DORADO INVESTMENTS LLC	700	SANTA FE	ST	
398988	25 MILLS 55 FT ON OVERLAND X 112 FT ON CHIHUAHUA SWC (6160 SQ.FT)	LUCMOR LLC	219	OVERLAND	AVE	
399991	13 MILLS 60 FT ON SAN ANTONIO X 122.667 FT BEG 60 FT E OF NWC (91-8) (7360 SQ.FT)	KIM YONG JU & YUN SUN OK	206	SAN ANTONIO	AVE	
400806	222 CAMPBELL 5 & W 1/2 OF 6 (4680.00 SQ.FT)	AGUIRRE ALEJANDRO & ISELA	809	MYRTLE	AVE	
400913	32 MILLS 86.667 FT ON CHIHUAHUA X 120 FT BEG 173.333 FT S OF NWC	CITY OF EL PASO	312	CHIHUAHUA	ST	EX-XV
401320	24 MILLS PT OF BLK BEG 30.33' NW OF SWC (110.50' ON MESA - 120.00' ON NLY -IRREG ON ELY - 56.50 FT ON SLY)	L R MANAGEMENT LLC	112	MESA	ST	
401573	171 CAMPBELL S 1/2 OF 4 & 291 SQ.FT IN N 1/2 OF 4 (1851 SQ.FT)	CITY OF EL PASO		ANTHONY	ST	EX-XV
402991	1 SATTERTHWAITE 1 TO 10 (30900 SQ.FT)	LA FRONTERA CONSERVATION FUND	601	OREGON	ST	
403128	7 MILLS 92 FT ON LEON X 120 FT BEG 120 FT S OF NEC (11040 SQ.FT)	LION LOA LLC	305	LEON	ST	
406048	102 CAMPBELL 6 TO 10 (15600.00 SQ.FT)	HERNANDEZ MARIA C	601	MESA	ST	
406233	204 CAMPBELL 53 FT ON SAN ANTONIO BEG 130 FT E OF NWC (6195 SQ.FT)	STAR CITY INVESTMENTS LLC	1010	SAN ANTONIO	AVE	
407319	24 MILLS 43.333 FT ON STANTON X 120 FT BEG 130 FT S OF NEC (5200 SQ.FT)	CAPLES LAND COMPANY LLC	105	STANTON	ST	
407674	101 CAMPBELL 19 & 20 & S 8.29 FT OF 18 (7234.00 SQ.FT)	SALOM GEORGE E FAMILY LD PRTSH	714	EL PASO	ST	
407837	134 CAMPBELL 12 & S 2 FT OF 11 & N 8 FT OF 13 (4320.00 SQ.FT)	JABALIE VIRGINIA & MARY L	500	EL PASO	ST	
408710	100 CAMPBELL N 22.75 FT OF 3 & S 17 FT OF 4 (5326 SQ.FT)	LANESTONE I LLC	713	EL PASO	ST	
408844	136 CAMPBELL 12 TO 18 & S 2 FT OF 11 (22080.00 SQ.FT)	CASEY CONSTANCE D	306	PAISANO	DR	
409503	152 CAMPBELL PT OF 3 TO 6 (87.61 FT ON NELY - 139.0 FT ON SLY - 107.92 FT ON NWLY) (5062.63 SQ.FT)	SOTOAK REALTY LLC	501	PAISANO	DR	
409625	212 CAMPBELL 14 & 15 (6240 SQ.FT)	WTLD'S INVESTMENTS LLC	812	MAGOFFIN	AVE	
410211	74 CAMPBELL 1 TO 5 (15600 SQ.FT)	ANISTRUM INVESTMENTS LTD	827	MESA	ST	
410308	21 MILLS 16 & N 14 FT OF 17	PORTER ALBERT L	504	OREGON	ST	
411382	216 CAMPBELL W 68 FT OF 8 TO 10 (5305.61 SQ.FT)	GARZA MARIA E	716	MYRTLE	AVE	
412432	7 MILLS 43 FT ON LEON X 120 FT BEG 374 FT S OF NEC (5160 SQ.FT)	TCHONG & CHONG FAMILY TRUST	333	LEON	ST	
413450	211 CAMPBELL 1 TO 5 & S 24 FT OF 6 (17610 SQ.FT)	EL PASO FIREMEN & POLICEMEN'S PENSION FUND	909	SAN ANTONIO	AVE	EX-XV
413911	88 CAMPBELL 6 & S 9 FT OF 7 (4200 SQ.FT)	SALOM GEORGE E FAMILY LMTD PTRSH	709	OREGON	ST	
413970	38 MILLS 17.5' ON SAN ANTONIO X 130' BEG 99' E OF NWC & 12.75' X 4.5'X 13.52' ADJ ON S 2303.69 SQ.FT	408 ESPITA LLC	408	SAN ANTONIO	AVE	
602837	206 CAMPBELL PTS OF 6 TO 10 BEG 93.33' SW OF NEC OF 10 (35.75' ON NLY - IRREG ON ELY - 25.85' ON SLY - 120.0' ON WLY) (3810.00 SQ.FT)	ORO INVESTMENTS LLC	810	SAN ANTONIO	AVE	
617792	88 CAMPBELL REPLAT C LOT 1	MARTINEZ ROSA	115	SIXTH	AVE	
643803	2 FRANKLIN HEIGHTS 21 TO 23 & ELY 12.5 FT OF 20 (10499.00 SQ.FT)	SCG HOLDINGS LTD	1009	MYRTLE	AVE	
646368	UNT 1 SAVOY CONDOMINIUMS PLUS 40.0 % INT IN COM ELEMENT	TUNG ZHI II LLC	116	STANTON	ST	
656165	B STEVENS (1.1297 AC) OUT OF BLKS B & C & VACATED ROWS FOR XMPT PROPERTIES (STEVENS REPLAT B)	CITY OF EL PASO				EX-XV
656167	BLK B STEVENS REPLAT B LOT 1	CITY OF EL PASO	1	BALLPARK PLAZA		EX-XV
663209	2 FRANKLIN HEIGHTS 1 TO 10 (30000 SQ.FT)	BAUS INVESTMENTS LP	1000	TEXAS	AVE	
663961	MILLS VACATING PT OF OREGON ST & MILLS AVE R.O.W ADJ. (15206.10 SQ.FT)	MILLS PLAZA PROMENADE LLC				
667847	69 MAGOFFIN PT OF FIRST ST CLSD & SELY PT OF 11 BLK 69 & 143 (249.94 FT ON ST- IRREG ON WLY- 124.50 FT ON NLY) (3761 SQ.FT)	PEOPLE OF THE STATE OF TEXAS		PAISANO	DR	EX-XV
675120	7 MILLS 25 FT ON LEON X 120 FT BEG 268 FT S OF NEC (3000.00 SQ.FT)	GUAJARDO ENRIQUE	327	LEON	ST	
675121	7 MILLS 35.5 FT ON LEON X 120 FT BEG 293 FT S OF NEC (4260.00 SQ.FT)	GUAJARDO ENRIQUE	329	LEON	ST	
675515	119 CAMPBELL N 8.2 FT OF 8 & SLY PT OF 9 (30.2 FT ON ST-134.00 FT ON SLY-26.8 FT ON WLY-IRREG ON NLY) (3747.60 SQ.FT)	THREE SONS PROPERTIES LLC	603	EL PASO	ST	
676960	211 CAMPBELL 15 TO 20 & SLY 3 FT OF 14 (10855.15 SQFT)	THE ROSALIE HAMRAH 2015 LIVING TRUST	100	OCHOA	ST	
684959	38 MILLS PT OF BLK BEG 116.50 FT E & 130.00 FT S OF NWC (16.75 FT ON N- 4.50 FT ON E- 13.52 FT ON S) (30.49 SQFT)	ESCOBAR ENRIQUE				
695945	PT OF VACATED MAIN ST BTW BLKS 1 & 17 (260.00 FT ON NWLY- 44.00 FT ON NELY- IRREG ON SELY- 23.81 FT ON SWLY) (87120.00 SQ.FT)	MILLS PLAZA PARKING LP		OREGON	ST	
704642	UNT O-9A WESTSTAR TOWER CONDOMINIUMS (10370.00 SQ.FT) PLUS 4.318 % INT IN COM AREA	WESTSTAR TOWER PROPERTIES LLC	601	MESA	ST	AB
705693	216 CAMPBELL W 68 FT OF 6 & 7 (3537.08 SQ.FT)	GARZA MARIA E	716	MYRTLE	AVE	



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-500, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

District 8

Economic and International Development, Karina Brasgalla, (915) 212-0094

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending Ordinance No. 016528 to modify requirements for membership on the Board of Directors of the Tax Reinvestment Zone Number Five, City of El Paso, Texas.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 9, 2024
PUBLIC HEARING: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karina Brasgalla, (915) 212-0094

DISTRICT(S) AFFECTED: 8

STRATEGIC GOAL: Goal 1 - Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

An ordinance amending Ordinance No. 016528 to modify requirements for membership on the Board of Directors of the Tax Reinvestment Zone Number Five, City of El Paso, Texas.

BACKGROUND / DISCUSSION:

The proposed ordinance would modify the creation ordinance for Tax Increment Reinvestment Zone #5 (TIRZ #5) to amend the authority of the Board of Directors to reflect it's advisory role to City Council.

The Board shall make recommendations to the City Council concerning the administration of the Fund. The Board may adopt a preliminary project plan and reinvestment zone financing plan for the Zone and submit such plans to the City Council for approval. The Board may prepare, implement, and monitor such project plans for the Zone, as the City Council considers advisable.

PRIOR COUNCIL ACTION:

On February 13, 2024, City Council made a motion requesting that the creation ordinance be modified to reflect the advisory limitations on the TIRZ #5 Board of Directors.

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 016528 TO MODIFY REQUIREMENTS FOR MEMBERSHIP ON THE BOARD OF DIRECTORS OF THE TAX REINVESTMENT ZONE NUMBER FIVE, CITY OF EL PASO, TEXAS.

WHEREAS, by Ordinance No. 016528, adopted December 19, 2006, the City of El Paso City Council designated Tax Increment Reinvestment Zone Number Five ("the Zone") pursuant to the Tax Increment Financing Act, Chapter 311, Texas Tax Code (the "Act"), establishing the boundaries of the Zone; creating a Board of Directors (the "Board"); providing an effective and termination date for the Zone; and containing other provisions related thereto; and

WHEREAS, Ordinance No. 016528 has been amended multiple times since its enactment, including by Ordinances Nos. 016803 and 016804 on December 18, 2007; by Ordinance No. 017821 on July 17, 2012; by Ordinance No. 017861 on August 28, 2012; and by Ordinance No. 018049 on July 30, 2013 and by Ordinance No. 018911 on March 5, 2019; and

WHEREAS, on February 13, 2024, the City Council voted to modify the Board duties and responsibilities to be consistent with other advisory boards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

1. That Section 4 of Ordinance No. 016528 is hereby replaced in its entirety to read as follows:

There is hereby created a Board of Directors for the Zone (the "Board"), with all the rights powers and duties as provided by the Act to such Boards or by action of the Council. The Board shall make recommendations to the City Council concerning the administration of the Fund. The Board may adopt a preliminary project plan and reinvestment zone financing plan for the Zone and submit such plans to the City Council for approval. The Board may prepare, implement, and monitor such project plans for the Zone, as the City Council considers advisable.

Pursuant to Section 311.009 (a) of the Act, the City declares that the Board shall consist of nine (9) members appointed by the Mayor with the approval of the City Council. Each year, the Mayor, with the approval of the City Council, shall appoint one member of the Board to serve as chair for a term of one year consistent with Section 311.009 (f) of the Act. The Board. may elect a vice-chair and such other officers as the Board considers appropriate.

Additionally, each Taxing Unit that levies real property taxes in the Zone may appoint one member of the Board if the Taxing Unit contributes all or part of the tax increment produced by the Unit into the Zone's tax increment

fund. The number of directors on the Board shall be increased by one for each Taxing Unit that appoints a director to the Board, provided that the maximum number of directors shall not exceed fifteen (15).

All persons appointed must meet the eligibility requirements of Section 311.009(e)(1) of the Act, as amended, to serve as members of the Board. Board members representing the City shall be appointed by the Mayor with the approval of Council; preference for City appointees shall be given to individuals who possess some or all of the following characteristics:

- (a) Experience in at least one of the following areas: arts, real estate, retail, housing, finance, historic preservation, construction, development, or El Paso history;
- (b) Knowledge of downtown El Paso;
- (c) Geographic diversity (through the City of El Paso);
- (d) Cultural diversity;
- (e) Moral and ethical character;
- (f) Integrity;
- (g) High performance standards;
- (h) Availability;
- (i) Strong desire for public service, but not an elected official.

Members of the Board are appointed for terms of two years. City-appointed members shall serve staggered terms. During the initial year of the Board, or should there ever be a vacancy of the entire Board, five members of the Board shall be appointed for two-year terms, and four members of the Board shall be appointed for one-year terms. Thereafter, all terms shall be two years. A vacancy on the Board is filled for the unexpired term by appointment of the Taxing Unit that appointed the director who served in the vacant position. Upon expiration of a term, replacements to the Board shall be appointed for a two-year term, in the same manner as originally appointed.

2. Except as expressly herein amended, Ordinance No. 016528 shall remain in full force and effect.

[Signatures begins on the following page]

ADOPTED this _____ day of _____, 2024

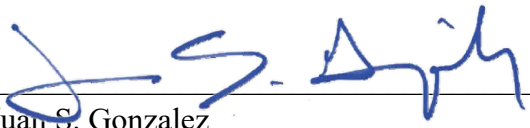
CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Karina Bragalla, Interim Director
Economic & International Development



Legislation Text

File #: 24-471, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

Fire, Chief Jonathan P. Killings, (915) 212-5665

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance Amending Title 9 (Health and Safety) Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.060 (Franchise - Application - Contents) to add a process for Denial of Franchise application; Section 9.85.070 (Franchise - Application; Review; Hearing) To add factors considered for Public convenience and necessity; Section 9.85.130 (Violation - Penalty) to move to Section 9.85.140 and be replaced with (Suspension; Revocation: Appeal) Giving Due Process after suspension or revocation, of the El Paso City Code.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Fire Department

AGENDA DATE: April 9, 2024

PUBLIC HEARING DATE: April 23, 2024

CONTACT PERSON NAME AND PHONE NUMBER: Jonathan P. Killings, 915-212-5665

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 2: Set the Standard for a Safe and Secure City

SUBGOAL: 2.3 Increase public safety operational efficiency

SUBJECT: An Ordinance Amending Title 9 (Health and Safety) Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.060 (Franchise – Application – Contents) To add a process for Denial of Franchise application; Section 9.85.070 (Franchise – Application; Review; Hearing) To add factors considered for Public convenience and necessity; Section 9.85.130 (Violation – Penalty) To move to Section 9.85.140 and be replaced with (Suspension; Revocation: Appeal) Giving Due Process after suspension or revocation, of the El Paso City Code.

BACKGROUND / DISCUSSION:

The City wishes to amend Title 9, Chapter 9.85, Sections 9.85.060, 9.85.070, 9.85.130 and add Section 9.85.140 to deliver the need for a more detailed process for ambulance franchise applications. In the interest of the economy, a mechanism for denying a deficient application needs to be put in place that will allow the department to only bring viable application to city council for hearing that will allow all parties to have a productive discussion.

PRIOR COUNCIL ACTION:

Yes, Ordinance No. 018547 was passed and adopted August 9, 2016

AMOUNT AND SOURCE OF FUNDING:

N/A


HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Fire Department

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.85 (EMERGENCY AND TRANSFER AMBULANCE SERVICES), SECTION 9.85.060 (FRANCHISE – APPLICATION - CONTENTS) TO ADD A PROCESS FOR DENIAL OF FRANCHISE APPLICATION; SECTION 9.85.070 (FRANCHISE—APPLICATION; REVIEW; HEARING) TO ADD FACTORS CONSIDERED FOR PUBLIC CONVENIENCE AND NECESSITY; SECTION 9.85.130 (VIOLATION —PENALTY) TO MOVE TO SECTION 9.85.140 AND BE REPLACED WITH (SUSPENSION; REVOCATION; APPEAL) GIVING DUE PROCESS AFTER SUSPENSION OR REVOCATION, OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 9, Chapter 9.85, Sections 9.85.060, 9.85.070, 9.85.130 and add Section 9.85.140; and

WHEREAS, the need for a more detailed process for ambulance franchise applications has become evident; and

WHEREAS, the factors that city council considers to determine “public convenience and necessity” at hearing for a franchise application must be clearly defined in order for all parties to have a productive discussion; and

WHEREAS, in the interest of economy, a mechanism for denying a deficient application will provide the department a means of bringing only viable applications to city council for hearing; and

WHEREAS, a process for suspending or revoking a franchise is necessary to ensure that service to the public conforms to an acceptable standard; and

WHEREAS, in order to effectuate due process, franchises given a notice of suspension or revocation are afforded a hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.060 (Franchise Application - Contents), is hereby amended to read as follows:

9.85.060 - Franchise application—Contents; denial.

- A. Application for a franchise shall be filed with the city clerk upon forms furnished by the city clerk along with the applicable application fee. The applicant shall furnish the following information:
 - 1. A statement that the applicant has obtained liability insurance in accordance with the requirements provided by this article before commencing service;

Page 1 of 6

2. A statement of the number of vehicles which the applicant proposes to operate and the make, model and vehicle identification number of each transfer vehicle;
 3. A statement that each vehicle is supplied with minimal emergency equipment as set forth in Section 9.85.110 C;
 4. A list of persons who will act as ambulance attendants and drivers, their current State of Texas Department of State Health Services certificate status, and their date of employment, current driver's license issued by a U.S. state or the U.S. federal government and expiration date, defensive driving or current emergency vehicle operators course certificate, and physician release; and
 5. A statement that the safety mechanism of the vehicle is operative and is in good repair; including, but not limited to, headlights, tail-lights, turn signals, brakes, brake lights, emergency lights, windshield wipers, wiper blades, handles opening doors and windows, and tires and spare tires.
- B. Copies of each application for a franchise shall be forwarded to the chief of the fire department or designee for acceptance or denial, and the chief of the fire department shall review applications for ambulance service and make recommendations to the City Council.
- C. Any person who gives false information regarding any statements made in subsections A.1 through A.5 of this section, shall have his or her application denied, and be guilty of a misdemeanor and subject to the punitive measures set forth in Section 1.08.010.
- D. The chief of the fire department may deny an application for a franchise, whether original or renewal, by serving the applicant with written notice by hand-delivery or certified mail, return-receipt requested, if the chief of the fire department finds:
1. That the applicant has supplied false or incorrect information on the franchise application;
 2. That the applicant has failed to supply all information required on the franchise application form; or
 3. That the applicant has failed to pay the franchise application fee.
- E. In the event that the applicant's franchise is under suspension or revocation, no new franchise shall be granted until the term of such suspension or revocation has expired.
- F. The chief of the fire department shall issue written notice of denial of a franchise application to the applicant which shall contain, as a minimum, the following:
1. The name of the applicant;
 2. Statement that the application is denied; and
 3. Reason(s) for the denial.

SECTION 2. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.070 (Application; review; hearing), is hereby amended to read as follows:

9.85.070 - Franchise—Application; factors considered; review; hearing.

- A. Upon acceptance of an application for a franchise, the city council will set the time for a public hearing thereon and receive evidence as to whether the public convenience and necessity justify granting the franchise, whether the applicant is qualified to render good service and has or will have sufficient equipment of suitable type and condition, and to any other relevant facts bearing on whether the franchise will be in the public interest. The city council shall grant the franchise and determine upon what terms and conditions it will be granted, or shall refuse to grant it, in accordance with the council's findings as to whether considering the above standards, the public interest will be served.
- B. In all hearings, the burden of proof shall be upon the applicant to establish that a need in the community exists for the services.
- C. Factors considered. In determining public convenience and necessity, the City Council may consider but not be limited to the following:
 - 1. The need for an additional franchise. The number of providers available to provide service in the area in which the applicant proposes to furnish services, and whether granting the franchise will adversely affect existing service providers;
 - 2. The distance from the operational address at which the applicant proposes to operate the franchise to hospitals and other medical providers serving the public;
 - 3. Response times, total number of calls for service, and total number of completed transfers for the franchises already serving the area;
 - 4. The reasonableness of the proposed rates to be charged by the applicant;
 - 5. Financial responsibility of the applicant; and
 - 6. Whether the applicant has performed such service in a satisfactory manner in the past.

SECTION 3. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.130 (Violation—Penalty), is hereby amended to read as follows:

9.85.130 - Franchise—Suspension; revocation; appeal.

- A. Suspension. The chief of the fire department may issue a written notice of suspension or deferred suspension not to exceed sixty days subject to this chapter if the director determines that any of the following is true:
1. The franchisee has breached a provision of the franchise agreement;
 2. The franchisee has had its provider license revoked, suspended, reprimanded or placed on probation by the Texas Department of State Health Services;
 3. The franchisee is in violation of a provision of this chapter or a rule adopted under this chapter;
 4. The franchisee is indebted to the city for fees or payment of penalties imposed by this chapter or by a rule adopted under this chapter;
 5. The franchisee is not fit, willing, or able to continue operating the franchise in accordance with the license, this article, the rules and regulations established by the chief of the fire department, and other applicable state and federal laws;
 6. The franchise is operating under a trade name other than the one granted to the franchise;
 7. The franchisee was convicted of any felony offense while the franchise was granted; or
 8. Continued operation of the franchise poses a risk to the health and safety of the community.
- B. Revocation. The chief of the fire department may issue a written notice of revocation a franchise if the franchisee violates this chapter on two or more occasions within a twelve-month period or if the chief of the fire department determines:
1. The franchisee supplied false or misleading information on the application for the franchise, provider license, or any other license provided by the State.
- C. Notice. The chief of the fire department shall issue a written notice of suspension, deferred suspension, or revocation of a franchise to the franchisee, which shall contain, as applicable, the following:
1. Name and address of the franchise;
 2. Statement of whether the franchise is suspended or revoked;
 3. Reason(s) for the suspension or revocation;

4. In the case of a suspension, a recommendation for corrective measures to bring the franchise into compliance with the requirements of this chapter;
 5. Reasonable time limit for the completion of the corrective measures;
 6. Statement that the franchise, if suspended, is subject to revocation for failure to complete the corrective measures within the allotted time; and
 7. Statement that the suspension or revocation may be appealed.
- D. A franchisee may not reapply for a new franchise for a period of twelve months after said franchise has been revoked.
- E. A franchisee whose franchise has been suspended shall not work for another franchise as an employee, representative, or ambulance personnel during the suspension period. This subsection shall not apply to an employee exclusively earning a wage or salary.
- F. Appeal. Within ten business days of denial, suspension or revocation, the chief of the fire department shall prepare a report indicating the reasons for the suspension or revocation, and shall provide a copy to franchisee at the address given in the franchise agreement. The decision of the chief of the fire department is final unless within ten calendar days from the date of receiving such official's report, the franchisee files with the city clerk a written appeal to the city manager specifying reasons for the appeal. Said appeal shall also include a written rebuttal to the chief of the fire department's report.
- G. The city manager or a designee other than the chief of the fire department shall review the report of the chief of the fire department and the appellant's rebuttal. The city manager or designee may allow the appellant to make an oral argument or submit additional rebuttal. The city manager or designee shall make a ruling on the appeal within 14 days after the appeal has been filed.
- H. The city manager or a designee other than the chief of the fire department shall sustain, reverse or modify the action of the chief of the fire department and shall notify the appellant of the decision in writing. The decision of the city manager or designee is final.

SECTION 4. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.140, is hereby added and reads as follows:

9.85.140 - Violation—Penalty.

Any violation of any section of this chapter shall constitute a misdemeanor punishable by a fine up to five hundred dollars in accordance with Sections 1.08.010, 1.08.020 and 1.08.030 of the El Paso City Code.

SECTION 5. Except as herein amended, Title 9 of the El Paso City Code shall remain in full force and effect.

ADOPTED this ____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Carlos L. Armendariz
Assistant City Attorney

APPROVED AS TO CONTENT:


Jonathan P. Killings, Chief
El Paso Fire Department

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.85 (EMERGENCY AND TRANSFER AMBULANCE SERVICES), SECTION 9.85.060 (FRANCHISE - APPLICATION – CONTENTS) TO ADD A PROCESS FOR DENIAL OF FRANCHISE APPLICATION; SECTION 9.85.070 (FRANCHISE—APPLICATION; REVIEW; HEARING) TO ADD FACTORS CONSIDERED FOR PUBLIC CONVENIENCE AND NECESSITY; SECTION 9.85.130 TO ADD SUSPENSION, REVOCATION, AND APPEAL LANGUAGE; SECTION 9.85.140 TO CLARIFY VIOLATION LANGUAGE; THE PENALTY AS PROVIDED IN SECTION 9.85.140 OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 9, Chapter 9.85, Sections 9.85.060, 9.85.070, 9.85.130 and add Section 9.85.140 of the El Paso City Code; and

WHEREAS, the need for a more detailed process for ambulance franchise applications has become evident; and

WHEREAS, the factors that City Council considers to determine “public convenience and necessity” at hearing for a franchise application must be clearly defined in order for all parties to have a productive discussion and understanding; and

WHEREAS, in the interest of economy, a mechanism for denying a deficient application will provide the Fire Department a means of bringing only viable applications to City Council for hearing; and

WHEREAS, a process for suspending or revoking a franchise is necessary to ensure that service to the public conforms to an acceptable standard; and

WHEREAS, in order to effectuate due process, franchises given a notice of suspension or revocation are afforded a hearing and opportunity to be heard.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.060 (Franchise Application - Contents), is hereby amended to read as follows:

9.85.060 - Franchise application—Contents; denial.

- A. Application for a franchise shall be filed with the city clerk upon forms furnished by the city clerk along with the applicable application fee. The applicant shall furnish the following information:

1. A statement that the applicant has obtained liability insurance in accordance with the requirements provided by this article before commencing service;
 2. A statement of the number of vehicles which the applicant proposes to operate and the make, model and vehicle identification number of each transfer vehicle;
 3. A statement that each vehicle is supplied with ~~a first-aid kit and other~~ minimal emergency equipment as set forth in Section 9.85.110 C;
 4. A list of persons who will act as ambulance attendants and drivers, their current State of Texas Department of State Health Services certificate status, and their date of employment, current ~~Texas or New Mexico~~ driver's license issued by a U.S. state or the U.S. federal government and expiration date, defensive driving or current emergency vehicle operators course certificate, and physician release; and
 5. A statement that the safety mechanism of the vehicle is operative and is in good repair; including, but not limited to, headlights, tail-lights, turn signals, brakes, brake lights, emergency lights, windshield wipers, wiper blades, handles opening doors and windows, and tires and spare tires.
- B. Copies of each application for ~~ambulance service~~ a franchise shall be forwarded to the chief of the fire department or designee for acceptance or denial, and the chief of the fire department shall review applications for ambulance service and make recommendations to the ~~Ceity~~ Ceouncil.
- C. Any person who gives false information regarding any statements made in subsections A.1 through A.5 of this section, shall have his or her application denied, and be guilty of a misdemeanor and subject to the punitive measures set forth in Section 1.08.010.
- D. The chief of the fire department may deny an application for a franchise, whether original or renewal, by serving the applicant with written notice by hand-delivery or certified mail, return-receipt requested, if the chief of the fire department finds:
1. That the applicant has supplied false or incorrect information on the franchise application;
 2. That the applicant has failed to supply all information required on the franchise application form; or
 3. That the applicant has failed to pay the franchise application fee.
- E. In the event that the applicant's franchise is under suspension or revocation, no new franchise shall be granted until the term of such suspension or revocation has expired.
- F. The chief of the fire department shall issue written notice of denial of a franchise application to the applicant which shall contain, as a minimum, the following:

1. The name of the applicant;
2. Statement that the application is denied; and
3. Reason(s) for the denial.

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9.85.070 - Franchise—Application; factors considered; review; hearing.

- A. Upon acceptance of an application for a franchise, the city council will set the time for a public hearing thereon and receive evidence as to whether the public convenience and necessity justify granting the franchise, whether the applicant is qualified to render good service and has or will have sufficient equipment of suitable type and condition, and to any other relevant facts bearing on whether the franchise will be in the public interest. The city council shall grant the franchise and determine upon what terms and conditions it will be granted, or shall refuse to grant it, in accordance with the council's findings as to whether considering the above standards, the public interest will be served.
- B. In all hearings, the burden of proof shall be upon the applicant~~s~~ to establish that a need in the community exists for the~~ir~~ services.
- C. Factors considered. In determining public convenience and necessity, the City Council may consider but not be limited to the following:
 1. The need for an additional franchise. The number of providers available to provide service in the area in which the applicant proposes to furnish services, and whether granting the franchise will adversely affect existing service providers;
 2. The distance from the operational address at which the applicant proposes to operate the franchise to hospitals and other medical providers serving the public;
 3. Response times, total number of calls for service, and total number of completed transfers for the franchises already serving the area;
 4. The reasonableness of the proposed rates to be charged by the applicant;
 5. Financial responsibility of the applicant; and

6. Whether the applicant has performed such service in a satisfactory manner in the past.

SECTION 3. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.130 (Violation—Penalty), is hereby amended to read as follows:

9.85.130 -Violation—Penalty. Franchise—Suspension; revocation; appeal.

~~Any violation of any section of this chapter shall constitute a misdemeanor punishable in accordance with Sections 1.08.010, 1.08.020 and 1.08.030 of the El Paso City Code.~~

A. Suspension. The chief of the fire department may issue a written notice of suspension or deferred suspension not to exceed sixty days subject to this chapter if the director determines that any of the following is true:

1. -The franchisee has breached a provision of the franchise agreement;
2. -The franchisee has had its provider license revoked, suspended, reprimanded or placed on probation by the Texas Department of State Health Services;
3. The franchisee is in violation of a provision of this chapter or a rule adopted under this chapter;
4. The franchisee is indebted to the city for fees or payment of penalties imposed by this chapter or by a rule adopted under this chapter;
5. The franchisee is not fit, willing, or able to continue operating the franchise in accordance with the license, this article, the rules and regulations established by the chief of the fire department, and other applicable state and federal laws;
6. The franchise is operating under a trade name other than the one granted to the franchise;
7. — The franchisee was convicted of any felony offense while the franchise was granted; or
8. Continued operation of the franchise poses a risk to the health and safety of the community.

B. -Revocation. The chief of the fire department may issue a written notice of revocation a franchise if the franchisee violates this chapter on two or more occasions within a twelve-month period or if the chief of the fire department determines:

1. The franchisee supplied false or misleading information on the application for the franchise, provider license, or any other license provided by the State.
- C. Notice. The chief of the fire department shall issue a written notice of suspension, deferred suspension, or revocation of a franchise to the franchisee, which shall contain, as applicable, the following:
1. Name and address of the franchise;
 2. Statement of whether the franchise is suspended or revoked;
 3. Reason(s) for the suspension or revocation;
 4. In the case of a suspension, a recommendation for corrective measures to bring the franchise into compliance with the requirements of this chapter;
 5. Reasonable time limit for the completion of the corrective measures;
 6. Statement that the franchise, if suspended, is subject to revocation for failure to complete the corrective measures within the allotted time; and
 7. Statement that the suspension or revocation may be appealed.
- D. A franchisee may not reapply for a new franchise for a period of twelve months after said franchise has been revoked.
- E. A franchisee whose franchise has been suspended shall not work for another franchise as an employee, representative, or ambulance personnel during the suspension period. This subsection shall not apply to an employee exclusively earning a wage or salary.
- F. Appeal. Within ten business days of denial, suspension or revocation, the chief of the fire department shall prepare a report indicating the reasons for the suspension or revocation, and shall provide a copy to franchisee at the address given in the franchise agreement. The decision of the chief of the fire department is final unless within ten calendar days from the date of receiving such official's report, the franchisee files with the city clerk a written appeal to the city manager specifying reasons for the appeal. Said appeal shall also include a written rebuttal to the chief of the fire department's report.
- G. The city manager or a designee other than the chief of the fire department shall review the report of the chief of the fire department and the appellant's rebuttal. The city manager or designee may allow the appellant to make an oral argument or submit additional rebuttal. The city manager or designee shall make a ruling on the appeal within 14 days after the appeal has been filed.

H. The city manager or a designee other than the chief of the fire department shall sustain, reverse or modify the action of the chief of the fire department and shall notify the appellant of the decision in writing. The decision of the city manager or designee is final.

SECTION 4. That Title 9 (Health and Safety), Chapter 9.85 (Emergency and Transfer Ambulance Services), Section 9.85.140, is hereby added and reads as follows:

9.85.140 - Violation—Penalty.

Any violation of any section of this chapter shall constitute a misdemeanor punishable by a fine up to five hundred dollars in accordance with Sections 1.08.010, 1.08.020, and 1.08.030 of the El Paso City Code.

SECTION 5. Except as herein amended, Title 9 of the El Paso City Code shall remain in full force and effect.

ADOPTED this ____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Carlos L. Armendariz
Assistant City Attorney

Jonathan P. Killings, Chief
El Paso Fire Department



Legislation Text

File #: 24-393, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 8

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Nina Rodriguez, (915) 212-1561

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance changing the zoning of the property described as a portion of Lots 20 and 21, Block 92, Bassett Addition, 2607 Montana Avenue, City of El Paso, El Paso County, Texas from A-2 (Apartment) to S-D (Special Development), pursuant to section 20.04.360, and approving a detailed site development plan pursuant to section 20.04.150 and 20.10.360 of the El Paso City Code to allow for a business office as permitted in the S-D (Special Development) Zone District. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning and detailed site development plan meet the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 2607 Montana Ave.

Applicant: Carlos Estrello Jr., PZRZ23-00040

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: March 26, 2024

PUBLIC HEARING DATE: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Nina Rodriguez, (915) 212-1561

DISTRICT(S) AFFECTED: District 8

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance changing the zoning of the property described as a portion of Lots 20 and 21, Block 92, Bassett Addition, 2607 Montana Avenue, City of El Paso, El Paso County, Texas from A-2 (Apartment) to S-D (Special Development), pursuant to section 20.04.360, and approving a detailed site development plan pursuant to section 20.04.150 and 20.10.360 of the El Paso City Code to allow for a business office as permitted in the S-D (Special Development) Zone District. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning and detailed site development plan meet the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 2607 Montana Ave.

Applicant: Carlos Estrello Jr., PZRZ23-00040

BACKGROUND / DISCUSSION:

The applicant is requesting to rezone from A-2 (Apartment) to S-D (Special Development) with reductions to the minimum district area, required setbacks, and approval of a Detailed Site Development Plan to allow for a proposed business office. City Plan Commission recommended 7-0 to approve the proposed rezoning and detailed site development plan on January 25, 2024. As of March 12, 2024, the Planning Division has not received any communication in support or opposition to the rezoning and detailed site development plan request. See attached staff report for additional information.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: *Kevin Smith* for Philip Etiwe

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF THE PROPERTY DESCRIBED AS A PORTION OF LOTS 20 AND 21, BLOCK 92, BASSETT ADDITION, 2607 MONTANA AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM A-2 (APARTMENT) TO S-D (SPECIAL DEVELOPMENT), PURSUANT TO SECTION 20.04.360, AND APPROVING A DETAILED SITE DEVELOPMENT PLAN PURSUANT TO SECTION 20.04.150 AND 20.10.360 OF THE EL PASO CITY CODE TO ALLOW FOR A BUSINESS OFFICE AS PERMITTED IN THE S-D (SPECIAL DEVELOPMENT) ZONE DISTRICT. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Carlos Estrello Jr., (Owner) has applied for a rezoning of property from **A-2 (Apartment)** to **S-D (Special Development)** per Section 20.04.360 of the El Paso City Code; and,

WHEREAS, Owner has also applied for approval of a detailed site development plan pursuant to Sections 20.04.150 and 20.10.360 of the El Paso City Code for reductions to the minimum district area and setback requirements, which requires approval from both City Plan Commission and City Council; and,

WHEREAS, a public hearing was held for the rezoning and detailed site plan requests at a City Plan Commission meeting; and,

WHEREAS, City Plan Commission has recommended approval of the subject rezoning and detailed site development plan; and,

WHEREAS, the rezoning and detailed site development plan has been submitted to the City Council of the City of El Paso for review and approval; and,

WHEREAS, the City Council of the City of El Paso finds that the application conforms to all requirements of the El Paso City Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of a portion of Lots 20 and 21, Block 92, Bassett Addition, 2607 Montana Avenue, City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached **Exhibit “A”**, be changed from **A-2 (Apartment)** to **S-D (Special Development)**, as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

2. A copy of the approved detailed site development plan, signed by the Owner, the City Manager, and the Secretary of the City Plan Commission, is attached hereto, as **Exhibit “B”** and incorporated herein by reference for all purposes.
3. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the **S-D (Special Development)** District regulations.
4. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the **S-D (Special Development)** district. Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.
5. The approval of this detailed site development plan shall automatically be void if construction on the property is not started in accordance with the attached plan **Exhibit “B”** within four (4) years from the date hereof.
6. The penalties for violating the standards imposed through this ordinance are found in Section 20.24 of the El Paso City Code.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

ATTEST:

Oscar Leoser
Mayor

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Russell Abeln

Russell T. Abeln

Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Kevin Smith for

Philip F. Etiwe, Director

Planning & Inspections Department

AGREEMENT

By execution hereof, Carlos Estrello, Jr. ("Owner"), referred to in the above Ordinance, hereby agrees to develop the above-described property in accordance with the approved Detailed Site Development Plan attached to same Ordinance, and in accordance with the standards identified in the **S-D (Special Development)** District regulations, and subject to all other requirements set forth in this Ordinance.

EXECUTED this 2nd day of February, 2024.

OWNER: Carlos Estrello, Jr.

By: Carlos Estrello
CARLOS Estrello Owner
(Print name & Title)

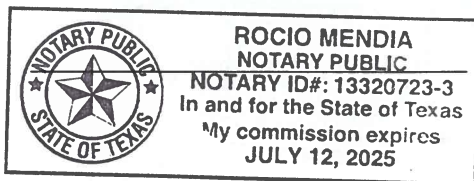
ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 2nd day of February, 2024, by Carlos Estrello, in his legal capacity on behalf of Carlos Estrello, Jr.

Rocio Mendia
Notary Public, State of Texas

My Commission Expires:



Calderon Engineering

3031 Trawood Drive
El Paso, Texas 79936
(915) 855-7552
Fax: 855-8350
calderonengineering@elpbizclass.com

June 14, 2023

2607 MONTANA METES & BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Lots 20 and 21, Block 92, Bassett Addition, City of El Paso, El Paso County, Texas, as filed and recorded in Volume 5, Page 21 and 21A, Deed Records of El Paso County, Texas; and being more particularly described by metes and bounds as follows:

Commencing at a found nail marking the Southwest corner of Lot 17 and being on intersection of the North R.O.W. of Montana Avenue and the East R.O.W. line of Rosewood Street, all in Block 92, Bassett Addition, City of El Paso, El Paso County, Texas; Thence North 53°00'00" East along the North R.O.W. line of Montana Avenue a distance of 81.50 feet to a found nail marking the "Point of Beginning."

Thence North 37°00'00" West a distance of 120.00 feet to a found iron pin;

Thence North 53°00'00" East along the South R.O.W. line of an 18 foot alley and along the North boundary line of Lots 20 and 21 a distance of 39.50 feet to a found nail;

Thence South 37°00'00" East a distance of 120.00 feet to a found nail;

Thence South 53°00'00" West along the South boundary line of Lots 21 and 20 and along the North Right of Way line of Montana Avenue a distance of 39.50 feet to the "Point of Beginning" and containing in all 4,740.00 square feet or 0.109 acres of land more or less. A plat of survey dated June 14, 2023 is a part of this description and is attached hereto.

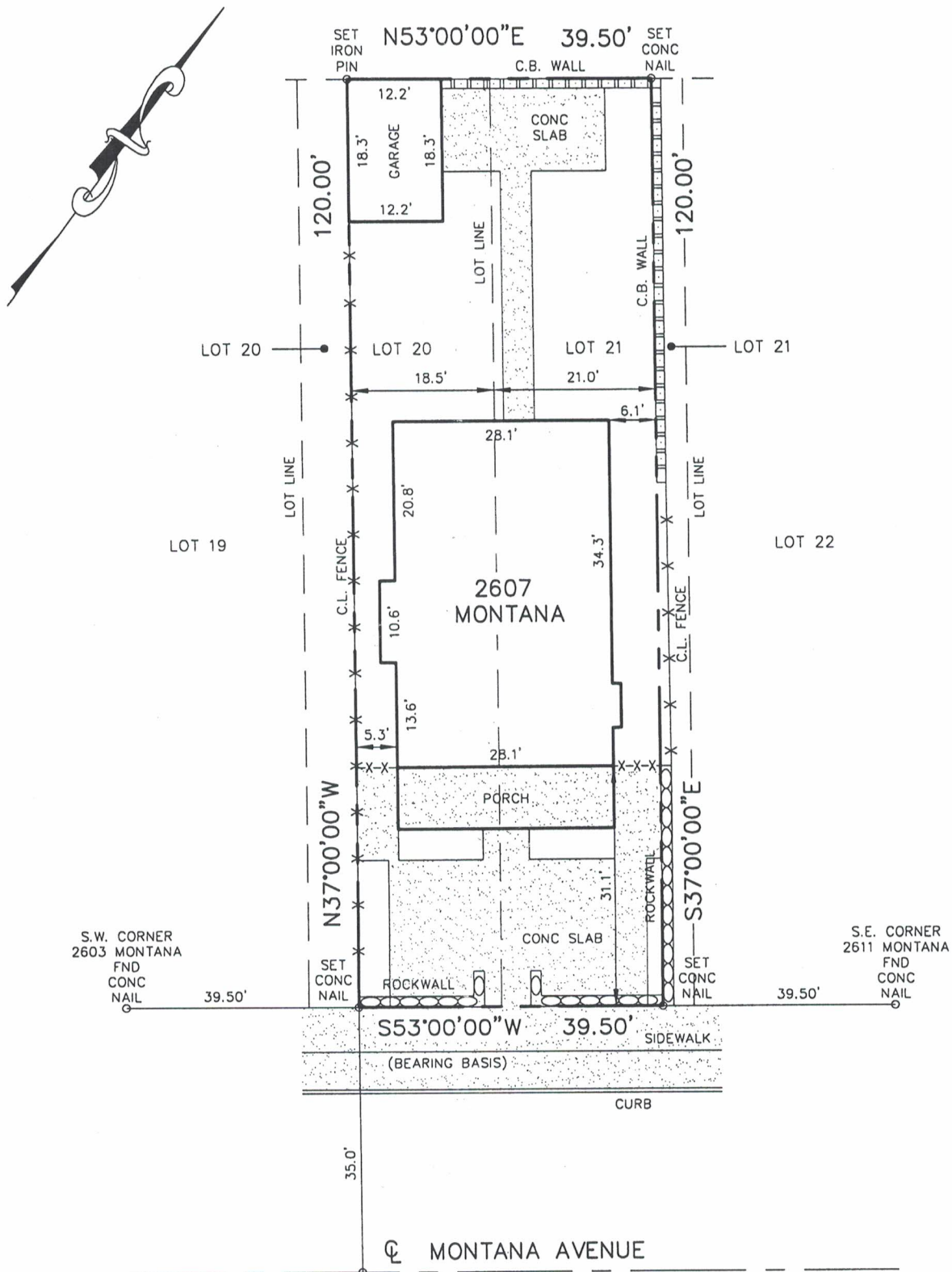


Manuel Calderon
Calderon Engineering

Registered Professional Land Surveyor No. 2564
Registered Professional Engineer No. 42333
Texas Registered Engineering Firm No. F-3788
Texas Licensed Surveying Firm No. 100200-00

VP-C1
2607 Montana

18' ALLEY



CERTIFICATION

I hereby certify that the foregoing Boundary and Improvement Survey was made by me or under my supervision and that there are no encroachments except as shown. Only platted easements are shown.

Manuel Calderon

Manuel Calderon

Registered Professional Land Surveyor No. 2564

Texas Surveying Firm Reg. No. 100200-00

Texas Registered Engineering Firm No. F-3788

E-Mail: Calderonengineering@elpbizclass.com

Book 5 Page 21 & 21A Job No. 623-101

2607 MONTANA AVENUE,
THE EAST 18.5 FEET OF LOT 20, AND THE
WEST 21 FEET OF LOT 21, BLOCK 92,
BASSETT ADDITION,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS

Field RC Office RM-C7 Date 06/14/23 Scale 1"=20'

CALDERON

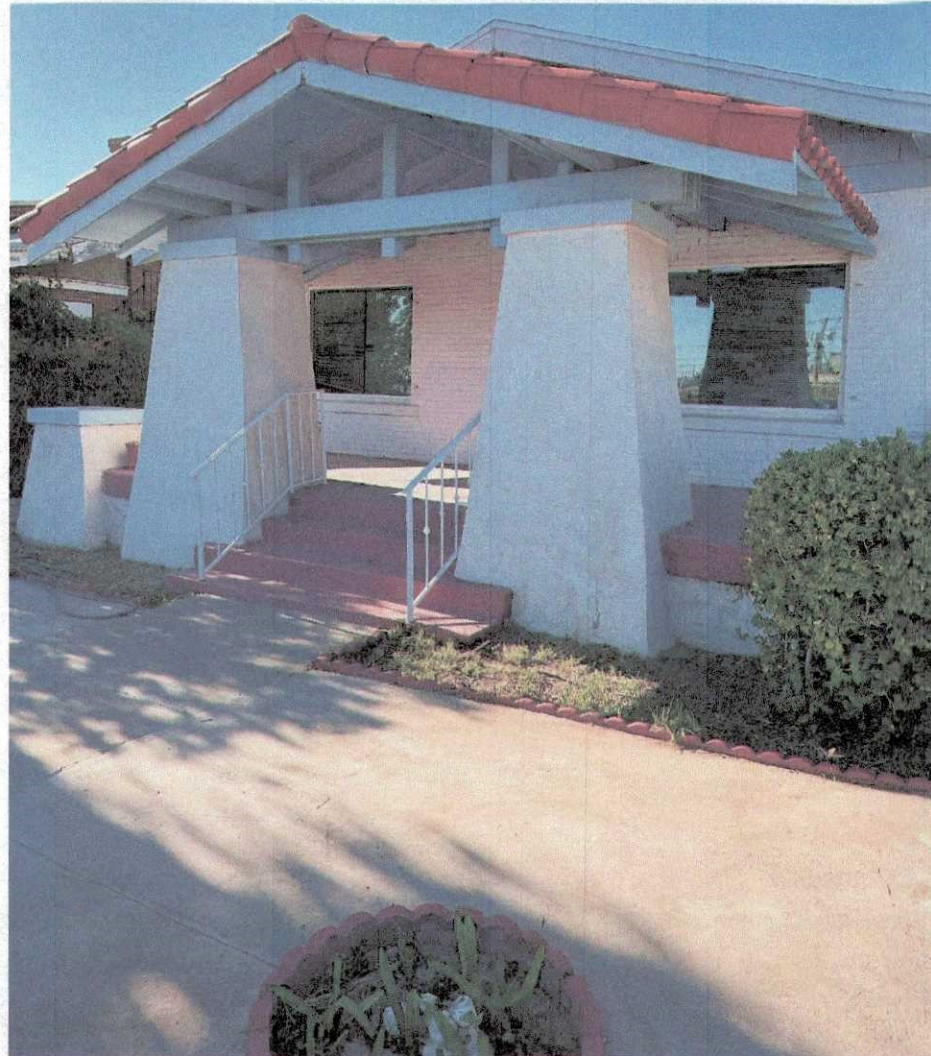
ENGINEERING

3031 TRAWOOD DR.

EL PASO, TEXAS 79936 (915) 855-7552

E-Mail: CalderonEngineering@elpbizclass.com

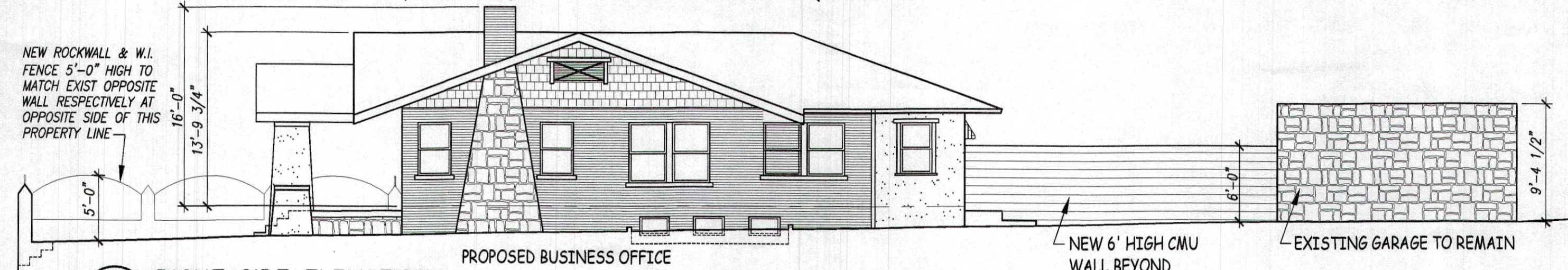
EXHIBIT "B"



C1 EXISTING PORCH ELEVATION TO REMAIN
N.T.S.

	MINIMUM DISTRICT AREA	PERMITTED USE (AS ESTABLISHED IN CHAPTER 20.08)	MINIMUM FRONT YARD (IN FEET)	MINIMUM REAR YARD (IN FEET)	MINIMUM SIDE YARD TOTAL (IN FEET)
S-D (SPECIAL DEVELOPMENT) MUNICIPAL CODE STANDARDS	1 ACRE (CITY COUNCIL MAY DESIGNATE SITES OF LESS THAN ONE ACRE)	OTHER PERMITTED USES EXCEPT AS OTHERWISE SPECIFIED IN THIS TITLE	20	10	10 FEET BETWEEN STRUCTURES
OWNER REQUESTED STANDARDS	0.108 ACRES 4,740 SQ FT	BUSINESS OFFICE	19	0 FEET	0'-0" (LEFT) 4'-5" (RIGHT)

THE OWNER IS REQUESTING S-D (SPECIAL DEVELOPMENT) FOR THE REDUCTION OF THE REQUIRED MINIMUM DISTRICT AREA, AND FRONT, REAR AND SIDE YARDS SETBACK REQUIREMENTS

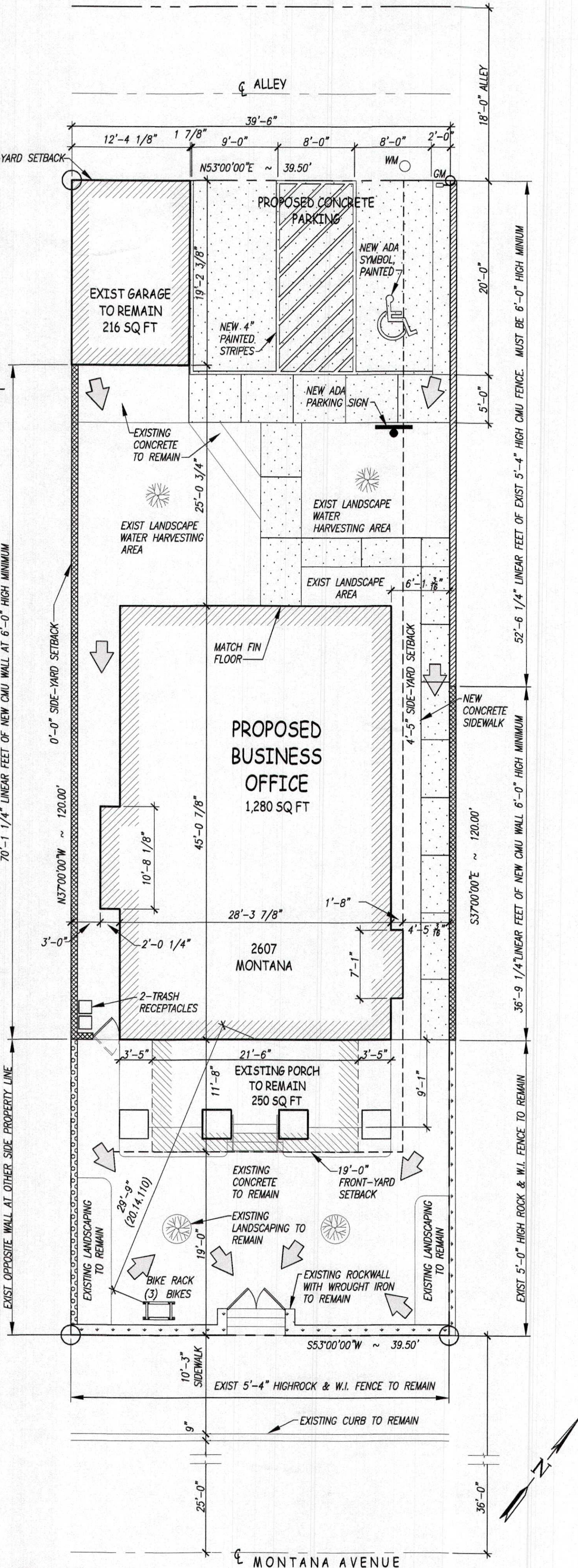


C2 RIGHT SIDE ELEVATION
1/8"=1'-0"

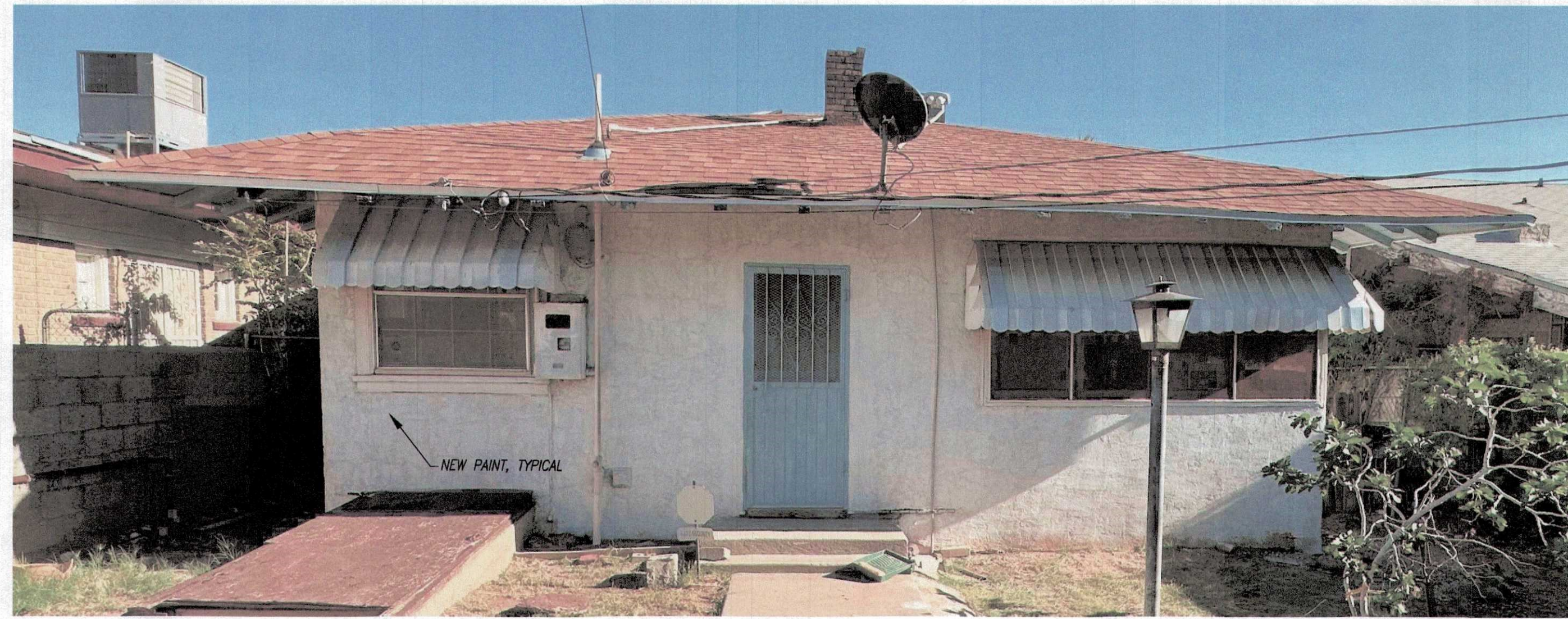
LANDSCAPING REQUIREMENTS
LANDSCAPE PLANTING AREA CALCULATIONS 1,022 SQ FT
SECTION 18.46.060 - APPLICATION, SUB-PARAGRAPH B. EXEMPTIONS

PARKING REQUIREMENTS

BUSINESS OFFICE			
1/576 (MIN) SF GFA	2.59 REQ	3 PROVIDED	
1/400 (MAX) SF GFA	3.74 REQ		
BIKE RACK SPACES	3 REQ	3 PROVIDED	



A4 SITE PLAN
1/8"=1'-0"



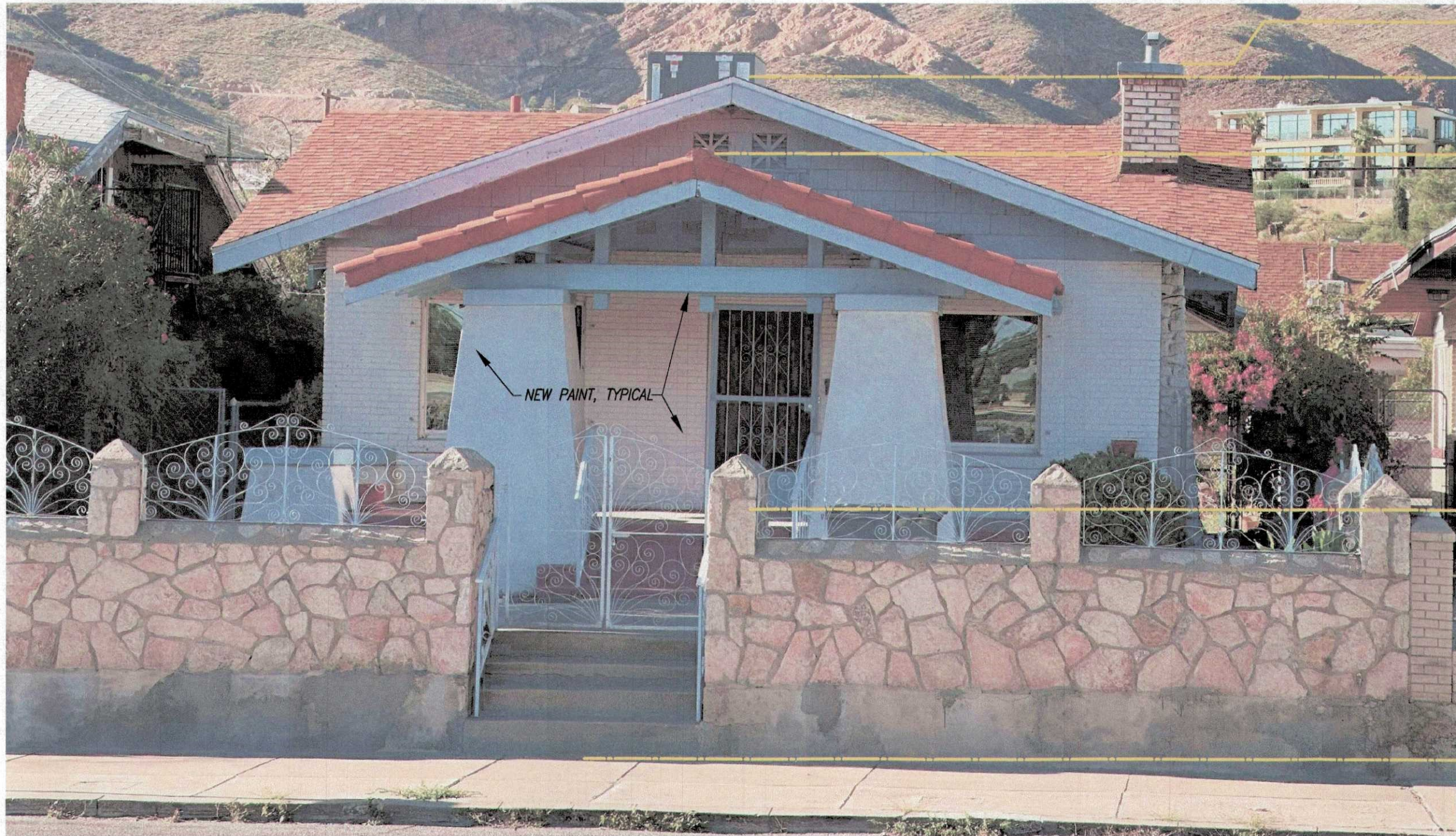
B1 EXISTING REAR ELEVATION TO REMAIN
N.T.S.

EXTERIOR OF EXISTING HOME SHALL BE PATCHED, REPAIR, AND PAINTED AS PER OWNERS SELECTION



B3 EXISTING PORCH & SIDE ELEV TO REMAIN
N.T.S.

EXTERIOR OF EXISTING HOME SHALL BE PATCHED, REPAIR, AND PAINTED AS PER OWNERS SELECTION



A1 EXISTING FRONT ELEVATION TO REMAIN AS IS
N.T.S.

EXTERIOR OF EXISTING HOME SHALL BE PATCHED, REPAIR, AND PAINTED AS PER OWNERS SELECTION

LEGEND

- EXIST CMU FENCE TO BE BUILT UPWARD UP TO 6'-0" HIGH MINIMUM
- NEW 6'-0" HIGH MINIMUM CMU FENCE
- EXISTING ROCK WALL & W.I. FENCE TO REMAIN AS IS
- NEW ROCK WALL & W.I. FENCE TO BE BUILT TO MATCH EXISTING OPPOSITE ON OTHER SIDE PROPERTY
- NEW CONCRETE
- EXISTING TREE TO REMAIN
- STORM WATER FLOW DIRECTION

ABBREVIATIONS

- WM WATER METER (EXISTING)
- GS GAS METER (EXISTING)

PID NUMBER: B20299909205100

ADDRESS 2607 MONTANA AVE.

LEGAL DESCRIPTION

BEING A PORTION OF LOTS 20 AND 21, BLOCK 92, BASSETT ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS

EXISTING BUILDING STATISTICS

MAIN AREA	1,280 SQ FT
DETACHED GARAGE	216 SQ FT
GROSS FLOOR AREA	1,496 SQ FT
OPEN PORCH	250 SQ FT
TOTAL BUILT AREA	1,746 SQ FT
BASEMENT (UNFINISHED)	200 SQ FT
TOTAL BUILT AREA INCLUDING BASEMENT	1,946 SQ FT



Designs for Living

1404 Lost Pines Lane
El Paso, Texas 79936
915.590.5683



PROPOSED BUSINESS
OFFICE FOR:
DR. ESTRELLLO, MSW
MASTER OF SOCIAL WORKER

DETAILED SITE
DEVELOPEMENT PLAN

2607 MONTANA
EL PASO, TEXAS

KEY PLAN
PLANNING & INSPECTIONS DEPARTMENT
PLANNING DIVISION
DETAILED SITE DEVELOPMENT PLAN
APPROVED BY CITY COUNCIL
February 2, 2024
DATE
Cedans Architect
APPLICANT
Kevin Smith
EXECUTIVE SECRETARY, CITY PLAN COMMISSION

CITY MANAGER

NO DATE DESCRIPTION
PROJECT NO:

DETAILED SITE
DEVELOPEMENT PLAN

DSD-101

2607 Montana

City Plan Commission — January 25, 2024

REZONING



CASE NUMBER: PZRZ23-00040
CASE MANAGER: Nina Rodriguez, (915) 212-1561, RodriguezNA@elpasotexas.gov
PROPERTY OWNER: Carlos Estrello
REPRESENTATIVE: Carlos Estrello
LOCATION: 2607 Montana Ave. (District 8)
PROPERTY AREA: 0.11 acres
REQUEST: Rezone from A-2 (Apartment) to S-D (Special Development) with reductions to minimum district area and setbacks, and approval of a Detailed Site Development Plan
RELATED APPLICATIONS: None
PUBLIC INPUT: None received as of January 18, 2024

SUMMARY OF REQUEST: The applicant is requesting to rezone the subject property from A-2 (Apartment) to S-D (Special Development) with reductions to the minimum district area and required setbacks and approval of a detailed site development plan to allow for business office use.

SUMMARY OF RECOMMENDATION: Staff recommends **APPROVAL** of the request as the proposed rezone and use is in keeping with the policies of the G-2, Traditional Neighborhood (Walkable) Future Land Use Designation of Plan El Paso, the City's adopted Comprehensive Plan. Furthermore, the proposed development meets the requirements of El Paso City Code Section 20.04.150 Detailed Site Development Plan.

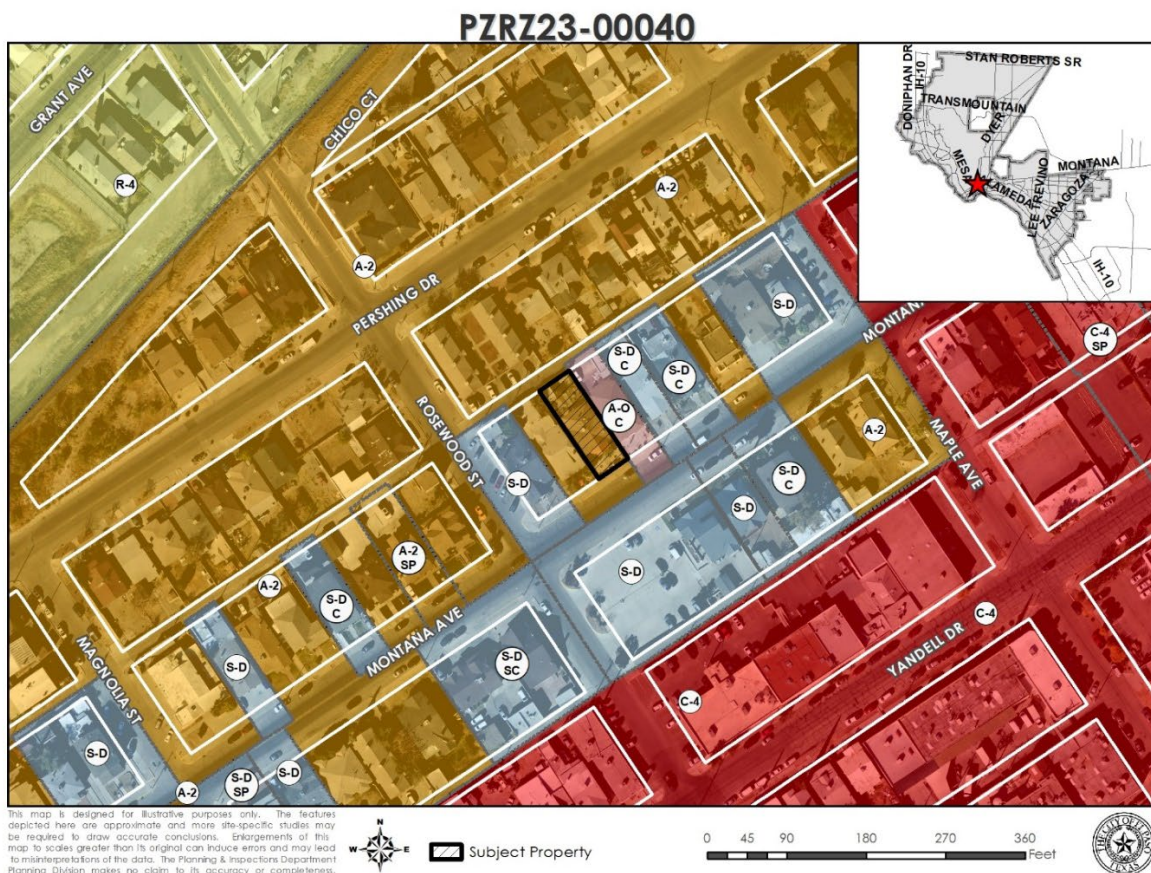


Figure A. Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant is requesting to rezone from A-2 (Apartment) to S-D (Special Development) with reductions to the minimum district area and required front, rear, and side yard setbacks to allow for a business office. Approval of a Detailed Site Development Plan by City Council is required as per proposed zoning district, requested reductions, and proposed use. The size of the property is approximately 0.11 acres. The applicant is proposing to convert an existing single-family dwelling into a business office. The detailed site development plan shows a 1,280 square foot building with a maximum height of sixteen (16) feet and a two-hundred and sixteen (216) square foot detached garage. The table below provides a detailed summary of the requested minimum district area and setback reductions as allowed by provisions in the El Paso City Code Section 20.10.360. The site plan is compliant with required vehicular and bicycle parking spaces, with three (3) and three (3) respectively. The proposed site plan is also compliant with landscape and drainage requirements per City Code. Vehicular access to the subject property is proposed from Rosewood Street and Maple Street via the rear alley, while providing pedestrian access from the public sidewalk along Montana Avenue.

The following table summarizes the reduction requests:

S-D (Special Development) Zone District – Other Permitted Uses		
Density/Dimensional Standard	Required	Proposed
Minimum District Area	1 acre	0.11 acres (approximately)
Front Yard Setback (min.)	20 Feet	19 Feet
Rear Yard Setback (min.)	10 Feet	0 Feet
Side Yard Setback (Left) (min.)	10 Feet Between Structures	0 Feet
Side Yard Setback (Right) (min.)	10 Feet Between Structures	4 Feet 5 Inches

COMPATIBILITY WITH NEIGHBORHOOD CHARACTER: The proposed development and use is permitted with approval of a detailed site development plan in the S-D (Special Development) zoning district and will contribute to a mix of uses already present in the surrounding area. Adjacent properties to the north and west are zoned A-2 (Apartment) and consist of apartments and single-family dwellings. The property to the east is zoned A-O/c (Apartment/Office/Conditions) and consists of a business office, while the property to the south is zoned S-D (Special Development) and also includes a business office. The closest school is the Young Women’s STEAM Research and Preparatory Academy located 0.49 miles away and the closest park is Roger Brown Ballfield Park located 0.49 miles away.

COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:	
Criteria	Does the Request Comply?
<p>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p>G-2, Traditional Neighborhood: This sector includes the remainder of central El Paso as it existed through World War II. Blocks are small and usually have rear alleys; buildings directly faced streets; schools, parks, and small shops are integrated with residential areas. This sector is well-suited for use of the SmartCode as a replacement for current zoning when planned in conjunction with specific neighborhood plans or identified in this Comprehensive Plan.</p>	<p>Yes. The subject property is proposed to be converted into a business office, which is in character with the future land use designation of <i>Plan El Paso</i>.</p>

COMPLIANCE WITH <i>PLAN EL PASO</i>/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:	
<p>Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site:</p> <p>S-D (Special Development) District: The purpose of this district is to provide an opportunity for mixed-use projects, integrated in design, in certain older residential areas where there is a desire to permit a variety of nonresidential uses while maintaining the established residential appearance and landscaping of the area. The regulations of this district are designed to ensure compatibility with existing uses in the district; to permit the production, exhibit or sale of goods and the providing of services to the public in such older residential areas; to protect the traffic capacity of streets serving such older residential areas; to encourage flexibility by prescribing general performance standards for such older residential areas; and to protect the environment of adjacent areas. For the purpose of this district, older areas of the city shall be deemed those areas where development has existed for at least twenty-five years.</p>	<p>Yes. The proposed S-D (Special Development) district is compatible with the adjacent S-D (Special Development), A-2 (Apartment), and A-O/c (Apartment/Office/condition) zoning districts. Changing the zoning district of the subject property to S-D (Special Development) contribute to the mix of uses already present in the area. Converting the use of the existing single-family dwelling in to a business office use will maintain the established residential appearance and landscaping of the area of the older residential area as called in the S-D (Special Development) district.</p>
<p>Preferred Development Locations: Property is designated G-1, G-2, O-7 or identified as being within a "Local Transfer Center", "RTS Stops" or "Future Compact Neighborhood". (Pages 1.33-.34).</p>	<p>Yes. The property is designated G-2, Traditional Neighborhood and is a preferred location for a mix of uses.</p>
THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:	
<p>Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.</p>	<p>The subject property does not lie within an historic district, study area plan, or overlay district.</p>
<p>Potential Adverse Effects: Potential adverse effects that might be caused by approval or denial of the requested rezoning.</p>	<p>There are no anticipated adverse impacts.</p>
<p>Natural Environment: Anticipated effects on the natural environment.</p>	<p>The subject property does not involve green field or environmentally sensitive land or arroyo disturbance.</p>
<p>Stability: Whether the area is stable or in transition.</p>	<p>There has been little transition in the area in the last 10 years. The last rezoning in the nearby area happened a property approximately 3 blocks southwest of the subject property, with the property being rezoned from A-2 (Apartment) to S-D (Special Development) in 2014.</p>
<p>Socioeconomic & Physical Conditions: Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.</p>	<p>Several properties to the east, west and south of the subject property are zoned S-D (Special Development). Rezoning the subject property from A-2 (Apartment) to S-D (Special Development) will allow for more of a mix of uses along Montana Avenue.</p>

ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE: The subject property fronts Montana Avenue, a major arterial as designated in the City of El Paso's Major Thoroughfare Plan (MTP). Vehicular access to the subject property is proposed from Rosewood Street and Maple Street via the rear alley, while providing pedestrian access from the public sidewalk along Montana Avenue. The closest bus stop is approximately one hundred (100) feet away from the subject property located across the street from the subject property. The existing infrastructure and services are adequate to serve the proposed development.

SUMMARY OF DEPARTMENTAL REVIEW COMMENTS: No adverse comments from reviewing departments.

PUBLIC COMMENT: The subject property lies within the boundaries of the El Paso Central Business Association, the Sunrise Civic Group, and the Five Points Development Association all of which were notified of the rezoning request and the request for reductions the minimum district area and setback requirements. Property owners within 300 feet of the subject property were notified of the rezone request on January 12, 2024. As of January 18, 2024, the Planning Division has not received communication in support or opposition to the request.

CITY PLAN COMMISSION OPTIONS: The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

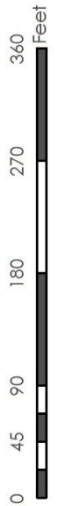
1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. **(Staff Recommendation)**
2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

ATTACHMENTS:

1. Future Land Use Map
2. Detailed Site Plan
3. Department Comments
4. Neighborhood Notification Boundary Map

ATTACHMENT 1

PZRZ23-00040



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

Subject Property

1062

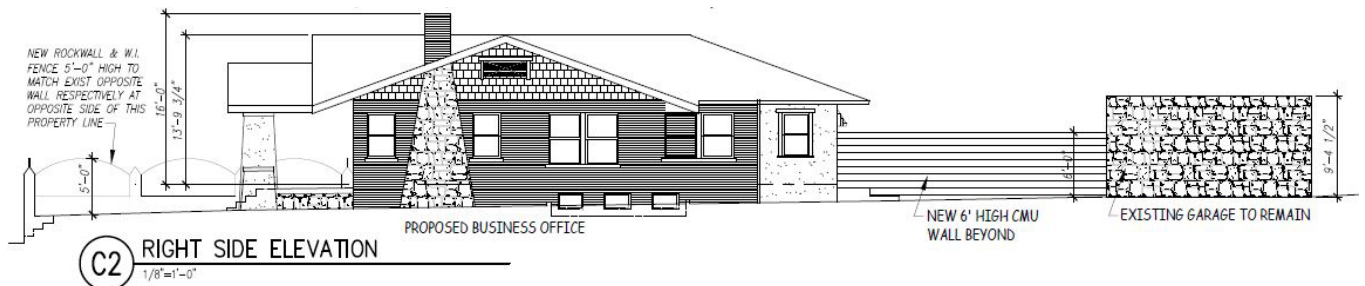
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A1 EXISTING FRONT ELEVATION TO REMAIN AS IS

N.T.S.

EXTERIOR OF EXISTING HOME SHALL BE PATCHED, REPAIR, AND PAINTED AS PER OWNERS SELECTION



ATTACHMENT 3

Planning and Inspections Department - Planning Division

Staff recommends approval.

Planning and Inspections Department – Plan Review & Landscaping Division

No objections to the proposed detailed site and re-zoning application. At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

Planning and Inspections Department – Land Development

No objection to the proposed Rezoning/ Detailed site plan.

Fire Department

Recommend approval, no adverse comments.

Police Department

No comments received.

Environment Services

No comments received.

Streets and Maintenance Department

No objections.

Sun Metro

No comments received.

El Paso Water

EPWater does not object to this request.

EPWU-PSB Comments

There is an existing 6-inch diameter water main that extends along the alley between Montana Avenue and Pershing Drive. This water main is available for service.

Previous water pressure from fire hydrant #1944 located at the southeast corner of Pershing Drive and Rosewood Street, has yielded a static pressure of 68 psi, a residual pressure of 64 psi, and a discharge of 1,210 gallons per minute.

EPWU records indicate one (1) ¾-inch active water service serving the subject property. The address of this service is 2607 Montana Avenue.

Sanitary Sewer

There is an existing 8-inch diameter sanitary sewer main that extends along the alley between Montana Avenue and Pershing Drive. This main is available for service.

General

EPWater requires a new service application to provide additional service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any

necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Stormwater:

No comments received.

Texas Department of Transportation

No comments received.

El Paso County Water Improvement District #1

No comments received.

ATTACHMENT 4



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.080

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name

Carlos Estrella

Business Name

Restore Counseling

Agenda Item Type

Relevant Department

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

☒ I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

☐ I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: Carlos Estrella Date: 2/28/2024



Legislation Text

File #: 24-397, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 7

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Juan C. Naranjo, (915) 212-1604

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance changing the zoning of a parcel of land being a portion of Tract 1, now known as Track 1B1 and Portion of Track 1B, now known as Tract 1B, Block 8, Ysleta Grant, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to C-1 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 319 and 323 N. Zaragoza Rd.

Applicant: Albert Nabhan, PZRZ23-00014

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: March 26, 2024

PUBLIC HEARING DATE: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Juan C. Naranjo, (915) 212-1604

DISTRICT(S) AFFECTED: District 7

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance changing the zoning of a parcel of land being a portion of Tract 1, now known as Track 1B1 and Portion of Track 1B, now known as Tract 1B, Block 8, Ysleta Grant, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to C-1 (Commercial), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 319 and 323 N. Zaragoza Rd.

Applicant: Albert Nabhan, PZRZ23-00014

BACKGROUND / DISCUSSION:

The applicant is requesting to rezone the subject property to allow the use of a proposed shopping center. City Plan Commission unanimously recommended 5-0 to approve the proposed rezoning on February 8, 2024. As of March 11, 2024, the Planning Division has received two (2) emails in support to the rezoning request. See attached staff report for additional information.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF A PARCEL OF LAND BEING A PORTION OF TRACT 1, NOW KNOWN AS TRACT 1B1 AND PORTION OF TRACT 1B, NOW KNOWN AS TRACT 1B, BLOCK 8, YSLETA GRANT, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO C-1 (COMMERCIAL), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of **a portion of Tract 1, now known as Tract 1B1 and a portion of Tract 1B, now known as Tract 1B, Block 8, Ysleta Grant**, located in the City of El Paso, El Paso County, Texas, *and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference*, be changed from **R-F (Ranch and Farm)** to **C-1 (Commercial)**, as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

Further, that the property described above be subject to the following conditions which are necessitated by and attributable to the increased density of use generated by the change of zoning in order to protect the health, safety and welfare of the adjacent property owners and the residents of this City:

1. *That a seven-foot (7') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.*
2. *Trash receptacles shall be located no closer than fifty feet (50') to any residential lots.*
3. *That a minimum 500-foot distance be required between any establishments meeting both of the following criteria:*
 - a. *Establishment deriving 51% or more of their income from the sale of alcoholic beverages for on-premise consumption; and*
 - b. *Providing outdoor amplified sound*
4. *A Detailed Site Development Plan shall be reviewed and approved as per El Paso City Code prior to issuance of any certificates of occupancy or certificates of completion.*

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

Signatures on the following page

ORDINANCE NO. _____

Zoning Case No: PZRZ23-00014

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

ATTEST:

Oscar Leeser
Mayor

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Russell Abeln

Russell T. Abeln
Senior City Attorney

Philip Etiwe

Philip F. Etiwe, Director
Planning & Inspections Department

ORDINANCE NO. _____

Zoning Case No: PZRZ23-00014

HQ24-2120| TRAN -510771| P&I
Rezoning Ordinance Partial Lot w/Condition N. Zaragoza Road
RTA

Page 2 of 2

Barragan And Associates Inc.

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

METES AND BOUNDS DESCRIPTION
(319-323 N ZARAGOZA)

Description of a parcel of land being a portion of Tract 1, now known as Tract 1B1 and a portion of Tract 1B, now known as Tract 1B, Block 8, Ysleta Grant, City of El Paso, El Paso County Texas, according to the plat on file in the office of the El Paso Central Appraisal District Office, being the same property described in Instrument No. 20220096869 and in volume 1055, page 625 of the Real Property Records of El Paso County, Texas, and being more particularly described as follows:

BEGINNING at a Found "x" mark being a point on the westerly right-of-way line of Zaragoza Road, for the easterly common corner of Tract 1B, and Tract 2A, Block 8, Ysleta Grant, City of El Paso, El Paso County Texas, said "x" also being the **POINT OF BEGINNING** of this Description.

THENCE, S 36°55'00" W, along the westerly right of way of Zaragoza Road, a distance of 120.00 feet to a Found "x" mark on the easterly common corner of Tract 1B1 and Tract 1D, Block 8, Ysleta Grant; whence a found "x" mark on the easterly common corner of Tracts 1A and 1C, Block 8, Ysleta Grant, City of El Paso, El Paso County Texas, bears S 36°55'00" W, a distance of 98.90 feet;

THENCE, N 45°39'30" W, leaving said westerly right-of-way line, along the common line of said Tracts 1B, 1B1 and 1D, Block 8, Ysleta Grant, a distance of 361.15 feet, (316.14'-record) to a Found Pk nail on the easterly line of Colonia Margarita, an addition to the City of El Paso, according to the plat thereof of record in volume 35, page 10, of The Real Property Records of El Paso County, Texas, said nail also being the westerly common corner of Tracts 1B and 1D, of said Block 8;

THENCE, N 39°34'00" E, along the westerly line of said Tract 1B, and easterly line of Colonia Margarita, a distance of 100.02 feet (100'-record) to a point on the southerly line of Colonia Margarita, for the most northerly corner of said Tract 1B;

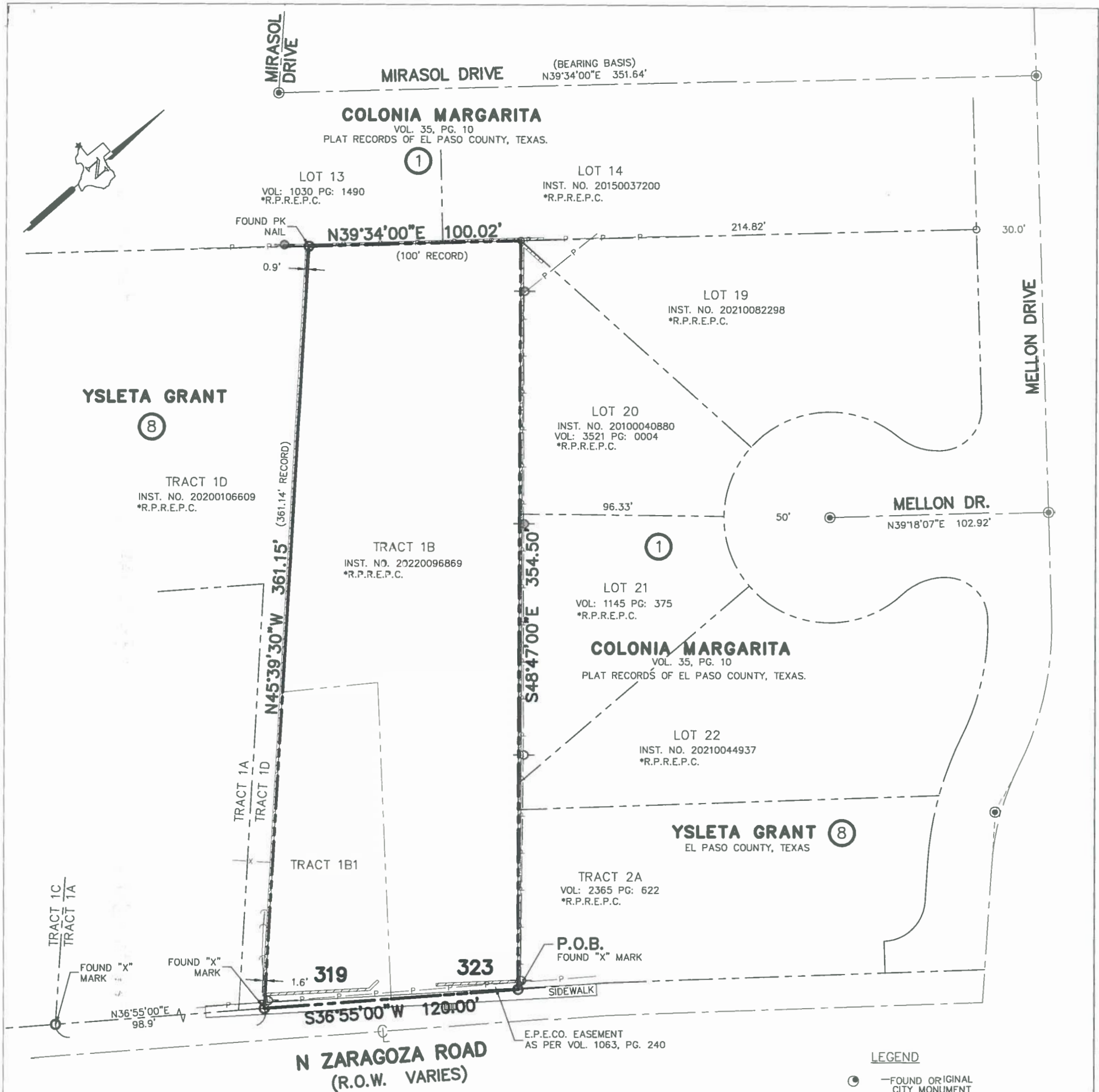
THENCE, S 48°47'00" E, along the common line of northerly line of Tract 1B with the southerly line of Colonia Margarita and southerly line of Tract 2A, Block 8, Ysleta Grant, City of El Paso, El Paso County Texas, a distance of 354.50 feet to the **POINT OF BEGINNING** of this description and containing in all 0.90 acres of land more or less.

NOTES:

1. This property may be subject to easements whether of record or not. No Additional Research was performed by B&A Inc. for any reservations, restrictions, building lines, and or easements which may or may not affect this parcel.
2. Bearings shown are based on the County Plat of Ysleta Grant (Plat of Colonia Margarita).
3. This description does not intend to be a subdivision process which may be required by local or state code, and it is the client's/owner responsibility to comply with this code if required.
4. A Plat of Survey dated 03-13-2023 accompanies this description.



Benito Barragan, Texas R.P.L.S. 5615
Barragan and Associates Inc.
Texas Surveying Firm # 10151200
March 13, 2023
Job No. 230307-30
319-323 N ZARAGOZA RD



*R.P.R.E.P.C. = REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS

NOTES:

1. ACCORDING TO THE FLOOD INSURANCE MAP PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY AND BY GRAPHIC PLOTTING ONLY, THE SUBJECT PROPERTY APPEARS TO BE LOCATED IN ZONE "X", AS SHOWN ON MAP NO. 480214 0048 C; MAP REVISED 02-16-2006, FOR EL PASO COUNTY AND INCORPORATED AREAS. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.
2. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR YSLETA GRANT. (COLONIA MARGARITA PLAT)
3. NO ADDITIONAL RESEARCH WAS PERFORMED BY B&A INC. FOR ANY RESERVATION, BUILDING AND UTILITY LINES, AND/OR EASEMENTS WHICH MAY OR MAY NOT AFFECT SUBJECT PARCEL.
4. PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS, TERMS, CONDITIONS, COVENANTS, AND CONFIRMING THE SIZE AND USE OF ALL RECORDED TERMS, RESTRICTION CONDITIONS AND EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAT.
5. THIS SURVEY IS NOT TO BE USED FOR CONSTRUCTION PURPOSES AND IS ONLY TO BE USED FOR TITLE INSURANCE BY THE HEREON NAMED BORROWER, MORTGAGE COMPANY, AND/OR TITLE COMPANY.
6. TITLE COMMITMENT PROVIDED BY SIERRA TITLE GUARANTY COMPANY, GF NO. MS-256095, DATED 07-31-2022, BORROWER/INSURED: ALBERT NABHAN.
7. THE TERM "CERTIFY" OR "CERTIFICATE" AS SHOWN AND USED HEREON INDICATED AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THE SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED; AND IS ADDRESSED EXCLUSIVELY TO THE PARTIES NAMED HEREON.
8. A WRITTEN DESCRIPTION DATED 03-13-2023 ACCOMPANIES THIS PLAT.
9. THIS PLAT DOES NOT INTEND TO BE A SUBDIVISION PROCESS WHICH MAY BE REQUIRED BY LOCAL OR STATE CODE, AND IT IS THE CLIENT'S/OWNER'S RESPONSIBILITY TO COMPLY WITH THIS CODE IF REQUIRED.

PAGE 2 OF 2

B Barragan & Associates Inc.

LAND PLANNING & SURVEYING
TEXAS SURVEYING FIRM# 10151200
10950 Pellicano Dr. Building-F,
El Paso, Tx 79935
Phone (915) 591-5709 Fax (915) 591-5706

Plat of Survey

PARCEL 1: A PORTION OF TRACT 1, NOW KNOWN AS TRACT 1B1, BLOCK 8, YSLETA GRANT, EL PASO COUNTY, TEXAS.
PARCEL 2: A PORTION OF TRACT 1B NOW KNOWN AS TRACT 1B, BLOCK 8, YSLETA GRANT, EL PASO COUNTY, TEXAS.
AREA 0.90 ACRES ±

Plat Reference Vol/Bk N/A Pages N/A

Scale: 1"=50'

Date: 03-13-2023

Drawn By: JA

I hereby certify that the foregoing boundary and improvement survey was made on the ground and under my supervision and is true and correct to the best of my knowledge and belief.



Benito Barragan TX R.P.S. No. 5615
Job No. 230307-30 Copy Rights ©
Field: CC Book: N/A Page: N/A

319 and 323 N. Zaragoza

City Plan Commission — February 8, 2024 - **REVISED**

REZONING



CASE NUMBER: PZRZ23-00014
CASE MANAGER: Juan C. Naranjo, (915) 212-1604, NaranjoJC@elpasotexas.gov
PROPERTY OWNER: Albert Nabhan
REPRESENTATIVE: David Etzold
LOCATION: 319 and 323 N. Zaragoza Rd. (District 7)
PROPERTY AREA: 0.90 acres
REQUEST: Rezone from R-F (Ranch and Farm) to C-1 (Commercial)
RELATED APPLICATIONS: None
PUBLIC INPUT: Two (2) emails in support received as of February 7, 2024

SUMMARY OF REQUEST: The applicant is requesting to rezone the subject property from R-F (Ranch and Farm) to C-1 (Commercial) to allow the proposed use of a shopping center.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL WITH CONDITIONS** of the request as the proposed development is in keeping with the policies of the G-3, Post-War Land Use Designation of *Plan El Paso*, the City's adopted Comprehensive Plan. Staff recommends imposing the following conditions:

1. That a **seven-foot (7')** landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.
2. Trash receptacles shall be located no closer than fifty feet (50') to any residential lots.
3. That a minimum 500-foot distance be required between any establishments meeting both of the following criteria:
 - Establishment deriving 51 % or more of their income from the sale of alcoholic beverages for on-premise consumption; and
 - Providing outdoor amplified sound.
4. A Detailed Site Development Plan shall be reviewed and approved as per El Paso City Code prior to issuance of any certificates of occupancy or certificates of completion.

PZRZ23-00014

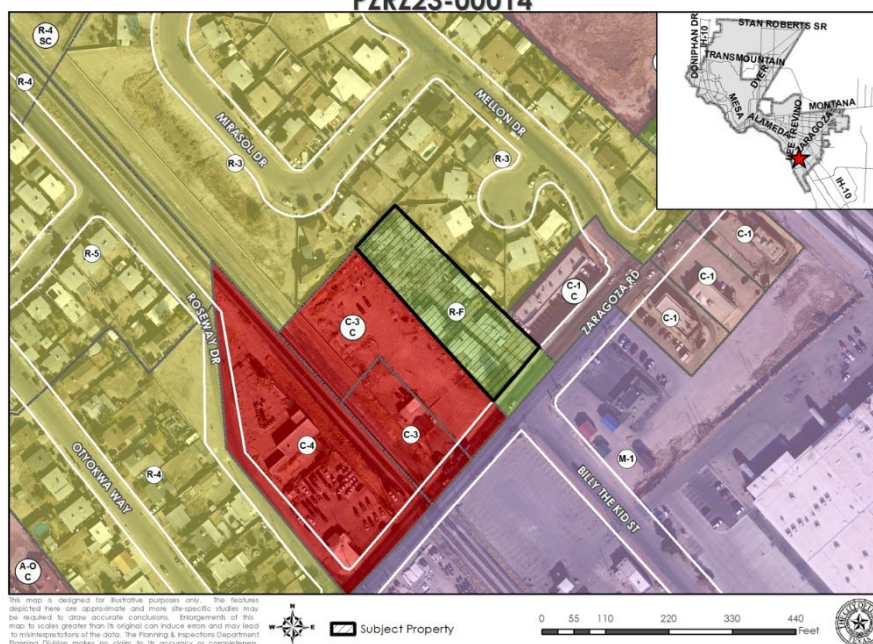


Figure A. Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant is requesting to rezone the subject property from R-F (Ranch and Farm) to C-1 (Commercial) to allow for the proposed use of a shopping center. The subject property is approximately 0.90 acres in size. The conceptual site plan shows one (1) proposed 6,250 square foot building with forty-one (41) parking spaces including two (2) accessible spaces and three (3) bicycles spaces. Access to the subject property is from Zaragoza Road.

COMPATIBILITY WITH NEIGHBORHOOD CHARACTER: The proposed use of a shopping center and the C-1 (Commercial) zone district are compatible with the nearby zoning districts. Conditions are being recommended to safeguard and mitigate the impacts to existing residential properties adjacent to the subject property and are consistent with prior rezonings of similar nature. Properties to the northwest include single family dwellings zoned R-3 (Residential), while the properties to the northeast include more single-family dwellings zoned R-3 (Residential), a shopping center and a grocery store zoned C-1/c (Commercial/conditions). The property to the southeast across Zaragoza Road consists of a heavy truck trailer parking lot zoned M-1 (Light Manufacturing) and property to the southwest consists of a commercial building zoned C-3/c (Commercial/conditions). The nearest park, Pueblo Viejo Park, is located 0.17 miles and the nearest school, Mission Valley Elementary School, is located 0.75 miles in proximity to the subject property.

COMPLIANCE WITH <i>PLAN EL PASO</i>/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:	
Criteria	Does the Request Comply?
<p>Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p>G-3, Post-War: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	<p>Yes. The proposed C-1 (Commercial) zoning district is compatible with the future land use designation. The intent is to provide additional neighborhood commercial uses the area would benefit from.</p>
<p>Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site:</p> <p>C-1 (Commercial) District: The purpose of these districts is to serve the needs of surrounding residential neighborhoods by providing compatible neighborhood convenience goods and services that serve day-to-day needs. The regulations of the districts will permit location of business and professional offices and retail category uses within adjacent residential areas of medium and high densities.</p>	<p>Yes. The proposed C-1 (Commercial) zoning district is compatible with adjacent uses and zoning districts in the proximity.</p>
<p>Preferred Development Locations: Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.</p>	<p>Yes. Access to the subject property is from Zaragoza Road, a minor arterial, classified under the City's Major Thoroughfare Plan (MTP) The classification of this road is appropriate for the proposed development.</p>

COMPLIANCE WITH <i>PLAN EL PASO</i>/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:	
THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:	
Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.	None. The subject property does not fall within any historic districts, special designations, or study plan areas.
Potential Adverse Effects: Potential adverse effects that might be caused by approval or denial of the requested rezoning.	There are no anticipated adverse impacts.
Natural Environment: Anticipated effects on the natural environment.	None. The proposed development does not involve greenfield or environmentally sensitive land or arroyo disturbance.
Stability: Whether the area is stable or in transition.	The area is stable with no rezoning within the last 10 years.
Socioeconomic & Physical Conditions: Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	None.

ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE: The proposed development will have access to Zaragoza Road, classified as a minor arterial per the City of El Paso's Major Thoroughfare Plan (MTP) and is adequate to support the proposed uses. The subject property is served by public transit with at least four (4) Sun Metro's bus routes serving Zaragoza Road, and with multiple bus stops within walking distance (0.25 mile). There are existing sidewalks along Zaragoza Road and the closest bus stop is 0.1 miles away along Zaragoza Road.

SUMMARY OF DEPARTMENTAL REVIEW COMMENTS: No adverse comments were received for the rezoning request from the reviewing departments.

PUBLIC COMMENT: The subject property is located within the boundaries of Penrose Neighborhood Association, Corridor 20 Civic Association, Mission Valley Civic Association and Save the Valley 21 Neighborhood Association, which were notified of the rezoning request by the applicant. Property owners within 300 feet of subject property were notified of the rezoning request on January 12, 2024. As of February 7, 2024, the Planning Division received an email from the Corridor 20 Civic Association in opposition of a previously proposed zoning district (C-3) and indicated support of a lower zoning designation, as well as another email in support of the proposed rezoning request from the Mission Valley Civic Association. Emails are included under Attachment 5.

RELATED APPLICATIONS: None.

CITY PLAN COMMISSION OPTIONS:

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

1. **Recommend Approval** of the rezoning request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan.
2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan. **(Staff Recommendation)**
3. **Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

ATTACHMENTS:

1. Future Land Use Map
2. Generalized Plot Plan
3. Department Comments
4. Neighborhood Notification Boundary Map
5. Public Comment

ATTACHMENT 1

PZR723-00014



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

Subject Property

0 55 110 220 330 440 Feet

N
E
W
S

1081

1081

ATTACHMENT 3

Planning and Inspections Department - Planning Division

Staff recommends imposing the following conditions on the rezoning application:

1. That a seven-foot (7') landscaped buffer with high-profile native or naturalized trees of at least two-inch (2") caliper and ten feet (10') in height shall be placed at twenty feet (20') on center along property lines adjacent to residential zone districts or uses. The landscaped buffer shall be irrigated and maintained by the property owner at all times and shall be installed prior to the issuance of any certificates of occupancy or certificates of completion.
2. Trash receptacles shall be located no closer than fifty feet (50') to any residential lots.
3. That a minimum 500-foot distance be required between any establishments meeting both of the following criteria:
 - Establishment deriving 51 % or more of their income from the sale of alcoholic beverages for on-premise consumption; and
 - Providing outdoor amplified sound.
4. A Detailed Site Development Plan shall be reviewed and approved as per El Paso City Code prior to issuance of any certificates of occupancy or certificates of completion.

Planning and Inspections Department – Plan Review & Landscaping Division

Recommend approval, no adverse comments.

Planning and Inspections Department – Land Development

Recommend approval.

1. The property is in the flood zone "AH", provide an Elevation Certificate at the time of grading permit.
2. Verify the location and modification of the existing inlet on Zaragoza St. at the time of grading permit.

Note: Comments will be addressed at permitting stage.

Fire Department

Recommend approval, no adverse comments.

Streets and Maintenance Department

No objections to rezoning. The driveway shall be compliant to city ordinance 13.12.090 Location. ADA parking spaces shall also be in compliance.

Note: Comments will be addressed at permitting stage.

Sun Metro

No comments received.

El Paso Water

EP Water does not object to this request.

Water:

There is an existing 8-inch diameter water main extending along a 25-foot PSB easement approximately 460-feet east of and parallel to Zaragoza Rd. This main is available for main extension.

There is an existing 16-inch diameter water main extending along Zaragoza Rd. No direct service connections are allowed to this main as per the El Paso Water – Public Service Board (EPWater-PSB) Rules and Regulations.

There is an existing 24-inch diameter water main extending along Zaragoza Rd. No direct service connections are allowed to this main as per the El Paso Water – Public Service Board (EPWater-PSB) Rules and Regulations

Previous water pressure reading from fire hydrant #03319, located at the intersection of Billy the Kid St and Zaragoza Rd. has yielded a static pressure of 102 (psi), a residual pressure of 94 (psi), and a discharge of 949 (gpm). The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The Lot owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

EP Water records indicate two active 3/4-inch water meters serving the subject property. The service addresses for these meters are 323 & 319 Zaragoza Rd.

Sanitary Sewer:

There is an existing 8-inch diameter sanitary sewer main extending along Zaragoza Rd. approximately 21-feet south of the property. This main is available for service.

General:

EP Water requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EP Water-PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Police Department

No comments received.

Environment Services

A dumpster pad will be needed for refuse service.

Note: Comments will be addressed at permitting stage.

Texas Gas Service

TGS doesn't have any comments.

ATTACHMENT 4

PZRZ23-00014



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

Subject Property
Property within 300 Feet
300 Feet Buffer



ATTACHMENT 5

From: Fabiola Campos-Lopez <corridor20ca@yahoo.com>
Sent: Tuesday, May 2, 2023 9:53 AM
To: Ray Mancera <ray@mancera-group.com>
Cc: Sylvia Carreon <longhorn_1989@hotmail.com>; Garcia, Raul <GarciaR1@elpasotexas.gov>
Subject: Re: Notice of Rezoning 319-323 N Zaragoza

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to SpamReport@elpasotexas.gov.

Good morning, Ray:

Thank you for reaching out on this rezoning application to Corridor 20 civic association, as Section 2.102 of the El Paso City Code requires.

By reviewing the documentation and data provided. We have some comments on this R/F to C/3 application that should be considered.

C3 allows for different permissible uses, including car sales/ car lots. Having lived for so many years in the area, the narrowness of the lot will not impede any car lot rental from moving in. Corridor 20 civic association supporting responsible growth in the Mission Valley area will **not** see adequate to adapt the C3 zoning code if C1 and C2 ensure a more favorable retail space development for all. It is mentioned that there is a lot to the side already coded C3, but the same owner also owns it. In this case, Corridor 20 civic association will recommend adapting C2 or C1 like the existing small shopping center owned by the same owner.

Another concern from Corridor 20 civic association is the type of business to which the spaces will be rented. Specifically, the businesses nearby will disturb the residential area abutting this property and talk about selling alcoholic beverages, outdoor patios, late open business schedules, and loud sound amplifiers/ loud music. We also understand that it is too early and cannot prohibit these uses if they are allowed by C1 or C2. Still, we will recommend imposing special conditions on the application to ensure an excellent quality-of-life project is welcomed by everyone in the area, which is a good neighbor.

I hope the owner can reconsider and see that C1 or C2 works best for the neighborhood.

Thanks again,

Saludos!

Fabiola Campos-Lopez
CORRIDOR20ca
Coordinator

From: [Sylvia Carreon](#)
To: [Rodriguez, Nina A.](#)
Subject: Re: Notice of Rezoning 319-323 N Zaragoza
Date: Wednesday, January 31, 2024 5:56:15 PM
Attachments: image001.png

You don't often get email from longhorn_1989@hotmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. If suspicious, use **Phish Alert** or forward to SpamReport@elpasotexas.gov.

Ms. Rodriguez, this is Sylvia Carreon with the Mission Valley Civic Association and going to a C-1 would meet with our approval! Thank you

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with Title 2, Chapter 2.92, Section 2.92.080

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name

Albert Nabhan

Business Name

Agenda Item Type

Rezoning

Relevant Department

Planning Dept

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.



I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

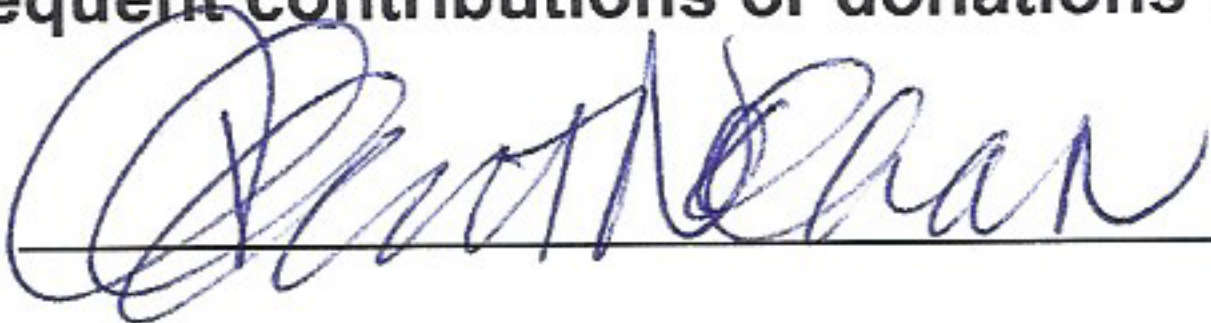
OR



I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature:  Date: 3-8-24



Legislation Text

File #: 24-482, Version: 2

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 8

Planning and Inspections, Philip F. Etiwe, (915) 212-1553

Planning and Inspections, Armida R. Martinez, (915) 212-1605

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance restating a Special Privilege License granted to the County of El Paso by Ordinance 019432 that authorized the construction, installation, future maintenance, use and repair of 540 linear feet of all necessary, desirable, subsurface wires, cables, underground conduit, manholes or other related infrastructure. Additionally, this ordinance will allow for the expansion of the infrastructure to include an additional 635 linear feet of 3" conduit for fiber optic cable and the addition of one more manhole for a term of five (5) years with two (2) renewable five (5) year terms.

Location: generally, along a portion of Ochoa Street, First Avenue and South Florence Street

Applicant: County of El Paso, PSPN23-00008

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 9, 2024
PUBLIC HEARING DATE: April 23, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Armida R. Martinez, (915) 212-1605

DISTRICT(S) AFFECTED: District 8

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance restating a Special Privilege License granted to the County of El Paso by Ordinance 019432 that authorized the construction, installation, future maintenance, use and repair of 540 linear feet of all necessary, desirable, subsurface wires, cables, underground conduit, manholes or other related infrastructure. Additionally, this ordinance will allow for the expansion of the infrastructure to include an additional 635 linear feet of 3" conduit for fiber optic cable and the addition of one more manhole for a term of five (5) years with two (2) renewable five (5) year terms.

Location: generally, along a portion of Ochoa Street, First Avenue and South Florence Street
Applicant: County of El Paso, PSPN23-00008

BACKGROUND / DISCUSSION:

The County of El Paso is requesting to expand their current internet services from the County facility located at 320 Campbell to a second facility located at 800 Overland. This will allow for an additional 635 linear feet from 800 Overland Avenue underneath S. Ochoa Street and First Avenue to 320 Campbell Street.

PRIOR COUNCIL ACTION:

City Council previously approved this Special Privilege to allow for 540 linear feet of conduit infrastructure within a portion of City Right-of-way underneath Campbell Street and First Avenue on January 31, 2023.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Philip Etiwe

ORDINANCE NO. _____

AN ORDINANCE RESTATING A SPECIAL PRIVILEGE LICENSE GRANTED TO THE COUNTY OF EL PASO BY ORDINANCE 019432 THAT AUTHORIZED THE CONSTRUCTION, INSTALLATION, FUTURE MAINTENANCE, USE AND REPAIR OF 540 LINEAR FEET OF ALL NECESSARY, DESIRABLE, SUBSURFACE WIRES, CABLES, UNDERGROUND CONDUIT, MANHOLES OR OTHER RELATED INFRASTRUCTURE. ADDITIONALLY, THIS ORDINANCE WILL ALLOW FOR THE EXPANSION OF THE INFRASTRUCTURE TO INCLUDE AN ADDITIONAL 635 LINEAR FEET OF 3” CONDUIT FOR FIBER OPTIC CABLE AND THE ADDITION OF ONE MORE MANHOLE FOR A TERM OF FIVE (5) YEARS WITH TWO (2) RENEWABLE FIVE (5) YEAR TERMS.

WHEREAS, on January 31, 2023, the City and the County of El Paso entered into a Special Privilege License to allow for the construction, installation, maintenance, use and repair of five (5) manholes, and 3” conduit for fiber optic cable that will run 190 linear feet along Campbell Street and 350 linear feet along First Avenue for a total 540 linear feet of all necessary, desirable subsurface wires, cables, underground conduit, manholes within a portion of City Right-of-way underneath Campbell street and First avenue.

WHEREAS, the County of El Paso desires to construct, install, maintain, use and repair an additional manhole and a 3” pvc pipe of conduit for fiber optic cable that will run for a total of 635 linear feet from 800 Overland Avenue underneath S. Ochoa Street and First Avenue to 320 Campbell Street.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. DESCRIPTION

The City of El Paso (hereinafter called “City”) hereby grants a Special Privilege License (hereinafter called “License”) to the **County of El Paso** (hereinafter referred to as the “Grantee”), to permit the construction, installation, future maintenance, use and repair of five (5) manholes, and conduit for fiber optics that will run 190 linear feet along Campbell Street and 350 linear feet along First Avenue for a total of 540 linear feet within a portion of public right-of-way as shown in ***Exhibit “A”*** which is made a part hereof for all purposes (hereinafter referred to as Conduit A) and hereby restates the License to include for the expansion of the infrastructure to include one more manhole and an additional 635 linear feet of 3” conduit for fiber optic cable that will run 39 Linear feet within private property, 193 linear feet underneath Ochoa Street, 340 Linear feet underneath First Avenue and 63 Linear feet underneath South Florence St. with 596 Linear feet with a portion of City right-of-way as further described in ***Exhibit “B”*** attached here to

(hereinafter referred to as Conduit B) and incorporated as if fully set forth herein. Such special privilege is effective as of January 31, 2023.

SECTION 2. LICENSE AREA

The subsurface rights granted herein under a portion of right-of-way along Campbell Street and First Avenue and to include Ochoa Street and Florence Street to maintain and repair fiber optics, communication cables, underground conduit, manholes or other infrastructure and appurtenances are more particularly shown in Exhibits “A & B” which is made a part hereof for all purposes (hereinafter referred to as “License Area”). The cables, underground conduit, manholes or structures and appurtenances are to be installed within the parkway and sidewalk areas whenever feasible to reduce the necessity for pavement cuts and repairs to existing roadways while maintaining the five-foot separation from existing utilities. For the areas necessitating pavement cuts, the repairs and pavement cuts shall comply with the provisions of Chapter 13.04 (Street and Sidewalk Construction and Maintenance) and Chapter 13.08 (Excavations) of the El Paso City Code.

SECTION 3. PURPOSE

The only City right-of-way Grantee shall use pursuant to this License shall be License Area shown for the maintenance of the wires, cables, underground conduit described in Exhibits A and B attached hereto. Any use of the License Area other than in connection with the construction, use, maintenance, reconstruction, or modification of the existing fiber optics, communication cables, underground conduits, manholes or other structures and appurtenances is not authorized by this License. Nothing herein shall grant any real property interest to the Grantee nor give rise to any vested right in the Grantee, his assigns or successors in interest, none of whom shall have a cause of action for damages upon revocation or termination of this License in accordance with the terms herein.

This License shall not permit or be construed to permit any other private use of the City right-of-way that impairs its function as a City right-of-way. Except as provided herein, Grantee shall not construct any additional improvements, or make any additions or alterations on, above, or below the City right-of-way, without prior written consent of the El Paso City Council.

SECTION 4. REGULATION OF CONSTRUCTION

The work done by Grantee in placing, constructing, replacing, repairing, reconstructing, or maintaining the fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances shall be subject to and governed by all laws, rules and regulation of the City and State of Texas, Federal Communications Commission, and the U.S. Government that are applicable to the construction of the fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances. Work done in connection with the construction, repair and maintenance of such facilities is subject to the continuing police power of the City.

In the event that Grantee desires to reconstruct, repair, maintain, or replace the existing fiber optic, communication cables, underground conduits, or other structures and appurtenances built hereunder, Grantee shall obtain all applicable permits required by the City. Where proposed, any excavation or trenching and other construction in the City right-of-way shall be so carried out as to interfere as little as practical with the surface use of the City right-of-way in accordance with any lawful and reasonable direction given by or under the authority of the governing body of the City under the police and regulatory powers necessary to provide for public convenience. After installation of the fiber optic, communication cables, underground conduits, manholes, or other structures and appurtenances, Grantee shall restore the City right-of-way to the same condition as before any such boring, excavation, or trenching and to the reasonable satisfaction of the City, in accordance with applicable City specifications.

Grantee covenants and agrees that Grantee shall, at its own expense, repair all water lines, storm and sanitary sewer lines, service lines and water meters owned by the City that Grantee, its employees, contractors, agents or assigns, damage so that such repair of the water lines, storm and sanitary sewer lines and water meters shall comply with the approval of the City.

For any additional work, the Grantee shall provide a set of complete engineering plans to El Paso Water showing the proposed work along the cable and conduit route for review and approval prior to any construction work, installation, maintenance, repair, and replacement. All existing water, sanitary sewer mains, reclaimed water mains and appurtenant structures located within the vicinity of the proposed fiber optic telecommunication cable and conduit shall be shown on the engineering plans in plan and profile view with dimensions and elevations.

For eight (8) inch diameter and smaller El Paso Water mains, a minimum horizontal distance of six (6) feet from edge of pipe to edge of proposed fiber optic cables is required. For twelve (12) inch diameter and larger El Paso Water mains, a minimum horizontal distance of ten (10) feet from edge of pipe to edge of fiber optic cable is required. The Contractor shall expose all mains with a diameter of 12-inches and greater with a non-destructive method. The exposures shall be conducted at the areas where the proposed conduit will cross the existing main, as well as at areas at the discretion of El Paso Water-PSB.

If crossing El Paso Water mains, a minimum vertical separation of two (2) feet is required between our existing mains and the fiber optic cable.

Warning markers shall be placed to describe the type of lines buried.

The El Paso Water will assist with the location of water and sanitary sewer mains in the field. Please call the TEXAS EXCAVATION SAFETY SYSTEM (DIG TESS) at 1-800-344-8377 to request the assistance of our Field Engineering Personnel with the location of the City of El Paso's water and

sanitary sewer mains. Please call with at least a 48-hour advance notice to request the field location of the existing water and sanitary sewer mains and appurtenances.

All costs associated with the exposures, repair, relocation, adjustment, or replacement of the City of El Paso's water and sanitary sewer mains and appurtenances are the responsibility of the applicant. In the event of emergencies, Grantee shall contact the El Paso Water field dispatcher.

The City shall have the power at any time to order and require Grantee to remove and abate any portion of the fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances that is dangerous to life or property. Should Grantee, after notice, fail or refuse to comply within a reasonable time, the City shall have the power to remove or abate same, at the expense of Grantee. In the event City removes or abates the existing fiber optics, communications cables, underground conduits, manholes, or other structures and appurtenances as provided herein, Grantee shall not be compensated for the loss of the existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances, or revenues associated with the cables, nor shall the City be liable to the Grantee for any direct, indirect or consequential damages due to the removal or abatement of the cables.

SECTION 5. TERM

This Special Privilege shall be for a term of five (5) years from January 31, 2023, unless terminated earlier as provided herein. At the end of this term, the City shall have the unilateral option of renewing this Special Privilege for one (1) additional five (5) year term, under the same term and conditions of this License. The entire term of this License, including options for renewal shall extend beyond ten (10) years. If Grantee wishes the City to renew this License, Grantee shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this License. Should Grantee fail to submit such request for the renewal of this License to the City as herein required, the License shall expire upon the expiration date. Grantee understands, agrees, and accepts that the City may require the terms, conditions, and provisions of this License be modified as a condition for renewing the grant of the encroachment within the License Area as permitted by this License.

SECTION 6. WORK DONE BY OTHERS

Throughout the term of this License, the City expressly reserves the right to install, repair, or reconstruct the City right-of-way used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, expressly including but not limited to, drainage facilities and structures.

The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the

City in, across, along, over or under the City right-of-way occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall notify Grantee of work to be performed as herein described. The City shall not be liable to Grantee for any damage resulting therefrom, nor shall the City be liable to Grantee for any damages arising out of the performance of any work by the City, its contractors or subcontractors, not willfully and unnecessarily occasioned; provided, however, nothing herein shall relieve any other persons or entities from liability for damage to the existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances. If the City requires Grantee to alter, change, adapt, or relocate the existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances, due to imminent public safety concerns, because of changes in the grade of the City right-of-way or in the location or manner of constructing a water pipe, sewer pipe or other underground or aboveground pipes owned by the City, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City without claim for reimbursement or damages against the City. If these requirements impose a financial hardship upon Grantee, Grantee shall have the right to present alternative proposals for the City's consideration. If the City requires Grantee to remove, alter, change, adapt or relocate its existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances or any portion thereof to enable any other entity or person, except the City, to use, or to use with greater convenience, the City right-of-way, Grantee shall not be required to make such changes until such other entity or person shall have undertaken with solvent bond, to reimburse Grantee for any loss and expense which will be caused by or arise out of such removal, alteration, change, adaptation or conformance of the existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances; provided, however, the City shall not be responsible nor liable for such reimbursement.

SECTION 7. RESERVATION OF SURFACE, SUBSURFACE, AND AIRSPACE RIGHTS

The City reserves the right to use the surface or subsurface or airspace within the License Area for any public purposes allowed by law and deemed necessary by the City and to do or permit to be done any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said City right-of-way occupied by Grantee provided such use does not interfere with Grantee's use of the License Area. Whenever by reason of said work in connection with said purposes it shall be deemed necessary by the City to alter, change, adapt, conform or relocate portions of existing fiber optics, communication cables, underground conduit, manholes, or other structures and appurtenances, such alteration or change or relocation shall be made by Grantee when ordered in writing by the Traffic Engineer without any claim for reimbursement or damages against the City.

SECTION 8. CONSIDERATION

As consideration for this special Privilege License, the Grantee shall pay to the City THREE THOUSAND SEVEN HUNDRED TEN AND 00/100 DOLLARS (\$3,710.00) per year. The annual fee shall remain the same for a period of one year from the date of execution by the El Paso City

Council and shall be subject to change after each one-year period the License remains in effect. The El Paso City Council retains the right to increase or decrease the annual fee specified in this License.

The City shall notify the Grantee of any proposed changes in fees as prescribed in Section 14 (Notice) of this License. This License is granted on the condition the Grantee pay for all costs associated with the fiber optics, communication cables, underground conduit or other structures and appurtenances as well as all costs for the restoration of the License Area upon the termination of the License.

The first annual consideration shall be due and owing prior to the El Paso City Council approval of the License. Payment shall be in the form of a cashier's check or business check payable to "The City of El Paso" and delivered to the Planning and Inspections Department for remittance to the Financial Services Department. If the Special Privilege is disapproved by the El Paso City Council, a full refund of the payment shall be made by the Financial Services Department within fifteen (15) days of the denial action. Subsequent annual considerations shall be due the first day of the month in which the License has been granted by the El Paso City Council and remitted to the Financial Services Department.

The fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including, but not limited to, the ad valorem taxes, and assessments for public improvements except as hereinafter provided as may be enacted during the term of this License or any renewal. The fee established in this section shall not be affected by any relocation of Grantee's existing fiber optics, communication cables, underground conduits, or other structures and appurtenances required by the City pursuant to this License.

The fee payment shall be exclusive of and in addition to all costs of obtaining required permits, plans and other approvals as necessary to conform to all other applicable City Special Privileges and regulations.

SECTION 9. INSURANCE

Prior to commencement of any future construction, repairs, or maintenance operations during the term of this License, Grantee shall provide the City with a certificate of insurance and shall maintain such insurance in effect during the term of this License. The City shall be named as an additional insured on all of the Grantee's insurance policies that are required by this License. Failure to maintain insurance shall be a material breach of this license and a basis for termination of this License by the City.

Grantee's contractors or agents shall maintain liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of One Million and No/100 Dollars (\$1,000,000) per occurrence, and Two Million, and No/100 (\$2,000,000)

for each single occurrence and in addition, will provide property damage liability insurance in a minimum one of any accident or other cause. These amounts are not a limitation upon the Grantee's Contractors or Agents agreement to indemnity and hold harmless.

Grantee's Contractors and Agents shall procure said insurance with a solvent insurance company authorized to do business in Texas. Such policy or certificate shall provide that the insurance cannot be canceled, modified or the amount of coverage change without thirty (30) days prior written notice to the Financial Services Department for cancellation based on non-payment of insurance premiums.

Grantee shall file a copy of insurance with the Financial Services Department and the Planning and Inspections Department.

SECTION 10. INDEMNITY

The City acknowledges that the Grantee cannot agree to indemnification or damages provisions pursuant to its fiscal law policies. However, the Grantee will agree to include the following provisions in its agreements with contractors performing work on the Property this Special Privilege.

The Contractor , its Agent or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY OR ANY ILLNESS NJURY PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THE THIRD PARTY ACTIVITIES, even where such damage, injury, loss, illness, physical or mental impairment, loss of service, or death results from or involves NEGLIGENCE, or allegations of negligence on the part OF THE CITY, its officers, agents, or employees. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor or Agent every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. The Contractor or its Agents will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Company may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. The Contractor or its Agent will pay all judgements finally establishing liability of the City in actions defended by the Contractor or its Agent pursuant to this section along will all attorney's fees and costs incurred by the City including interest accruing to the date of payment by the Contractor or its Agent, and premiums on any appeal bonds. The City, at

its election, will have the right to participate in any such negotiations or legal proceedings to the extend of its interest. The City will not be responsible for any loss of or damage to the Contractor or its Agent's property from any cause.

SECTION 11. RIGHTS IN THE EVENT OF ABANDONMENT

As an express condition of this License, and not as a mere covenant, in the event Grantee abandons the existing fiber optics, communication cables, underground conduits, manholes or other structures and appurtenances or a portion thereof or ceases to use the fiber optics, communication cables, underground conduits, manholes or other structures and appurtenances for the purposes enumerated herein for any period of six (6) months or longer, other than the time elapsing between the Effective Date of this license and the completion of construction of the fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances, this License shall automatically terminate, free and clear of any right, title, or interest in Grantee without the necessity of any notice to Grantee or any re-entry by the City.

SECTION 12. CANCELLATION

Grantee shall have the option to terminate this License at any time upon giving the City written notice thirty (30) days in advance of such termination. In addition, the City shall have the option to cancel and terminate this License for failure of Grantee to comply with any material provision or requirement contained in this agreement after thirty (30) days written notice to Grantee. However, if said breach or failure to comply cannot be reasonably cured within thirty (30) days, if Grantee shall proceed promptly to cure the same with due diligence, the time for curing such failure to comply shall be extended for such period of time as may be deemed reasonably necessary by the City to complete such curing unless such breach involves public safety.

Upon termination of this License, prior to the expiration of the original term for any reason, Grantee shall remove its fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances located in the Licensed Area at no cost to the City. When said fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances is removed from the Licensed Area, Grantee shall restore the License Area during the term of this License, if any, at Grantee's own cost and expense, as determined by the City Engineer and in accordance with City specifications. Any such restoration shall be subject to the reasonable approval of the City. If the Grantee fails to restore the pavement as required by the City, the City may at its option restore the pavement and charge such costs to Grantee who shall be responsible for payment of such repair and restoration costs.

SECTION 13. RECORDS

The City Manager or designee shall be kept fully informed by Grantee as to matters pertaining in any way to Grantee's exercise of its right under this License, including the construction, replacement, reconstruction, maintenance, and repair of the fiber optics, communication cables, underground

conduits, manholes, or other structures and appurtenances within the City right-of-way. Obtaining all applicable City permits shall be deemed sufficient to keep such parties informed. Grantee shall keep complete and accurate maps, construction drawings, and specifications describing the location of the fiber optics, communication cables, underground conduits, manholes, or other structures and appurtenances within the City right-of-way. The City shall have the right, at reasonable times to inspect such maps, construction drawings, and specifications.

SECTION 14. NOTICE

Any notice or communication required in the administration of this License shall be sent in writing by prepaid certified mail, return receipt requested, to the following addresses:

CITY: City of El Paso
Attn: City Manager
300 North Campbell Street
El Paso, Texas 79901

with copy to: City of El Paso
ATTN: Planning and Inspections Department
811 Texas Avenue
El Paso, Texas 79901

with copy to: City of El Paso
ATTN: Financial Services Department –
Financial Accounting & Reporting
300 North Campbell Street
El Paso, Texas 79901

GRANTEE: El Paso County
500 W. San Antonio
El Paso Texas 79901

Or to such other addresses as Grantee may designate from time to time by written notice as required in this paragraph.

SECTION 15. ASSIGNMENT

The rights granted by this License inure to the benefit of the Grantee, and any parent, subsidiary, or successor entity now or hereafter existing. The rights shall not be assignable without the express advanced written consent of the El Paso City Manager.

SECTION 16. LEASING OR DEDICATION OF FACILITIES

Grantee, without the advanced written consent of the El Paso City Manager or designee, shall not lease the License Area to any non-grantee person or entity.

SECTION 17. ADMINISTRATION OF LICENSE

The El Paso City Manager or designee is the principal City official responsible for the administration of this License. Grantee recognizes that questions regarding the interpretation or application of this License shall be referred to the El Paso City Manager or designee.

SECTION 18. NO PROPERTY RIGHTS

Nothing herein shall grant any real property interest to the Grantee nor give rise to any vested right in the Grantee, Grantee's assigns or successors in interest, none of whom shall have a cause of action for damages upon revocation or termination of this License in accordance with the terms herein.

SECTION 19. LIENS AND ENCUMBRANCES

Grantee shall defend and indemnify the City against any liability and loss of any type arising from any lien or encumbrance on the License Area that arises or is alleged to have arisen from Grantee's use of the Licensed Area.

SECTION 20. RIGHT OF ENTRY AND INSPECTION

The City's authorized representative shall have the right to inspect the Licensed Area for the purpose of determining compliance with the terms of this License.

SECTION 21. LAWS AND ORDINANCES

Grantee shall comply with all statute, laws, codes and ordinances applicable to Grantee's construction, repair, renovation, alteration or use of the License Area.

SECTION 22. ENTIRE AGREEMENT

This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by both parties.

SECTION 23. SEVERABILITY

Every provision of this license is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this license.

SECTION 24. LAWS GOVERNING/VENUE

The laws of the State of Texas shall govern the validity, performances, and enforcement of this license and if legal action is necessary to enforce it, exclusive venue shall be in El Paso County, Texas.

SECTION 25. RESTRICTIONS AND RESERVATIONS

This License is subject to all right-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. If, at any time during the initial term of this license, or any extension thereof, any such right-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land, preclude, interrupt or interfere with Grantee's use of the License Area, Grantee shall have the right to terminate this License upon giving the City prior written notice of its intent to do so.

SECTION 26. EFFECTIVE DATE

The Effective Date of this License shall be the date last entered below. This License shall not take effect unless Grantee files Grantee's written acceptance with the City prior to the enactment of this License by the El Paso City Council.

PASSED AND APPROVED this ____ day of _____, 2024

WITNESS THE FOLLOWING SIGNATURES AND SEALS

THE CITY OF EL PASO

Oscar Leoser
Mayor

ATTEST:

Laura Prine
City Clerk

APPROVED AS TO FORM:

Russel T. Abeln

Russel T. Abeln
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe

Philip F. Etiwe, Director
Planning and Inspections Department

ACCEPTANCE

The above instrument, with all conditions thereof, is here by accepted this 11th day of March, 2024.

GRANTEE:

County of El Paso

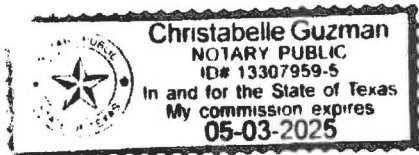
Ricardo A. Samaniego

By: Ricardo A. Samaniego, as County Judge
Print Name

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 11th day of March, 2024, by as Grantee.

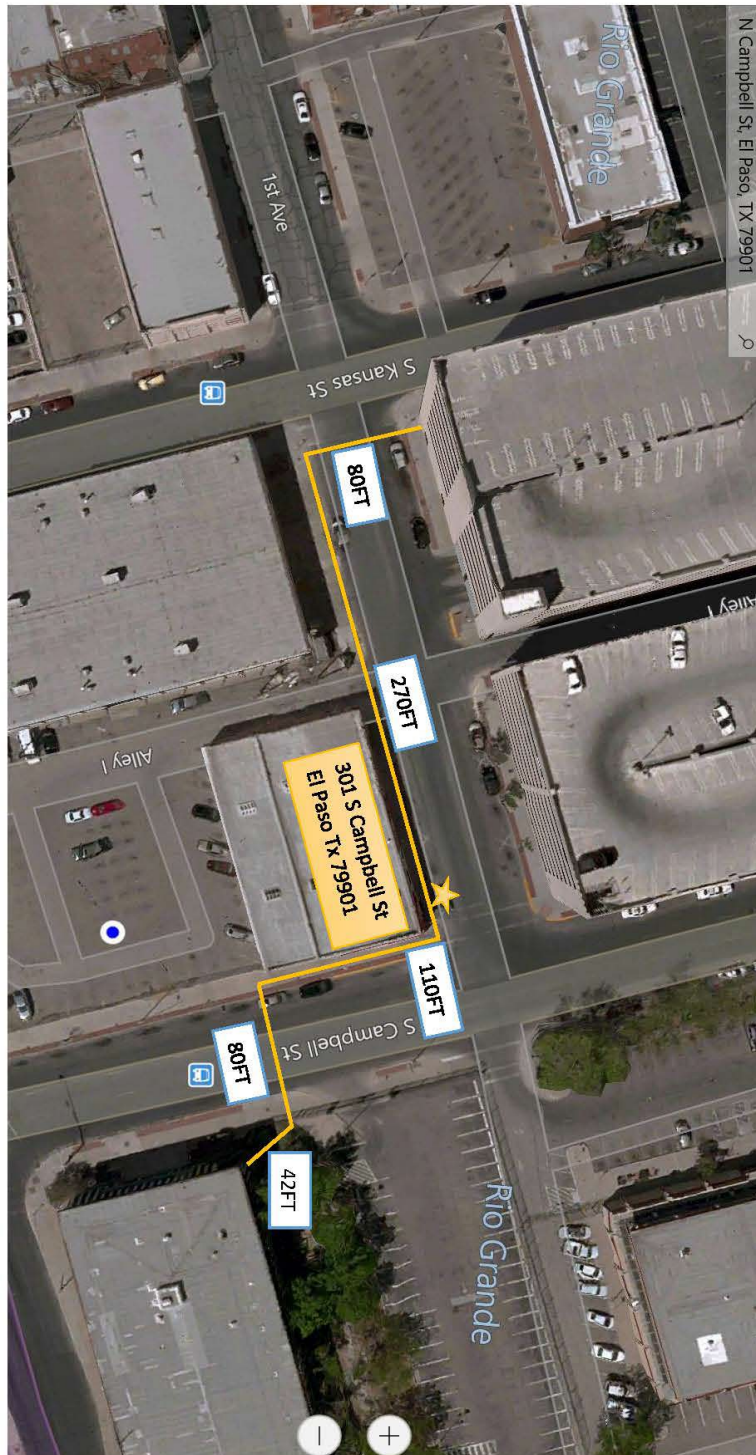


Christabelle Guzman
Notary Public, State of Texas

Christabelle Guzman
Notary's Printed or Typed Name

05/03/2025
My Commission Expires

EXHIBITS "A"




915-303-7383 x. 1 915-497-6341
felixmullorbc@gmail.com
www.svcindexexas.com

ENCROACHMENT MAP

SVC Construction Inc.
 State License #: 802328142
 City License #: LCCRT16-00001
 Shop: 14689 Desert Loop
September 1, 2022

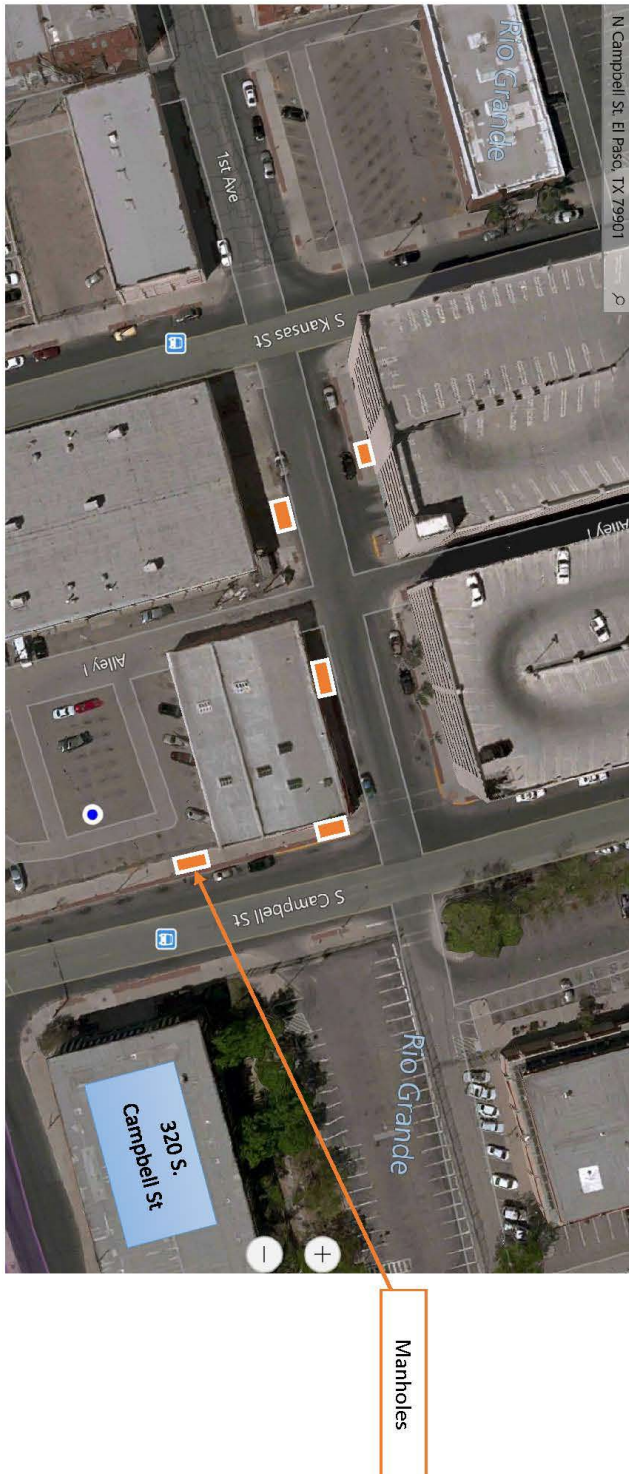
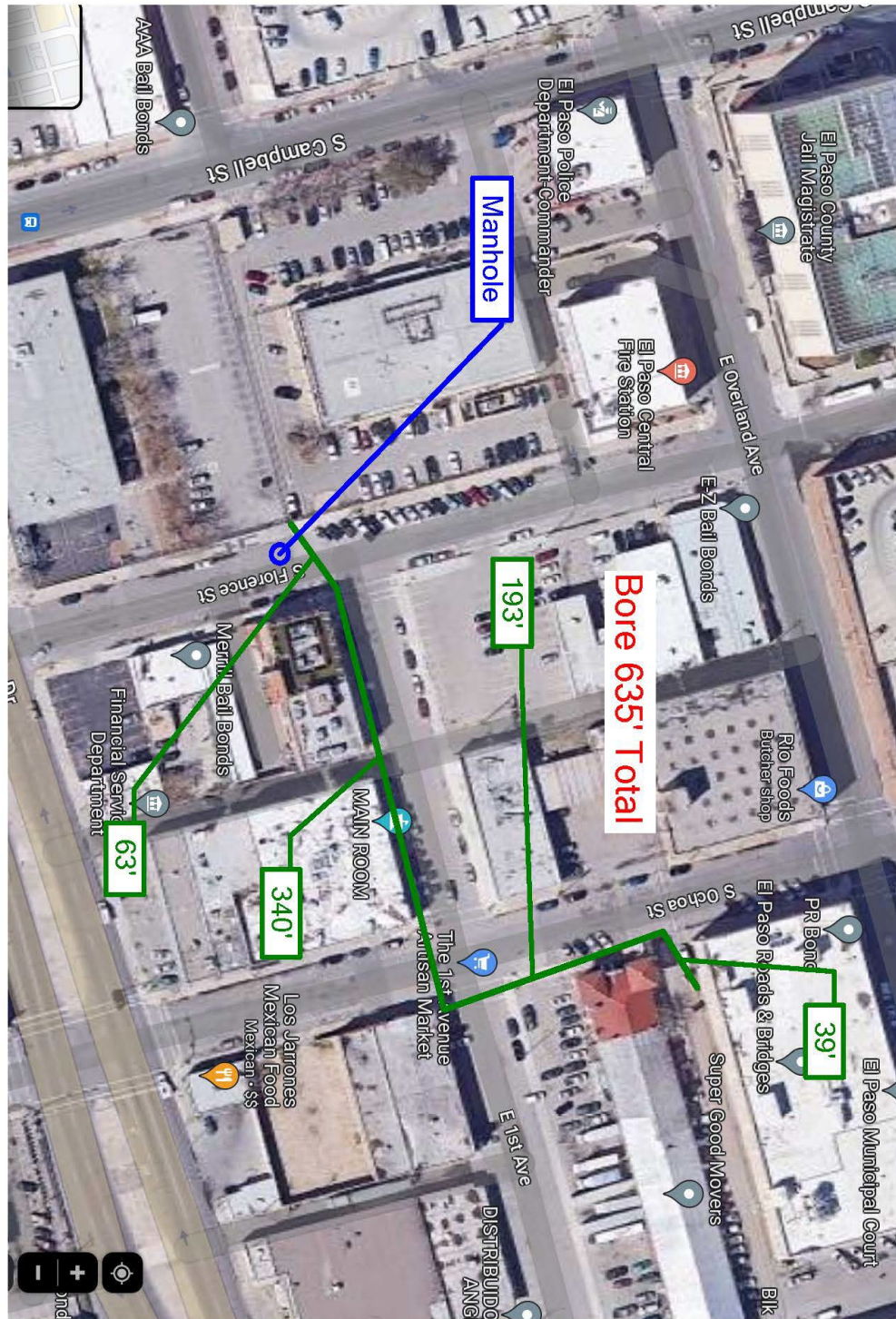


EXHIBIT B





Legislation Text

File #: 24-507, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Attorney's Office, Karla M. Nieman, (915) 212-0033

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

An Ordinance amending Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), to amend Section 2.92.020 Definition of Candidate and 2.92.080(E) to include a requirement for candidates to provide notice of contributions of \$500 or more for notation on the City Council Agenda in the same manner as Members of City Council.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Attorney's Office

AGENDA DATE: April 9, 2024

PUBLIC HEARING DATE: April 23, 2024

CONTACT PERSON NAME AND PHONE NUMBER: Karla M. Nieman (915) 212-1115

DISTRICT(S) AFFECTED: All District

STRATEGIC GOAL: Goal 6

SUBGOAL: 6.8 Support Transparent and Inclusive Government

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Approval of an ordinance amendment to Chapter 2.92 Ethics to clarify the definition of a candidate and to require candidates to provide notice of contributions of \$500 or more for notation on the City Council agenda in the same manner as members of the City Council.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The current definition of Candidate is too narrow and needs to include the various methods and means by which persons can become a municipal candidate. Council directed the City Attorney to amend the ethics ordinance to require candidates who are not currently on Council to also report campaign contributions via notation on City Council agendas.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

February 13, 2024 Item 27

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Karla M. Nieman City Attorney

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS), TO AMEND SECTION 2.92.020 DEFINITION OF CANDIDATE AND 2.92.080(E) TO INCLUDE A REQUIREMENT FOR CANDIDATES TO PROVIDE NOTICE OF CONTRIBUTIONS OF \$500 OR MORE FOR NOTATION ON THE CITY COUNCIL AGENDA IN THE SAME MANNER AS MEMBERS OF CITY COUNCIL

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.020 (Definitions), Subsection 2.92.020(3) be amended to clarify the definition of Candidate to read as follow:

3. “Candidate” means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election for an elected office of the City of El Paso. Examples of affirmative action include:

(A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for the purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;

(B) the filing of an application for a place on the ballot;

(C) the filing of a declaration of intent to become a candidate or a declaration of write-in candidacy;

(D) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(E) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;

(F) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure;

ORDINANCE NO. _____

All references to candidate shall include the candidate's principal campaign committee, whether or not the candidate acts as treasurer for reporting purposes. Candidate shall not include a city official or employee who is a candidate for any other elected office.

SECTION 2. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.080(E) (Disclosure of Campaign Contributions and Donations) is hereby amended to read as follows:

2.92.080 - Disclosure of campaign contributions and donations

E. A member of the city council, or any candidate accepts a campaign contribution from a contributor of five hundred dollars or more, shall report the amount and the donor by an item for notation on the consent agenda of a city council meeting within thirty days of the date of such contribution by submitting a memo to the City Clerk no later than noon on the Wednesday one week prior to the relevant City Council Meeting.

SECTION 3. All other provisions of the El Paso City Code remain in full force and effect.

ADOPTED this _____ day of _____, 2024.


THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

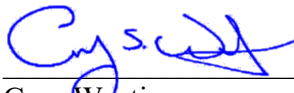
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
City Attorney

APPROVED AS TO CONTENT:



Cary Westin
City Manager

ORDINANCE NO. _____

HQ2024-2374-City Attorney | TRAN-513677 | KHK
Redline- City Code Chapter 2.92.080(E)

REDLINE

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS), TO AMEND SECTION 2.92.020 DEFINITION OF CANDIDATE AND 2.92.080(E) TO INCLUDE A REQUIREMENT FOR CANDIDATES TO PROVIDE NOTICE OF CONTRIBUTIONS OF \$500 OR MORE FOR NOTATION ON THE CITY COUNCIL AGENDA IN THE SAME MANNER AS MEMBERS OF CITY COUNCIL

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), Section 2.92.020 (Definitions), Subsection 2.92.020(3) be amended to clarify the definition of Candidate to read as follow:

3. "Candidate" means a ~~candidate~~ person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election for an elected office of the City of El Paso. Examples of affirmative action include:

(A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for the purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;

(B) the filing of an application for a place on the ballot;

(C) the filing of a declaration of intent to become a candidate or a declaration of write-in candidacy;

(D) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(E) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;

(F) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure;

ORDINANCE NO. _____

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2.92.080 - Disclosure of campaign contributions and donations

E. ~~If~~ A member of the city council, or any candidate accepts a campaign contribution from a contributor of five hundred dollars or more, ~~he~~ shall report the amount and the donor by an item for notation on the consent agenda of a city council meeting within thirty days of the date of such contribution by submitting a memo to the City Clerk no later than noon on the Wednesday one week prior to the relevant City Council Meeting.

SECTION 3. All other provisions of the El Paso City Code remain in full force and effect.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

Oscar Leaser, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
City Attorney

Cary Westin
City Manager

ORDINANCE NO. _____

HQ2024-2374-City Attorney | TRAN-513677 | KHK
Redline- City Code Chapter 2.92.080(E)



Legislation Text

File #: 24-558, Version: 1

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 3

Airport, Sam Rodriguez, (915) 212-7301

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on a Resolution that the City Manager, or designee, be authorized to sign the Peer-To-Peer Car Sharing Company Operating Agreement between the City of El Paso and Turo, Inc., to which Owners provide Vehicles to Airport Customers through the Operator's proprietary website, mobile application, and/or other platform, located at the El Paso International Airport, 6701 Convair Rd. El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, (915) 212-7301

DISTRICT(S) AFFECTED: 3

STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBGOAL: N/A

SUBJECT: **Disclosure form has been provided to the applicant**

A Resolution that the City Manager, or designee, be authorized to sign the Peer-To-Peer Car Sharing Company Operating Agreement between the City of El Paso and Turo, Inc., to which Owners provide Vehicles to Airport Customers through the Operator's proprietary website, mobile application, and/or other platform, located at the El Paso International Airport, 6701 Convair Rd. El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

BACKGROUND / DISCUSSION:

The Department of Aviation requests the approval of this Peer-To-Peer Car Sharing Company Operating Agreement. Turo will pay the El Paso International Airport ten percent (10%) of Turo's gross earnings.

PRIOR COUNCIL ACTION:

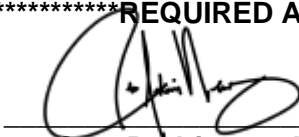
N/A

AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue-generating item.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



For Sam Rodriguez, Aviation Director



Department of Aviation

MAYOR

Oscar Leoser

CITY COUNCIL

District 1

Brian Kennedy

District 2

Dr. Josh Acevedo

District 3

Cassandra Hernandez

District 4

Joe Molinar

District 5

Isabel Salcido

District 6

Art Fierro

District 7

Henry Rivera

District 8

Chris Canales

INTERIM CITY MANAGER

Cary Westin

TO: City Council

FROM: for Sam Rodriguez, Aviation Director *JAN*

SUBJECT: Turo Peer-To-Peer Car Sharing Company Operating Agreement

DATE: April 23, 2024

A Resolution that the City Manager, or designee, be authorized to sign the Peer-To-Peer Car Sharing Company Operating Agreement between the City of El Paso and Turo, Inc., to which Owners provide Vehicles to Airport Customers through the Operator's proprietary website, mobile application, and/or other platform, located at the El Paso International Airport, 6701 Convair Rd. El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

Thank you.



Sam Rodriguez, PE, CM, cfm, cnu-a
Aviation Director

El Paso International Airport | 6701 Convair Road | El Paso, TX 79925
O: (915) 212-0330 | FlyElPaso.com



DELIVERING EXCEPTIONAL SERVICES

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager, or designee, be authorized to sign the Peer-To-Peer Car Sharing Company Operating Agreement between the City of El Paso and Turo, Inc., to which Owners provide Vehicles to Airport Customers through the Operator's proprietary website, mobile application, and/or other platform, located at the El Paso International Airport, 6701 Convair Rd. El Paso, Texas 79925, for a one-year term with automatic renewal for four (4) additional terms of one (1) year each.

APPROVED this ____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:



for Samuel Rodriguez, P.E.
Director of Aviation

PEER-TO-PEER CAR SHARING COMPANY
OPERATING AGREEMENT

THIS PEER-TO-PEER CAR SHARING COMPANY OPERATING AGREEMENT (this “**Agreement**”) is hereby made and entered into on _____, 2024 (the “**Effective Date**”), by and between Turo, Inc., a Delaware corporation authorized to do business in the State of Texas (“**Operator**”), and the City of El Paso, a Texas (the “**City**”) (collectively, the “**Parties**,” and each separately, a “**Party**”).

WHEREAS, the City is the owner and operator of the El Paso International Airport (the “**Airport**”) located in El Paso, Texas;

WHEREAS, Operator operates a Peer-to-Peer Car Sharing business (“**Business**”), through which Owners provide Vehicles to Airport Customers through Operator’s proprietary website, mobile application, and/or other platform (the “**Platform**”);

WHEREAS, Operator desires to operate the Business at the Airport;

WHEREAS, the City has agreed to allow the Operator to conduct its Business at the Airport subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and agreements of the Parties contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Operator agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall be defined as specified below.

Airport means the El Paso International Airport located in El Paso, Texas.

Airport Customer means any person who enters into a Transaction for Peer-to Peer Car Sharing originating from and/or terminating at the Airport through the Platform, and any person authorized to drive the Vehicle pursuant to such Transaction.

Applicable Laws means all laws, statutes, ordinances, rules, and regulations (including without limitation Environmental Laws) issued or promulgated by any Governmental Authority governing or otherwise applicable to the Operator, the Business, or the Airport, as any of the same may now exist or may hereafter be adopted or amended, modified, extended, re-enacted, re-designated, or replaced from time to time including, without limitation the Rules and Regulations.

Director of Aviation means the Director of Aviation of the Airport, or his or her designee.

Business means the Operator’s business at the Airport, through which Owners provide Vehicles to Airport Customers for Peer-to-Peer Car Sharing through Operator’s Platform.

Designated Areas means the areas of the Airport where an Owner or Airport Customer may pick up or drop off the Vehicle(s) for Peer-to-Peer Car Sharing at the Airport, as further described in Section 3.2 below.

Environmental Laws shall refer to and include, without limitation, all federal, State, City, and local statutes, laws, ordinances, rules and regulations, now or hereafter in effect, and as amended from time to time, relating to environmental quality, health, safety, contamination, or clean-up, or that govern, control, restrict, or regulate the use, handling, treatment, storage, discharge, disposal, transportation, clean-up, or remediation of Hazardous Materials, and any and all permits, orders, and approvals issued thereunder and final judicial interpretations of the foregoing Environmental Laws specifically include but are not limited to, the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*; the Comprehensive Environmental Response Act, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, as amended by the Superfund Amendments and Reauthorization Act; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Hazardous Material Transportation Act, 49 U.S.C. § 9601, *et seq.*; the Emergency Planning and Community Right to Know Act; the Toxic Substance Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Water Quality Act of 1987; the Safe Drinking Water Act, 42 U.S.C. § 300f, *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. § 651, *et seq.*; all State environmental protection, super lien, and environmental clean-up statutes; all implementing rules, regulations, guidelines and orders, and all local laws, regulations, rules, ordinances, guidelines and orders, and judicial interpretations of each of the foregoing.

FAA means the Federal Aviation Administration, or successor agency of the federal government that regulates airports and aviation.

Governmental Authority means any Federal or State authority, municipal or other governmental entity (including the City in its governmental capacity), or any subdivision thereof, with authority over the Airport or Operator.

Hazardous Materials means any and all (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated, or addressed under any Environmental Laws, and (b) any materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability, or under any reported decisions of any state or federal court; and (c) any substance, product, by-product, waste, or any other material which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational, health, safety, and/or general welfare conditions, including, without limitation, fuel, petroleum based and/or asbestos based materials, products, by-products, or waste, radioactive materials or waste, lead or lead-containing materials, urea formaldehyde foam insulation, MBTE, polychlorinated biphenyls and fire-fighting foam containing Per- and Poly-fluoroalkyl substances (“PFAS”) or Perfluorooctanoic Acid (“PFOA”) or other media containing such substances.

Owner means any person or company that owns, leases, or otherwise has control over a Vehicle and uses Operator's Platform to make such Vehicle available for Peer-to-Peer Car Sharing with Airport Customers.

Peer-to-Peer Car Sharing means the authorized use of a Vehicle by an individual other than the Owner for financial consideration, through Operator's Platform.

Platform means the Operator's website, mobile application, or other digital platform.

Rules and Regulations means any rules, regulations, orders, policies or other directives of general applicability issued by the City or the Director of Aviation and applicable to the Airport as in force from time to time, including, but not limited to, the City of El Paso Code of Ordinances, and as amended from time to time.

Transaction means a transaction for Peer-to-Peer Car Sharing between an Owner and an Airport Customer for pickup or drop off of a Vehicle at the Airport by an Owner or Airport Customer arranged through the Platform.

TSA means the Transportation Security Administration, or successor agency of the Federal government that regulates airport and aviation security.

Vehicle means a motor vehicle that an Owner makes available for Peer-to-Peer Car Sharing to Airport Customers through Operator's Platform.

ARTICLE 2 INTERPRETATION

Section 2.1 Interpretation. In this Agreement and any certificate or other document delivered pursuant hereto, unless otherwise expressly provided herein or therein or unless the context requires another meaning, the following rules of interpretation shall apply:

(a) Headings and underlining are for convenience only and do not define or limit the scope of any provision thereof nor affect the interpretation of this Agreement or any certificate or other document delivered pursuant hereto.

(b) Words importing the singular include the plural and vice versa and the masculine, feminine or neuter gender shall include all genders. The word "or" is not exclusive.

(c) The words "hereof", "herein", and "hereunder" and words of similar import when used in this Agreement shall refer to the Agreement as a whole and not to any particular provision of the Agreement.

(d) Any reference to an agreement shall include a reference to each exhibit, annex, schedule, and other attachment thereto.

(e) Any reference in this Agreement to an Article, Section, Clause, subsection, subclause, paragraph, party, Exhibit, Annex, or Schedule is a reference to that Article, Section,

Clause, subsection, sub-clause, or paragraph of, or that party, Exhibit, Annex, or Schedule to, this Agreement unless otherwise specified.

(f) Any reference to an agreement or document is to such agreement or document as amended, varied, supplemented, replaced, novated, or modified from time to time in accordance with the terms of such agreement or document.

(g) A reference to a person or entity includes that person's or entity's successors and permitted assigns.

(h) The term "including" shall mean "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided.

(i) References to "days" shall mean calendar days and references to a time of day shall mean such time in El Paso, Texas.

(j) This Agreement is the result of negotiations between the Parties and has been reviewed by each Party and its respective counsel. Accordingly, the Agreement shall be deemed to be the product of the Parties thereto, and no ambiguity shall be construed in favor of or against any of them.

ARTICLE 3 OPERATIONS

Section 3.1 Authorization. Operator is hereby granted the non-exclusive and revocable right to operate the Business at the Airport under the trade name Turo, subject to the terms and conditions hereinafter set forth and all Applicable Laws. Operator will inform Owners of the operating standards and limitations for Owners outlined in this Agreement and provide them with a copy of Exhibit A, Owner Operating Standards, attached to this Agreement and incorporated herein by reference. Exhibit A may be modified by the City from time to time, in the City's sole discretion, and Operator shall comply with such updated Exhibit A and provide notification to Owners thereof upon notice by the City. Operator will take all commercially reasonable steps to ensure that Owners and Airport Customers comply with all Applicable Laws and all applicable terms and provisions of this Agreement.

Section 3.2 Designated Areas. The City grants to Operator the non-exclusive right to allow Owners and Airport Customers to use the public Airport parking lots, to pick up or drop off Vehicles. Operator's rights to use the public Airport parking lots will be on a non-exclusive basis at all times. The City may, in its sole discretion, change the location, size, or configuration of the public Airport parking lots at any time. Operator shall not use, and shall take all commercially reasonable steps to ensure that Owners and Airport Customers do not use, any area other than the public Airport parking lots for the transfer of Vehicles between Owners and Airport Customers.

Section 3.3 Rights of Ingress and Egress. Owners shall have the same access to Airport parking areas as those granted to all members of the public using airport parking.

Section 3.4 Changes to Airport. Operator acknowledges and agrees that: (a) the City shall have the right, at all times, to change, alter and expand the Airport, including the terminals, roadways and Designated Areas; and (b) the City has made no representations, warranties and/or covenants to Operator regarding the design, construction, passenger or automobile traffic, or views of the Airport. Without limiting the generality of the foregoing, Operator acknowledges and agrees that: the Airport may from time to time undergo renovation, construction and other Airport modifications; and the City may from time to time adopt rules and regulations relating to security or other operational matters that may affect Operator's business.

Section 3.5 "As-Is" Condition. Operator accepts the Designated Areas and the Airport in their present condition and "as-is", without representation or warranty of any kind, and subject to all Applicable Laws.

Section 3.6 General Prohibited Activities. Without limiting any other provision herein, Operator shall not: (a) cause or permit anything to be done, in or about the Designated Areas or the Airport, or bring or keep anything thereon, which would be reasonably likely to (i) increase, in any way, the rate of fire insurance on the Airport, (ii) create a nuisance, or (iii) obstruct or interfere with the rights of others on the Airport or injure or annoy them; (b) commit, or suffer to be committed, any waste upon the Designated Areas or the Airport; (c) use, or allow the Designated Areas to be used, for any improper, immoral, unlawful or reasonably objectionable purpose; (d) place any loads upon the floor, walls or ceiling which endanger the structure or obstruct the sidewalk, passageways, stairways or escalators, in front of, within or adjacent to the Designated Areas or the roadways; or (e) do, or permit to be done, anything, in any way, which would be reasonably likely to materially injure the reputation or image of the City or appearance of the Airport.

Section 3.7 License. Notwithstanding any provision in this Agreement, this Agreement does not create a lease, or any interest in real property, but, instead creates a license.

ARTICLE 4 TERM; TERMINATION

Section 4.1 Term. Unless sooner terminated in accordance with the provisions herein, this Agreement shall be effective on the Effective Date listed in the first paragraph of this Agreement and shall be in effect for a period of one (1) year thereafter (the "Initial Term"). At the end of Initial Term, provided neither Party is then in default, the Parties by mutual agreement shall have the option to renew this Agreement for four (4) one (1) year extension periods under the same terms and conditions as stated herein. To exercise each option, either Party will give written notice to the other Party of its intent no less than ninety (90) days prior to the expiration of the current term of this Agreement. Within thirty (30) days of receipt of notice of the intent to exercise an extension, the Receiving Party shall notify the other party via written notice of its intent to accept or decline the option to extend.

Section 4.2 Termination for Convenience. Either Party may terminate this Agreement, at any time, for any reason, if the requesting Party gives not less than thirty (30) days' prior written notice thereof to the other Party.

ARTICLE 5 OPERATOR REQUIREMENTS; VIOLATIONS

Section 5.1 Operator Requirements. In conducting its Business, without limiting the generality of other provisions of this Agreement, Operator shall:

(a) Ensure that all Owners have a valid driver's license and all Vehicles made available through the Platform at the Airport meet all insurance requirements established by the State of Texas, including, without limitation, Chapter 113 of the Texas Business and Commerce Code.

(b) Require Owners to comply with all Texas motor vehicle laws and insurance laws.

(c) Conduct background screenings on all of the Owners. If an Owner is flagged for potential fraudulent or criminal activity, then Operator shall perform a criminal background search and public records search, and lock down the Owner's account on the Platform until the Owner clears the background check and any other Operator safety and security requirements fully.

(d) Evaluate the safety of Vehicles made available by Owners by checking VINs for safety recalls and determining whether the title is branded. Operator shall not permit Vehicles with safety or branding issues to be utilized for Peer-to-Peer Car Sharing at the Airport.

Section 5.2 Violations. Should an Owner or Airport Customer violate any provision of this Agreement, including but not limited to Exhibit A, or any Applicable Laws (each, a "**Violation**"), the City may take the following actions:

1. First Offense - Turo shall give a verbal warning to such Owner, Airport Customer, or Turo agent or employee.
2. Second Offense – Turo will administer a suspension for one (1) week and a fine of \$100.00.
- 3 Third Offense - Such Owner, Airport Customer, or Turo agent or employee shall no longer have a right of access to Airport property and will no longer have access to engage in Peer-to-Peer Vehicle Sharing Services on Airport property through the Peer-to-Peer Vehicle Sharing Service platform through the end of the current term.

If an offense is so serious in the opinion of the City, the City has the right to immediately suspend or permanently revoke the right of Airport access that Owner, Airport Customer or Turo agent or employee is granted under this Agreement.

(a) A Owner issued a Suspension shall not be allowed to conduct any Shared Vehicle Car-Sharing at the Airport during the term of the Suspension. Turo shall notify the suspended Owner that he/she is not allowed to conduct any Peer-to-Peer Vehicle Sharing at the Airport and shall provide City with written notice when it has done so. By operating on the Airport, Turo, and Owners affiliated with Turo shall be subject to applicable laws, ordinances, rules and regulations including any penalties in connection therewith. City shall have no obligation to Turo to take action against any other person or entity at the Airport.

(b) Operator's failure to suspend an Owner or Airport Customer from the Platform as indicated above shall be considered an Event of Default if not cured by the Operator within the applicable notice and cure period set forth in ARTICLE 14 below.

(c) The Operator understands and agrees that in the event any federal agency assesses a civil penalty against the City or the Airport for any violation, including but not limited to any security violation, as a result of or related to any act or failure to act on the part of the Operator, Owner, Airport Customer, its agents, employees, invitees or independent contractors, the Operator shall reimburse the City in the amount of the civil penalty assessed plus an additional fifteen percent (15%) for legal fees and other costs. Failure to reimburse the City within thirty (30) days of receipt of written notice shall constitute an Event of Default hereunder.

Section 5.3 Representative of Operator and Customer Complaints.

(a) Operator shall provide the City with name, address, telephone and email address for at least one representative authorized to represent and act for Operator in matters pertaining to its operation, and shall keep City informed, in writing, of the identity of each such person.

(b) Operator shall maintain a website that provides an active customer service telephone number and monitored email address for filing customer complaints, including those regarding Owners or the services provided by or on behalf of Operator. Operator shall respond within twenty-four (24) hours to all Airport Customer inquiries and complaints and maintain a record of such inquiries and complaints and the response for a period of not less than two years from the date such inquiry and complaint is resolved. Operator shall submit to the City reports of all complaints made by Airport Customers along with a description of Operator's response no less than monthly.

ARTICLE 6 FEES; REPORTING; AND RECORDKEEPING

Section 6.1 Privilege Fee.

(a) As compensation for the privileges granted by this Agreement, Operator agrees to pay the City a fee in an amount equal to ten percent (10%) of Operator's Gross Receipts, as defined in Section 6.7 below (the "**Privilege Fee**").

Section 6.2 Intentionally Omitted.

Section 6.3 Place of Payment. Operator will submit all fees, charges and billings required by this Agreement shall be paid to Lessor at the following address:

Accounting Department
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278

In lieu of payments being mailed to the above address, electronic payments may be made via any electronic payment system acceptable to Lessor.

Section 6.4 Parking Fees. Notwithstanding any other provision in this Agreement, no person (including, without limitation, Operator, Owners, Airport Customers, or any third party) is allowed to exit an Airport parking lot by Vehicle, or any other vehicle, on airport property without paying normal parking fees and there is nothing in this Agreement that reduces or waives any such fee for any person or vehicle. To the extent the Designated Areas are on or within a parking lot on Airport property, Owners and Airport Customers are responsible for paying normal parking lot fees upon exiting the parking lot. Operator shall communicate such requirement to Owners and Airport Customers before or during the Transactions.

Section 6.5 Fees and Payments a Separate Covenant. Operator will not for any reason withhold or reduce its required payments of fees and other charges provided in this Agreement, it being expressly understood and agreed by the Parties that the payment of fees and other charges is a covenant by Operator that is independent of the other covenants of the Parties hereunder. **Monthly Reports.** Within fifteen (15) calendar days after the close of each calendar month of the Term of this Agreement, Operator will submit to the City, in a form with detail satisfactory to the City, a statement of its Gross Receipts that shows the following (the “**Monthly Gross Receipts Statement**”):

- (a) Detailed accounting of Gross Receipts for the prior calendar month;
- (b) Separate identification of any Exclusions from Gross Receipts;
- (c) The number of Transactions with Airport Customers for the prior month;
- (d) The average Peer-to-Peer Car Sharing price for those Transactions occurring during the prior calendar month; and
- (e) Is signed by an authorized official of Operator.

The Monthly Gross Receipts Statement shall be in an electronic format satisfactory to the City. At the City’s discretion, the Monthly Gross Receipts Statement may be required to be submitted through a City-provided portal system.

The Parties recognize that the City will incur additional administrative costs if Operator is late in providing all of the monthly information in the Monthly Gross Receipts Statement, and the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree Operator shall pay the City, in addition to all other financial requirements of this Agreement, [fifty dollars (\$50.00)] per report for each calendar day Operator is late in submitting all of the monthly information in the format required by this Article 6. Said charge will continue until specific performance is accomplished and will not be offset against any other amount due the City as detailed in this Agreement.

Section 6.6 Delinquent Payment Fees and Dishonored Check Fees Without waiving any other right or action available to the City, any Fees, or other monies accruing under the provisions of this Agreement that are not paid and received by the City by the twentieth (20th) day of the month in which payment is due, shall bear interest at the maximum rate allowed by law from the date when same was due by the terms hereof, until the same has been paid by the Operator. In the

event any check from Operator to the City is dishonored, Operator shall pay to the City a processing fee of \$30.00 for each dishonored check.

Section 6.7 Definition of Gross Receipts.

(a) As used herein, the term “**Gross Receipts**” shall mean all sums paid or payable to Operator in connection with its Business at the Airport, and any additional services or accessories contracted, delivered, or rented pursuant to a Transaction, regardless of where, how (cash, credit, or barter) or by whom the payment is made, except for sums specifically excluded in Section 6.7(c), below, and regardless of how any sum may be represented or characterized to the Airport Customer. Revenues derived by Operator from sources similar but not identical to those described herein will also be included in Gross Receipts unless expressly excluded by this Agreement.

(b) Without limiting the generality of the foregoing paragraph, Gross Receipts will include, but are not limited to, the following charges or fees: time and mileage charges for Peer-to-Peer Car Sharing, insurance (protection), pre-paid mileage overages, additional bookings (hours or days), pick up or delivery fees, pre-paid cleaning, fuel (e.g., EV fees, pre-paid fueling), young driver, pet, administrative, commercial hosting, extras (e.g., camping tent, child car safety seat, travel accessories or conveniences, global positioning system navigation devices, guaranteed reservations), any amount charged by Operator as a pass-through fee to Airport Customers, service charges, and all other transactions and charges of any nature, including fees, surcharges, and all other charges arising from Operator’s Business under this Agreement unless expressly excluded by this Agreement.

(c) The term “Gross Receipts” does not include (each of the following, an “**Exclusions from Gross Receipts**”):

(i) The amounts of any federal, state, or municipal sales taxes separately stated in the Transaction, collected from Airport Customers and that are payable directly to the taxing authority by Operator.

(ii) Any sums received by Operator from Airport Customers or insurance carriers for claims or damage to Vehicles or to Operator property, or for loss, conversion, or abandonment of such Vehicles. This exclusion does not include any payments by Airport Customers or insurance companies (actual payment amount(s)-not claim amount(s)) received by Operator in lieu of rent for those Vehicles.

(iii) Any amounts received from Airport Customers or Owners as payment or reimbursement for any red-light tickets, parking tickets, tolls, tows, impound fees, or other fines.

(iv) Any amounts received by Operator from Airport Customers which are fully passed through to Owners such as post-trip reimbursements, smoking fees, etc. or any other amounts received in which Operator does not retain any portion thereof.

(v) Any discounts separately stated in the Transaction that are granted at the time the Transaction commences with an Airport Customer and which are recorded and reported in separately documented accounts from non-excludable discounts. Operator

forfeits exclusion of all discounts in the event otherwise allowable discounts are commingled with any non-excludable amounts. No exclusion will be allowed for any amount retained by a third party as a financing discount which may apply by reason of Operator's acceptance of credit cards or other credit arrangements. No exclusion will be allowed for the portion of retroactive rebates, dividends or refunds to any Airport Customer upon attainment of a specified volume of transactions attributable to revenue or as part of any other marketing plan that does not list the discount in the Transaction at the commencement of the Transaction with an Airport Customer.

Section 6.8 Losses. It is understood and agreed that all losses or charge-backs (including bad debt expenses) are to be borne solely by Operator, and the City is to be paid on Gross Receipts without charge or reduction for costs of such losses or charge-backs. Loss of use payments by Airport Customers or insurance companies (actual payment amount(s)) received by Operator in lieu of Peer-to-Peer Car Sharing Transactions are included in the definition of Gross Receipts.

Section 6.9 No Diversion Operator will not intentionally divert, through direct or indirect means, any of Operator's Business with Airport Customers to off-Airport locations without including the Gross Receipts of such transactions, as described in the definition of Gross Receipts, in Operator's reported Gross Receipts. Moreover, any such intentional diversion of Gross Receipts will constitute a breach of this Agreement and shall entitle the City to immediately terminate this Agreement or, in the City's discretion, collect any such diverted Gross Receipts from Operator as well as a ten percent (10%) surcharge as liquidated damages for such diversion.

Section 6.10 Misrepresentation. Operator will not modify its accounting treatment or rename or redefine services or products that, under the terms of this Agreement, would be included in the definition of Gross Receipts in a manner calculated to exempt any portion Operator's revenue from Gross Receipts.

Section 6.11 Books and Records.

(a) Operator agrees to maintain and make available (in physical or electronic form) to City at Operator's place of business or a mutually agreed upon third party location, during regular business hours, accurate and detailed books and accounting records reflecting its performance of its obligations under Article 6 this Agreement. Operator shall maintain its books and records in accordance with generally accepted accounting principles ("GAAP"), unless otherwise agreed to by the City. Upon City's reasonable prior written request, which shall not occur more than once per calendar year, Operator shall permit the City to audit and examine such books and records relating to its performance of its obligations under Article 6 of this Agreement for the preceding twelve (12) month period at Operator's place of business or a mutually agreed upon third party location. Operator shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years.

(b) Should any examination, inspection and audit of Operator's books and records by the City disclose an underpayment by Operator of the consideration due, Operator shall promptly pay City the amount of such underpayment. If said underpayment exceeds five percent (5%) of the consideration due, Operator shall reimburse the City for all reasonable costs incurred in the conduct of such examination, inspection and audit. Should any examination, inspection and audit

of Operator's books and records by the City disclose an overpayment by Operator of the consideration due, City shall promptly reimburse Operator such overpayment or authorize a credit of such amount against future monthly payments.

(c) The City's rights to inspect and audit the books and records of Operator shall survive the expiration or earlier termination of this Agreement. The City's right to audit will extend to related parties of Operator.

ARTICLE 7 ENVIRONMENTAL COVENANTS

Section 7.1 Compliance with Environmental Laws. In its operations at the Airport, the Operator shall comply, and shall cause all Owners and other permittees to comply, with all Applicable Laws (including Environmental Laws) and with the Airport environmental policies and procedures, available on file with the City, as they may be promulgated or amended from time to time. Without limiting the generality of the foregoing provision:

(a) Neither the Operator nor any Owner or permittee shall use, handle, treat, store, dispose of, discharge, or transport Hazardous Materials on, in, at, or from or to the Airport.

(b) Neither the Operator nor any Owner or permittee shall allow any spill, release, discharge, leak, emission, injection, escape, migration, disposal, or dumping (each, a "**Release**") of a Hazardous Material in any quantity in, on, at, or from the Airport (including, but not limited to, storm drains, sanitary sewer system, surface waters, soils, underground waters or air) of any Hazardous Material in violation of Environmental Laws.

(c) The Operator shall promptly abate, remove, and remediate upon discovery any Hazardous Materials released in, on, at, from, or that have migrated from, the Airport due to the Operator's Business or the actions of any Owner or permittee operating on Operator's behalf during the Term, and shall demonstrate such removal and remediation, to the reasonable satisfaction of the City. The City shall specifically have the right to insist on appropriate subsurface environmental investigations as part of any such demonstration. Any risk-based remediation shall be subject to the prior approval of the City and the Texas Commission on Environmental Quality. The Operator shall remove and remediate the Release to the satisfaction of the City.

ARTICLE 8 ASSIGNMENT

Section 8.1 No Assignment. Operator shall not assign, subcontract, sublease, license, encumber or otherwise transfer, whether voluntarily or involuntarily or by operation of law, this Agreement, or any right hereunder, (the term "**Transfer**" shall mean any such assignment, encumbrance, or transfer) except in connection with a merger (including a reincorporation merger), consolidation, reorganization, stock sale or exchange, sale of all or substantially all of Operator's assets, or a similar transaction such as an initial public offering. If there shall occur any change in the ownership of and/or power to vote, the majority of the outstanding capital stock or membership interest of Lessee, whether such change or ownership is by sale, assignment, bequest, inheritance, operation of law or otherwise, Operator shall obtain the City's written consent. If such a transfer

occurs, Operator will be solely responsible for ensuring that its assignee, subcontractor, sublessee, or licensee perform pursuant to and in compliance with the terms of this Agreement.

(a) In no event will any Transfer diminish the City's rights to enforce any and all provisions of this Agreement.

(b) Before any Transfer becomes effective, the assignee will assume and agree by written instruments to be bound by the terms and conditions of this Agreement during the remainder of the Term.

ARTICLE 9 COMPLIANCE WITH LAWS

Section 9.1 Compliance With All Applicable Laws. At all times, Operator agrees to observe and obey all Applicable Laws at all times, including but not limited to the policies and regulations governing the conduct and operation of the Airport promulgated from time to time by the City any other Governmental Authority including, but not limited to the [Rules and Regs], and as amended from time to time, 49 C.F.R. Parts 1542 and 1544 (Airport Security) 14 CFR Part 139 (Airport Certification), and 14 CFR Part 77 (Objects Affecting Navigable Airspace).

(a) Operator also specifically warrants that it shall immediately notify City of (i) any correspondence or communication from any Governmental Authority regarding the application of any Applicable Laws to the Operator's Business, and (ii) any change in Operator's Business that would change or has the potential to change Operator's or the City's obligations and/or liabilities under any Applicable Laws.

(b) Operator shall immediately comply with any directive issued by the City to cease and desist any conduct, actions or operations of the Operator upon Airport property which may cause or have the potential to cause or raise the substantial likelihood that any such Applicable Laws will be violated.

(c) In the event the City is assessed and pays a fine because of an act or omission of Operator, its employees, agents and invitees, or of any Owner, in violation of this Article 9, Operator will reimburse the City for such payment within thirty (30) days of the City providing notification of such payment.

ARTICLE 10 DATA SECURITY

Section 10.1 Data Security. Operator will establish and maintain safeguards against the destruction, loss, or alteration of City data or third party data that Operator may gain access to or be in possession of performing under this Agreement. Operator will not attempt to access, and will not allow its personnel access to, City data or third party data that is not required for the performance of this Agreement by such personnel. Operator, Owners, and its employees, vendors, subcontractors, and sub-consultants will adhere to and abide by the security measures and procedures established by the City and any terms of service agreed to by City with regards to data security. In the event Operator, an Owner, or Operator's subcontractor (if any) discovers or is

notified of a breach or potential breach of security relating to City data or third party data, Operator will promptly:

(a) Notify the City of such breach or potential breach; and

(b) If the applicable City data or third party data was in the possession of Operator at the time of such breach or potential breach, Operator will investigate and cure the breach or potential breach.

ARTICLE 11 CONFIDENTIALITY OF RECORDS.

Simultaneously with providing any records to the City, Operator shall identify any such records that Operator claims are confidential or trade secrets (“**Confidential Information**”) under Texas law. In the event the City receives any public records request for such Confidential Information, the City shall notify Operator and allow Operator a reasonable opportunity, consistent with Applicable Laws, to seek judicial relief prior to disclosing any such Confidential Information. Operator understands and agrees that should it fail to identify any such records as Confidential Information when they are initially provided to the City, the City may disclose such records pursuant to a public records request without notice to Operator. The Parties agree that information disclosed to the City is subject to the Texas Public Information Act, Texas Government Code, Chapter 552, and while the City may be able to assert an exception to production, it cannot guarantee non-disclosure.

ARTICLE 12 INDEMNIFICATION

Section 12.1 Indemnity.

Operator agrees to indemnify, save, hold harmless, and defend the City, and its directors, managers, members, agents, officers, and employees, officers, officials, agents, and employees (collectively, the “**City Parties**”) free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including, without limitation, reasonable attorney fees and costs incurred prior to trial, at trial, on any appeal, and in any bankruptcy proceeding) and causes of action of every kind and character, known or unknown, against any City Party by reason of any damage to property or bodily injury (including death) incurred or sustained by any Party hereto, any agent or employee of any Party hereto, including but not limited to any Owners or Airport Customers, and any third or other party whomsoever, or any Governmental Authority, to the extent arising out of or incident to or resulting from or in connection with Operator’s Business, Operator’s acts, omissions or negligence or that of any of Owners upon the Airport or in conjunction with Owners’ use of the Airport for Peer-to-Peer Car Sharing (“**Claims**”), except to the extent a Claim is specifically determined to arise solely from the willful misconduct or intentional act of the City or any City Parties. Operator’s indemnity obligations provided herein include, without limitation, all claims and damages caused in whole or in part by the negligence of the City. With respect to all Claims for which Operator has an indemnification obligation, Operator shall assume the responsibility to defend such Claim at the time written notice of the Claim is first provided to the City, regardless of whether the claimant has initiated a lawsuit against

the City. For the avoidance of doubt, the City is not hereby waiving any defense or limitation of its liability. Operator recognizes the broad nature of this indemnification and hold harmless clause, and acknowledges that the City would not execute this Agreement without this indemnity. Compliance with the insurance requirements herein shall not relieve Operator of its liability or obligation to indemnify City as set forth in this Article 12.

Section 12.1 Notice of Loss. Each Party hereto shall give to the other Party, prompt and timely written notice of any loss arising out of this Agreement, meaning any and all losses, liabilities, judgments, suits, claims, damages, costs and expenses (including reasonable attorney's fees, investigation costs, remediation costs, and court costs), of any kind or nature, coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.

Section 12.2 Survival. This Article 12 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 13 INSURANCE

Section 13.1 Insurance. Operator shall procure and maintain, at its sole cost and expense and at all times during the term of this Agreement, insurance of the kinds and in the amounts hereinafter provided, by financially responsible and qualified companies eligible to do business in the State of Texas with a rating of at least "A" VIII by A.M. Best or an equivalent rating by a similar entity, covering all operations under this Agreement (including those of Owners). In the event of default on the following requirements, the City reserves the right to take whatever actions deemed necessary to protect its interests. Liability and property policies, other than Workers' Compensation/Employer's Liability, will provide that the City is an additional insured. Prior to the Effective Date, Operator shall provide a certificate of insurance to City showing that Operator has complied with the obligations of this Article 13. The certificate of insurance required of this Article 13 shall provide an obligation that the insurer provide the certificate holder (City) with at least thirty (30) days prior written notice of cancellation. The Operator shall send the certificate of insurance to:

City of El Paso

Attention: Risk Management
218 North Campbell – City 2: 3rd Floor
El Paso, Texas 79901

Or by email to: ERSO@elpasotexas.gov

The following insurance coverages are required to be provided by Operator under this Agreement:

(a) Commercial Automobile Liability Insurance with a minimum limit of one million dollars (\$1,000,000) per occurrence for third party bodily injury and property damage for up to 15 passengers per vehicle. Any automobile operations in excess of 15 passengers per vehicle will require excess Commercial Automobile Liability Insurance with minimum limit of five million dollars (\$5,000,000).

(b) Commercial General Liability Insurance with a minimum limit of one Million Dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate, insuring the Operator from liability from bodily injury (including wrongful death), personal injury, and damage to property resulting from the performance of this Agreement by Operator and the acts and omissions of Owners, employees, and independent contractors. Coverage shall include Contractual Liability covering liability assumed under this Agreement, including without limitation Operator's indemnification obligations.

All Vehicles must be included under Operator's Commercial Automobile Liability Policy or covered by a blanket coverage form or endorsement; and all employees and Owners and Airport Customers must be covered under Operator's General Liability policy. The limits of the foregoing insurance shall not, in any way, limit the liability of Operator under the terms of this Agreement. In addition, the foregoing insurance policies are primary insurance to any other insurance held by City with respect to obligations assumed by Operator under this Agreement.

Operator and Owners shall maintain insurance for the Vehicles in accordance with the terms of this Agreement and the laws of the State of Texas at all times.

Section 13.2 Waiver of Subrogation. Operator, for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required by the Agreement, waives all rights against the City, members of the City's governing body and the City's officers, volunteers and employees, for damages or loss to the extent covered and paid for by any insurance maintained by Operator. Operator shall obtain a clause of endorsement in the policies of insurance required by this Article 13 to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the City for any loss covered by such policy.

ARTICLE 14 DEFAULT; REMEDIES

Section 14.1 Event of Default. The occurrence of any one or more of the following events shall constitute a breach of this Agreement and an "Event of Default":

(a) Operator fails to take action against Owner(s) who conduct any business or perform any acts at the Airport not specifically authorized by this Agreement, after the City notifies Operator of such unauthorized acts;

(b) Operator fails, duly and punctually, to pay any fees due under this Agreement or to submit any Monthly Gross Receipts Statement, or to make any other payment required hereunder, when due, to City, and such failure continues beyond the date specified in a written notice of such breach or default from City, which date shall be no earlier than the tenth (10th) business day after the effective date of such notice;

(c) Operator fails to obtain and maintain the insurance required by this Agreement or by the State of Texas, or to provide copies of the insurance certificates to the City as required by this Agreement; or

(d) Operator fails to keep, perform and observe each and every obligation, promise, covenant and agreement set forth in this Agreement, and such failure continues for a period of more than thirty (30) days after delivery by City of a written notice thereof.

Section 14.2 Remedies. Upon the occurrence and during the continuance of an Event of Default, City shall have the right to exercise any remedies available to the City under this Agreement, at law, or in equity, including the right to terminate this Agreement

Section 14.3 Cumulative Rights. The exercise by City of any remedy provided in this Agreement shall be cumulative and shall in no way affect any other remedy available to City under law or in equity.

Section 14.4 Fines/Penalties. By operating on the Airport, Operator and Owners shall be subject to Applicable Laws, including any fines or penalties in connection therewith. The City shall have no obligation to Operator to impose fines on, or otherwise take action against, any other person or entity at the Airport.

ARTICLE 15 GOVERNMENTAL PROVISIONS

Section 15.1 No Representations. Operator acknowledges and agrees that neither City, nor any person on behalf of City, has made, and City hereby disclaims, any representations or warranties, express or implied, regarding Operator's Business at the Airport, including any statements relating to the potential success or profitability of such venture. Operator represents and warrants that it has made an independent investigation of all aspects of the Business contemplated by this Agreement.

Section 15.2 FAA Requirements. Operator shall comply with and shall cause all of its employees, authorized agents or representatives, contractors, and subcontractors, including Owners, to comply with, to the extent required by Applicable Laws, all provisions of Exhibit B (Federal Aviation Administration Required Provisions) to this Agreement, as amended or interpreted by the FAA from time to time, which are incorporated as if fully set forth herein.

Section 15.3 Non-discrimination. In addition to the non-discrimination provisions included in Exhibit B to this Agreement, as part of the consideration for this Agreement, Operator covenants and agrees that no person on the grounds of race, color, religion, sex, national origin or ancestry, age, sexual orientation, gender identity or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in Operator's operations at the Airport. Operator further covenants and agrees that this provision shall be binding on any successors and assigns of Operator as permitted hereunder.

Section 15.4 Access for Persons with Disabilities. Operator shall comply with the accessibility provisions of the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.*, and any successor laws, ordinances, rules, standards, codes, guidelines and regulations. Operator will cooperate with the City and any other regulating entity concerning accessibility and compliance with such requirements. Operator shall ensure that Vehicles are available for use by Airport Customers that might require Vehicle adaptations such as hand controls, wheelchair ramps, and seatbelt adjustments, as needed.

Section 15.5 No Partnership, Joint Venture or Agent Relationship. Nothing in this Agreement shall be construed as in any way creating or establishing a partnership relationship between the parties hereto, or as constituting the Operators, Owners, or Customers as an agent, representative or employee of the City for any purpose or in any manner whatsoever.

ARTICLE 16 GENERAL PROVISIONS

Section 16.1 Notices. Except as otherwise specifically provided in this Agreement, any notice, demand or other correspondence given under this Agreement shall be in writing and given by prepaid certified mail (return receipt requested), or reputable overnight courier (such as Federal Express), to: (a) Operator at its Notice Address; or (b) City at its Notice Address; or (c) such other address as either Operator or City may designate as its new address for such purpose by notice given to the other in accordance with this 16.1. Any notice hereunder shall be deemed to have been given and received, and effective, three (3) days mailing in accordance with this Section 16.1. For convenience of the Parties, copies of notices may also be given by facsimile or electronic mail; however, neither Party may give official or binding notice by facsimile or electronic mail.

Operator's Notice Address: Turo Inc.
Legal - Airports 111 Sutter Street,
12th Floor
San Francisco, CA 94104

City's Notice Address: El Paso International Airport
6701 Convair Rd.
El Paso, TX 79925
Attn: Director

Section 16.2 Waiver of Performance. The waiver by either Party of performance of any provisions of this Agreement shall not constitute a future waiver of performance of such provisions.

Section 16.3 Entire Agreement. The Parties intend that this Agreement shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The Parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

Section 16.4 Amendments. Except as specifically provided herein, amendments to this Agreement require written agreement of the Parties. Notwithstanding the foregoing, if a Governmental Authority requires modifications or changes to this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, Operator hereby agrees that the City may unilaterally amend, alter, or otherwise modify the terms of this Agreement in order to address such requirement(s) without compromising or destroying any remaining portions of this

Agreement, and such remaining provisions shall remain binding and in full effect upon the parties as if no such amendment or alteration had occurred.

Section 16.5 Successors and Assigns. Subject to the provisions of Article 8, the terms and conditions contained in this Agreement shall bind and inure to the benefit of Operator and City, and, except as otherwise provided herein, to their personal representatives and successors and assigns.

Section 16.6 Severability. If any provision of this Agreement or the application thereof to any person, entity or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

Section 16.7 Governing Law. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Texas. Any dispute arising out of this Agreement, including, but not limited to, any issues relating to the existence, validity, formation, interpretation or breach of this Agreement, shall be brought and litigated exclusively in a state or federal court located in El Paso County, Texas; and the Parties consent to the exclusive jurisdiction thereof.

Section 16.8 Subordination to Grant Assurances. Operator understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between City and the United States of America, the State of Texas, or any of its or their agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the grant or receipt of federal or State funds for the development of the Airport or the financing thereof, and to any terms or conditions imposed upon the Airport by any other Governmental Authority (“**Grant Assurances**”). In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates the terms of any such deeds or agreements, the City may unilaterally amend, alter, or otherwise modify the terms of this Agreement in order to resolve such conflict or violation without compromising or destroying any remaining portions of this Agreement, and such remaining provisions shall remain binding and in full effect upon the parties as if no such amendment or alteration had occurred. Operator further agrees that it shall not knowingly cause the City to violate any Grant Assurances made by the City to the Federal Government in connection with the granting of such Federal funds.

Section 16.9 Representations of Authorization. Operator represents and warrants that Operator is a duly authorized and existing entity, that Operator has and is duly qualified to do business in the State of Texas, that Operator has full right and authority to enter into this Agreement, and that each and all of the persons signing on behalf of Operator are authorized to do so. Upon City’s request, Operator shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

Section 16.10 City Approvals. Except as otherwise indicated elsewhere in this Agreement, wherever in this Agreement approvals are required to be given or received by the City, it is understood that the Director of Aviation is hereby empowered to act on behalf of City.

Section 16.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute this Agreement on _____, 2024.

CITY OF EL PASO, TEXAS:

Cary Westin
City Manager

APPROVED AS TO FORM:

Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:

Samuel Rodriguez, P.E.
Airport Director

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this _____ day of _____ 20__ by Cary Westin as City Manager of the City of El Paso.

Notary Public, State of Texas

(Operator signature page on the following page)

TURO INC.

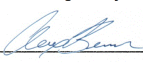
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By: 
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Printed: Alex Benn
Title: President

EXHIBIT A

OWNER OPERATING STANDARDS

All Peer-to-Peer Car Sharing Owners at the Airport must comply with the following rules:

1. **Owner Requirements.**

(a) All Owners must have a valid driver's license and all Vehicles made available through the Platform at the Airport must meet all insurance requirements established by the State of Texas at the time they are utilizing the Platform to conduct Peer-to-Peer Car Sharing Transactions at the Airport.

(b) All Owners must comply with all Texas motor vehicle laws and insurance laws.

(c) All of the Owners are subject to a criminal background check. If an Owner is flagged for potential fraudulent or criminal activity, Owner's account on the Platform will be locked down until the Owner clears the background check and any other Operator safety and security requirements fully.

(d) Owners may only offer for use the following Vehicle types, unless approved in writing by the City prior to offering such Vehicle for Peer-to-Peer Car Sharing at the Airport through the Platform: [Vehicles with a maximum height of eight (8) feet including, but not limited to, cars, vans, minivans, SUVs, trucks, pickup trucks, auto-cycles, or motorcycles]

(e) Vehicles must be clean and neat in appearance, and safe for operation.

(f) Vehicles must not be painted or display signage that is meant to advertise or solicit business on the Airport.

(g) Vehicles with safety or branding issues shall not be utilized for Peer-to-Peer Car Sharing at the Airport.

2. **Vehicle Inspections.** Vehicles operating under this Agreement may be subject at any time to inspection by the City staff or law enforcement officers as to passenger access, registration, Owner's license, license tag, insurance, and other matters pertaining to the legal, efficient and safe operation of the Owner and Vehicle at the Airport.

3. **Other Prohibited Activities.** The following activities are prohibited at the Airport:

(a) Picking-up or dropping off a Vehicle, Airport Customers, or their baggage, at any location other than the Designated Areas;

(b) Failing to provide information, or providing false information, to police officers or Airport personnel if and when requested;

(c) Failing to permit inspection of a Vehicle by City or law enforcement personnel while operating on Airport property;

- (d) Soliciting Airport Customers while on Airport property;
- (e) Using or possessing any alcoholic beverage while on Airport property;
- (f) Failing to operate a Vehicle in a safe manner;
- (g) Failing to comply with posted speed limits and traffic control signs;
- (h) Using profane or vulgar language;
- (i) Attempting to solicit payment in excess of that authorized by law;
- (j) Orally soliciting for or on behalf of any hotel, club, nightclub, or other business;
- (k) Soliciting of any activity prohibited by Applicable Laws;
- (l) Operating a Vehicle which is not in a safe mechanical condition or which lacks mandatory safety equipment or insurance;
- (m) Using or possessing any illegal drug or narcotic while on Airport property;
- (n) Offering Peer-to-Peer Car Sharing on Airport property without proper authorization or at any time during any Owner's, authority to operate at the Airport is suspended or revoked;
- (o) Engaging in practices intended to deliberately inflate prices for Airport Customers;
- (p) Threatening or intimidating anyone on Airport property;
- (q) Engaging in any criminal activity;
- (r) Storing anything on Airport property (other than short-term storage of Vehicles as contemplated by this Agreement);
- (s) Maintenance, washing, or servicing of Vehicles.

EXHIBIT B**FEDERAL AVIATION ADMINISTRATION REQUIRED PROVISIONS****B. General Civil Rights Clause.**

1. In all its activities within the scope of its airport program, Operator agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Operator transfers its obligation to another, the transferee is obligated in the same manner as Operator.
2. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

C. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, Operator, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Contractor”) agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant

thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the City to enter into any litigation to protect the interests of the City. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

D. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this contract, Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d, *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794, *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101, *et seq.*) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

Subcontracts. Operator agrees that it shall insert in any subcontracts the clauses set forth in paragraphs (A) through (C) above and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. Operator shall be responsible for

compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (C).

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name

Business Name

Agenda Item Type

Relevant Department

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

☒

I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.


OR

☐

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature:  Date: 2024/04/12



Legislation Text

File #: 24-534, Version: 1

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

District 2

City Manager's Office, Omar Martinez, (915) 479-0341

City Manager's Office, Ian Voglewede, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on a Resolution authorizing the submission of an application to the Office of Congressman Tony Gonzales requesting funds from the Community Project Funding program in the amount of \$8,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project; and authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said application; authorizing the City Manager, or designee, to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, and revisions that increase, decrease or de-obligate program funds; and to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Omar Martinez, Grants & Strat. Initiatives Manager, 915-479-0341
Ian Voglewede, Strategic and Legislative Affairs Director, 915-212-0065

DISTRICT(S) AFFECTED: District 2

STRATEGIC GOAL: No. 1: Cultivate an Environment Conducive to Strong, Economic Development

SUBJECT:

Discussion and action on a Resolution authorizing that the City of El Paso City Council approve the submission of the application for the Fire Station 12 Reconstruction Project.

BACKGROUND / DISCUSSION:

The City of El Paso is submitting five Applications to the FY25 Community Project Funding (CPF) program: the Fire Station 12 Reconstruction Project with a \$8,800,000 request with no match required, the Ysleta Port of Entry Project Development Study with a \$4,000,000 request with no match required, the On-Route Charging Stations Project with a \$1,744,000 request with a \$436,000 (20%) match from Sun Metro, and the Union Depot Renovation Project with a \$1,000,000 request with no match required.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ☒ YES ☐ NO

PRIMARY DEPARTMENT: Strategic and Legislative Affairs

SECONDARY DEPARTMENT: None

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: Ian Voglewede

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

WHEREAS, members of the U.S. Congress may request funding to support specific community projects within their districts as part of the annual federal appropriations process; and

WHEREAS, such funding is referred to as “Community Project Funding” within the U.S. House of Representatives; and

WHEREAS, the Office of Congressman Tony Gonzales is currently accepting Community Project Funding requests; and

WHEREAS, the City of El Paso has identified the Fire Station 12 Reconstruction Project (the “Project”) as worthy of funding through the Community Project Funding process; and

WHEREAS, funds received for the Project would be used to replace the aging and functionally obsolete Fire Station 12 in Northeast El Paso; and

WHEREAS, the Project would not require matching funds from the City of El Paso.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT City staff is authorized to submit an application to the Office of Congressman Tony Gonzales requesting funds from the Community Project Funding program in the amount of \$8,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project;

THAT the City Manager, or designee, is authorized to sign any documents necessary for the proper submission of said application;

THAT the City Manager, or designee, is authorized to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney’s Office;

THAT the City Manager, or designee, is authorized to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, and revisions that increase, decrease or de-obligate program funds;

THAT the City Manager, or designee, is authorized to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

(Signatures on next page.)

APPROVED this _____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Stephen I. Voglewede
Strategic and Legislative Affairs Director



Legislation Text

File #: 24-535, Version: 3

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, Omar Martinez, (915) 479-0341

City Manager's Office, Ian Voglewede, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on a Resolution authorizing the submission of applications to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program, in the amounts so specified, for the following Projects:

Ysleta Port of Entry Developmental Study Project. Requesting funding in the amount of \$4,000,000.00, with no matching funds from the City;

Innovation Factory-Phase II Project: Requesting funding in the amount of \$3,000,000.00, with no matching funds from the City;

Aerospace and Defense Technology Training Center Design Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

Advanced Manufacturing District Project: Requesting funding in the amount of \$5,000,000.00, with no matching funds from the City;

Union Plaza Renovation Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

and authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said applications; authorizing the City Manager, or designee, to sign any documents necessary to accept grants resulting from said applications, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to grants resulting from the applications, including, but not limited to, revisions to project scopes, and revisions that increase, decrease or de-obligate program funds; and to explore funding sources and partnerships that leverage the strength of said applications and any grants resulting from said applications.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Omar Martinez, Grants & Strat. Initiatives Manager, 915-479-0341
Ian Voglewede, Strategic and Legislative Affairs Director, 915-212-0065

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: No. 1: Cultivate an Environment Conducive to Strong, Economic Development

SUBJECT:

Discussion and action on a Resolution authorizing that the City of El Paso City Council approve the submission of five project applications, cash match contributions, and budget transfers for the FY 2025 Community Project Funding program ("Applications").

BACKGROUND / DISCUSSION:

The City of El Paso is submitting five Applications to the FY25 Community Project Funding (CPF) program: Ysleta Port of Entry Project Development Study with a \$4,000,000 request with no match required, Innovation Factory-Phase II Project: Requesting funding in the amount of \$3,000,000.00, with no matching funds from the City; Aerospace and Defense Technology Training Center Design Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City; Advanced Manufacturing District Project: Requesting funding in the amount of \$5,000,000.00, with no matching funds from the City; and the Union Plaza Renovation Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Total amount \$14,000,000, Community Project Funding

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Strategic and Legislative Affairs

SECONDARY DEPARTMENT: None

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: Ian Voglewede

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

WHEREAS, members of the U.S. Congress may request funding to support specific community projects within their districts as part of the annual federal appropriations process;

WHEREAS, such funding is referred to as “Community Project Funding” within the U.S. House of Representatives;

WHEREAS, the Office of Congresswoman Veronica Escobar is currently accepting Community Project Funding requests;

WHEREAS, the City of El Paso has identified the following described projects (collectively referred to herein as, the “Projects”) as worthy of funding through the Community Project Funding process:

- Ysleta Port of Entry Project Developmental Study: Funds would be used to, among other things, conduct a feasibility study focusing on the expansion of the Ysleta Port of Entry and to conduct a benefit-cost analysis, traffic analysis, and greenhouse gas analysis;
- Innovation Factory-Phase II Project: Funds would be used to construct spaces designed to provide cost-savings for early stage manufacturing and aerospace companies through training, back-office support, environmental management, project design and value chain, and access to advanced manufacturing, testing, and evaluation equipment;
- Aerospace and Defense Technology Training Center Design Project: Funds would be used to complete engineering design and environmental documents necessary to construct the Aerospace and Defense Technology Training Center, which is a facility designed to provide education and training in demand industries for veterans, active-duty and transitioning military and their dependents;
- Advanced Manufacturing District Project: Funds would be used to supplement federal and local funds to construct a building shell, site infrastructure, parking lots, and truck yard at the Advanced Manufacturing District located at the El Paso International Airport;
- Union Plaza Renovation Project: Funds would be used to renovate several components of the historic El Paso Union Depot, including the renovation of 92 office windows and the installation of ADA compliant ramps and doors;

WHEREAS, none of the Projects would require matching funds from the City of El Paso.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT City staff is authorized to submit applications to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program, in the amounts so specified, for the following Projects:

- Ysleta Port of Entry Developmental Study Project. Requesting funding in the amount of \$4,000,000.00, with no matching funds from the City;
- Innovation Factory-Phase II Project: Requesting funding in the amount of \$3,000,000.00, with no matching funds from the City;
- Aerospace and Defense Technology Training Center Design Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;
- Advanced Manufacturing District Project: Requesting funding in the amount of \$5,000,000.00, with no matching funds from the City;
- Union Plaza Renovation Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

THAT the City Manager, or designee, is authorized to sign any documents necessary for the proper submission of said applications;

THAT the City Manager, or designee, is authorized to sign any documents necessary to accept grants resulting from said applications, after consultation with the City Attorney's Office;

THAT the City Manager, or designee, is authorized to sign any documents related to grants resulting from the applications, including, but not limited to, revisions to project scopes, and revisions that increase, decrease or de-obligate program funds;

THAT the City Manager, or designee, is authorized to explore funding sources and partnerships that leverage the strength of said applications and any grants resulting from said applications.

APPROVED this _____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

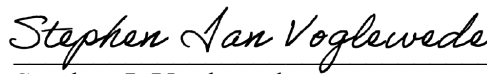
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Stephen I. Voglewede
Strategic and Legislative Affairs Director

RESOLUTION

WHEREAS, members of the U.S. Congress may request funding to support specific community projects within their districts as part of the annual federal appropriations process;

WHEREAS, such funding is referred to as “Community Project Funding” within the U.S. House of Representatives;

WHEREAS, the Office of Congresswoman Veronica Escobar is currently accepting Community Project Funding requests;

WHEREAS, the City of El Paso has identified the following described projects (collectively referred to herein as, the “Projects”) as worthy of funding through the Community Project Funding process:

- Ysleta Port of Entry Project Developmental Study: Funds would be used to, among other things, conduct a feasibility study focusing on the expansion of the Ysleta Port of Entry and to conduct a benefit-cost analysis, traffic analysis, and greenhouse gas analysis;
- Innovation Factory-Phase II Project: Funds would be used to construct spaces designed to provide cost-savings for early stage manufacturing and aerospace companies through training, back-office support, environmental management, project design and value chain, and access to advanced manufacturing, testing, and evaluation equipment;
- Aerospace and Defense Technology Training Center Design Project: Funds would be used to complete engineering design and environmental documents necessary to construct the Aerospace and Defense Technology Training Center, which is a facility designed to provide education and training in demand industries for veterans, active-duty and transitioning military and their dependents;
- Advanced Manufacturing District Project: Funds would be used to supplement federal and local funds to construct a building shell, site infrastructure, parking lots, and truck yard at the Advanced Manufacturing District located at the El Paso International Airport;
- Union Plaza Renovation Project: Funds would be used to renovate several components of the historic El Paso Union Depot, including the renovation of 92 office windows and the installation of ADA compliant ramps and doors;

WHEREAS, none of the Projects would require matching funds from the City of El Paso.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT City staff is authorized to submit applications to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program, in the amounts so specified, for the following Projects:

- Ysleta Port of Entry Developmental Study Project. Requesting funding in the amount of \$4,000,000.00, with no matching funds from the City;
- Innovation Factory-Phase II Project: Requesting funding in the amount of \$3,000,000.00, with no matching funds from the City;
- Aerospace and Defense Technology Training Center Design Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;
- Advanced Manufacturing District Project: Requesting funding in the amount of \$5,000,000.00, with no matching funds from the City;
- Union Plaza Renovation Project: Requesting funding in the amount of \$1,000,000.00, with no matching funds from the City;

THAT the City Manager, or designee, is authorized to sign any documents necessary for the proper submission of said applications;

THAT the City Manager, or designee, is authorized to sign any documents necessary to accept grants resulting from said applications, after consultation with the City Attorney's Office;

THAT the City Manager, or designee, is authorized to sign any documents related to grants resulting from the applications, including, but not limited to, revisions to project scopes, and revisions that increase, decrease or de-obligate program funds;

THAT the City Manager, or designee, is authorized to explore funding sources and partnerships that leverage the strength of said applications and any grants resulting from said applications.

APPROVED this _____ day of _____ 2024.

CITY OF EL PASO:

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Stephen I. Voglewede
Strategic and Legislative Affairs Director



Legislation Text

File #: 24-539, Version: 2

**CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM**

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, Omar Martinez, (915) 479-0341

City Manager's Office, Ian Voglewede, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on a Resolution authorizing the submission of an application to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program in the amount of \$1,744,000.00, with a 20% match of \$436,000.00 from the City, for the Sun Metro Electric Vehicle (EV) Charging Station Network Project; and authorizing the City Manager, or designee, to make any budget transfer necessary in regards to the City's matching project funds in the amount of \$436,000.00 from Sun Metro's Fund Balance in order to effectuate the Sun Metro Electric Vehicle (EV) Charging Station Network Project; authorizing the City Manager, or designee, to sign any documents necessary for the proper submission of said application; authorizing the City Manager, or designee, to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney's Office; and authorizing the City Manager, or designee, to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, revisions that increase, decrease or de-obligate program funds, revisions to the operation plan, and documents to reject, amend, correct, and/or terminate the grant; and to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Omar Martinez, Grants & Strat. Initiatives Manager, 915-479-0341
Ian Voglewede, Strategic and Legislative Affairs Director, 915-212-0065

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: No. 1: Cultivate an Environment Conducive to Strong, Economic Development

SUBJECT:

Discussion and action on a Resolution that the City of El Paso City Council authorizes the submission of a project application, cash match contribution, and budget transfer for the On-Route Charging Stations Project.

BACKGROUND / DISCUSSION:

The City of El Paso is submitting five Applications to the FY25 Community Project Funding (CPF) program: the Fire Station 12 Reconstruction Project with a \$8,800,000 request with no match required, the Ysleta Port of Entry Project Development Study with a \$4,000,000 request with no match required, the On-Route Charging Stations Project with a \$1,744,000 request with a \$436,000 (20%) match from Sun Metro, and the Union Depot Renovation Project with a \$1,000,000 request with no match required.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

\$436,000 Sun Metro P3 Fund

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Strategic and Legislative Affairs

SECONDARY DEPARTMENT: None

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: Ian Voglewede

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

RESOLUTION

WHEREAS, members of the U.S. Congress may request funding to support specific community projects within their districts as part of the annual federal appropriations process; and

WHEREAS, such funding is referred to as “Community Project Funding” within the U.S. House of Representatives; and

WHEREAS, the Office of Congresswoman Veronica Escobar is currently accepting Community Project Funding requests; and

WHEREAS, the City of El Paso has identified the Sun Metro Electric Vehicle Charging Station Network Project (the “Project”) as worthy of funding through the Community Project Funding process; and

WHEREAS, funds received for the Project would be used to purchase and install on-route fast-charging stations throughout Sun Metro’s transit system to support and increase the efficiency of Sun Metro’s incoming electric vehicles and to help reduce greenhouse gas emissions throughout the City; and

WHEREAS, if awarded Community Project Funding, the Project would require matching funds from the City in the amount of \$436,000.00 that can be paid using the Sun Metro Fund Balance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT City staff is authorized to submit an application to the Office of Congresswoman Veronica Escobar requesting funds from the Community Project Funding program in the amount of \$1,744,000.00, with a 20% match of \$436,000.00 from the City, for the Sun Metro Electric Vehicle (EV) Charging Station Network Project;

THAT the City Manager, or designee, is authorized to make any budget transfer necessary in regards to the City’s matching project funds in the amount of \$436,000.00 from Sun Metro’s Fund Balance in order to effectuate the Sun Metro Electric Vehicle (EV) Charging Station Network Project;

THAT the City Manager, or designee, is authorized to sign any documents necessary for the proper submission of said application;

THAT the City Manager, or designee, is authorized to sign any documents necessary to accept a grant resulting from said application, after consultation with the City Attorney’s Office;

THAT the City Manager, or designee, is authorized to sign any documents related to a grant resulting from the application, including, but not limited to, revisions to the project scope, revisions that increase, decrease or de-obligate program funds, revisions to the operation plan, and documents to reject, amend, correct, and/or terminate the grant;

THAT the City Manager, or designee, is authorized to explore funding sources and partnerships that leverage the strength of said application and any grant resulting from said application.

APPROVED this _____ day of _____ 2024.


CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Stephen I. Voglewede
Strategic and Legislative Affairs Director



Legislation Text

File #: 24-552, Version: 2

CITY OF EL PASO, TEXAS
LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

All Districts

City Manager's Office, K. Nicole Cote, (915) 212-1092

Capital Improvement Department, Yvette Hernandez, (915) 212-0065

Zoo, Joe Montisano, (915) 212-0966

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action that the City Manager, or designee, be authorized to effectuate the listed budget transfers, attached to the Resolution as Exhibit A, for El Paso Zoo and Botanical Garden as necessary to execute the approved Capital Improvement Plan in FY 2024.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024

PUBLIC HEARING DATE:

CONTACT PERSON NAME AND PHONE NUMBER:

K. Nicole Cote, Managing Director, City Manager's Office (915) 212-1092

Yvette Hernandez (915) 212-0065

Joe Montisano (915) 212-0966

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: 6. Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: N/A

SUBJECT: Discussion and action that the City Manager, or designee, be authorized to effectuate the listed budget transfers, attached to the Resolution as Exhibit A, for El Paso Zoo as necessary to execute the approved Capital Improvement Plan in FY 2024.

BACKGROUND / DISCUSSION:

Section 7.3D of the City Charter requires a budget to be adopted by resolution no later than August 31st of each year.

PRIOR COUNCIL ACTION:

The FY 2023 - 2024 Annual Budget for the City of El Paso was adopted by Resolution on August 15, 2023.

AMOUNT AND SOURCE OF FUNDING:


HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: City Manager's Office - Office of Management and Budget
Capital Improvement Department, El Paso Zoo.

SECONDARY DEPARTMENT: Mayor and Council

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client
department should sign also)

RESOLUTION

WHEREAS, on August 15, 2023, pursuant to Section 7.3D of the City of El Paso municipal code, the City Council approved the FY 2024 City budget by resolution (“Budget Resolution”); and

WHEREAS, Section 6 of the FY 2024 Budget Resolution authorizes the City Manager or designee to make budget transfers between departments and/or non-enterprise funds or reprogram funds within an enterprise department, not to exceed \$100,000, to the extent permitted by law and budget transfers between departments and/or non-enterprise department funds exceeding \$100,000 requiring City Council approval; and

WHEREAS, the El Paso Zoo and Botanical Garden require budget transfers in excess of \$100,000, which in accordance with Section 6 of the FY 2024 Budget Resolution, require Council approval; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT, the City Manager, or designee, be authorized to effectuate the listed budget transfers, attached to this Resolution as Exhibit A, for the El Paso Zoo and Botanical Garden as necessary to execute the approved Capital Improvement Plan in FY 2024.

APPROVED this ____ day of _____, 2024.

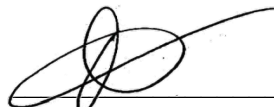
CITY OF EL PASO:

Oscar Leoser
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Oscar Gomez
Assistant City Attorney

APPROVED AS TO CONTENT:



K. Nicole Cote, Managing Director
Office of Management & Budget

Exhibit A

Capital Improvement Program (CIP) Budget Transfer Request FY 2024

CAPITAL IMPROVEMENT PROGRAM (CIP)
BUDGET TRANSFER REQUEST
FY 2024

BT Number	Justification	Fund	Project	Amount	Project	Amount	Funding Source
2024-0496	Transfer project savings in to Komodo Exhibit, Leopard Exhibit, and South American Pavilion to complete projects - Quality of Life Zoo Program	4800	Decrease:		Increase:		GOP 2012 Quality of Life
			PCP13ZOOD11	\$ 2,596,904.25	PCP13ZOOA15	\$ 1,549,436.74	
			PCP13ZOOD07	\$ 320,780.04	PCP13ZOOA10	\$ 1,507,100.99	
			PCP13ZOOB02	\$ 173,510.06	PCP13ZOOA16	\$ 34,656.62	
			Total:	\$ 3,091,194.35	Total:	\$ 3,091,194.35	



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-557, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

*Please choose District and Department from drop down menu. Please post exactly as example below.
No Title's, No emails. Please use ARIAL 10 Font.*

District 1

Capital Improvement Department, Joaquin Rodriguez, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion and action on the Frontera Road Traffic Study and recommended treatments.

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: April 23, 2024
PUBLIC HEARING DATE: N/A

CONTACT PERSON(S) NAME AND PHONE NUMBER: Joaquin Rodriguez, AICP
915.212.0065

DISTRICT(S) AFFECTED: 1

STRATEGIC GOAL: No. 7: Enhance and Sustain El Paso's Infrastructure Network

SUBGOAL: No. 7.3: Enhance a Regional Comprehensive Transportation System

SUBJECT:

Discussion and Action on the Frontera Road Traffic Study and recommended treatments.

BACKGROUND / DISCUSSION:

The City hired Walter P Moore to conduct a traffic study to evaluate the effects of future development around Frontera Road near the Texas – New Mexico border. There are concerns that Frontera Road, being an underdeveloped road in the City of El Paso and fronting many residences, may not adequately support the additional traffic from future developments.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Capital Improvement Department

SECONDARY DEPARTMENT: Streets and Maintenance

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Joaquin Rodriguez, AICP
Director – Grant Funded Programs

**Opinion of Probable Construction Cost
FRONTERA TRAFFIC STUDY**



Description	Project Cost		
	2024	2025	2026
Emergency Access Gate - Gary Ln	\$ 19,956.69	\$ 20,954.53	\$ 22,002.25
Emergency Access Gate - La Hacienda	\$ 13,294.58	\$ 13,959.30	\$ 14,657.27
Emergency Access Gate - Boy Scout Ln	\$ 22,733.99	\$ 23,870.69	\$ 25,064.22
Diagonal Diverter Frontera Rd At La Adelita Dr + Pedestrian Improvements (Disconnected)	\$ 119,186.56	\$ 125,145.89	\$ 131,403.18
Total Construction Cost	\$ 175,171.82	\$ 183,930.41	\$ 193,126.93
Design (13%)	\$ 43,792.95	\$ 45,982.60	\$ 48,281.73
Environmental	\$ 168,000.00	\$ 176,400.00	\$ 185,220.00
Inspection (9%)	\$ 15,765.46	\$ 16,553.74	\$ 17,381.42
Contract Compliance (2%)	\$ 3,503.44	\$ 3,678.61	\$ 3,862.54
Testing (4%)	\$ 7,006.87	\$ 7,357.22	\$ 7,725.08
Project Engineering (4%)	\$ 7,006.87	\$ 7,357.22	\$ 7,725.08
Total Project Cost	\$ 420,247.42	\$ 441,259.79	\$ 463,322.78



El Paso, TX

300 N. Campbell
El Paso, TX

Legislation Text

File #: 24-609, Version: 1

CITY OF EL PASO, TEXAS LEGISTAR AGENDA ITEM SUMMARY FORM

DISTRICT, DEPARTMENT, CONTACT INFORMATION:

Please choose District and Department from drop down menu. Please post exactly as example below.

No Title's, No emails. Please use ARIAL 10 Font.

Economic and International Development, Karina Brasgalla, (915) 212-0065

AGENDA LANGUAGE:

This is the language that will be posted to the agenda. Please use ARIAL 11 Font.

Discussion on potential economic development opportunities in Northeast El Paso, Texas. HQ#23-1857
(551.072) (551.087)

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with [Title 2, Chapter 2.92, Section 2.92.080](#)

Introduction:

Individuals or entities benefiting by a City Council Agenda item must disclose contributions or donations made to current members of Council under the City's Ethics Code. The information on this form is being captured for transparency purposes and will be noted on the relevant City Council Agenda. **Contributions and Donations do NOT disqualify an applicant from doing business with the City.**

Definitions:

- "Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit.
- "Contributor" A person making a contribution, including the contributor's spouse.
- "Donation" Cash and the value of any in-kind contributions or gifts to the council member for use by their office or in their district.
- "Donor" An individual and spouse, a business entity, or an individual who owns a business entity in whole or in part, or is operated by the individual, that is the subject of a council agenda item.
- "Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

Instructions: Please read and complete this form carefully. If you have made campaign contributions or donations to any current City Council member(s) totaling an aggregate of \$500 or more during their campaign(s) or term(s) of City office, you are required to disclose the information as specified below. If you have not made such contributions or donations past the limit specified in the ordinance, you are required to affirm your compliance with the municipal code. Please submit this completed form along with your application or proposal to the relevant city department. Failure to disclose campaign contributions or donations as required by the ordinance may result in a violation of the City's Ethics Code requirements, and sanctions under the Ethics Code 2.92.

Contributor / Donor Information:

Full Name _____

Business Name _____

Agenda Item Type _____

Relevant Department _____

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office specified in Section 2.92.080 of the El Paso Municipal Code.

I have **NOT** made campaign contributions or donations totaling an aggregate of \$500 or more to any City Council member(s) during their campaign(s) or term(s) of City office, as specified in Section 2.92.080 of the El Paso Municipal Code.

OR

I have made campaign contributions or donations totaling an aggregate of \$500 or more to the following City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor		
District 1		
District 2		
District 3		
District 4		
District 5		
District 6		
District 7		
District 8		

Declaration: I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is subject to verification by the city authorities. Further, **I understand that upon submission of this form, I must disclose any subsequent contributions or donations prior to the relevant council meeting date.**

Signature: _____ Date: _____