Renard U. Johnson Mayor

> Dionne Mack City Manager



CITY COUNCIL
Alejandra Chávez, District 1
Josh Acevedo, District 2
Deanna Maldonado-Rocha, District 3
Cynthia Boyar Trejo, District 4
Ivan Niño, District 5
Art Fierro, District 6
Lily Limón, District 7
Chris Canales, District 8

#### AGENDA FOR THE REGULAR COUNCIL MEETING

# April 29, 2025 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: 553-313-748#

#### **AND**

AGENDA REVIEW MEETING COUNCIL CHAMBERS, CITY HALL 300 N. CAMPBELL AND VIRTUALLY April 28, 2025 9:00 AM

Teleconference phone number: 1-915-213-4096
Toll free number: 1-833-664-9267
Conference ID: 518-912-381#

Notice is hereby given that an Agenda Review Meeting will be conducted on April 28, 2025 at 9:00 A.M. and a Regular Meeting of the City Council of the City of El Paso will be conducted on April 29, 2025 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 28, 2025 Conference ID: 518-912-381#
Regular Council Meeting, April 29, 2025 Conference ID: 553-313-748#

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:

Josh Acevedo

A quorum of City Council must participate in the meeting.

#### **ROLL CALL**

#### INVOCATION BY EL PASO POLICE CHAPLAIN JOE MARATTA

#### PLEDGE OF ALLEGIANCE

At the Invitation of City Communications Director Laura Cruz-Acosta

El Paso Fire Department Honor Guard and El Paso Fire Department Pipes and Drums

#### MAYOR'S PROCLAMATIONS

**National Travel and Tourism Week** 

Nayeli 'La Bikina' Rodriguez Day

**El Paso Commission for Women Day** 

**Child Abuse Prevention Month** 

El Paso Del Norte Science 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 Regular City Council Meeting of April 15, 2025, the Agenda Review Meeting of April 14, 2025, the Work Session of April 14, 2025.

<u>25-501</u>

#### **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

**25-86** 

#### **CONSENT AGENDA - RESOLUTIONS:**

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

3. That the City Manager is authorized to sign a Mutual Aid Agreement by and between the City of El Paso and US Army Garrison, Fort Bliss, Texas, to secure for each the benefits of mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction, hazard materials, medical emergencies, the protection of life and property from fire, and fire fighting for a period of up to nine (9) years after the effective date.

**25-500** 

#### **All Districts**

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

#### Goal 3: Promote the Visual Image of El Paso

**4.** That the Solid Waste liens on the attachment posted with this agenda be approved (see Attachment A).

<u>25-457</u>

#### **Districts 1, 2, 3, 4**

Environmental Services Department, Nicholas Ybarra (915) 212-6000

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

**5.** A Resolution that Taxpayers, ROBERTO TELLO & OLIVIA ALAMOS, have met the requirements of Section 33.011 of the Tax Code for the request of waiver of

25-491

penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(a)(1) of the Tax Code, in the amount of \$543.24 for the property with the following legal description:

#### 18 HACIENDA HEIGHTS #3 LOT 9

#### District 3

Tax Office, Maria O. Pasillas, (915) 212-0106

#### **CONSENT AGENDA - RE-BOARD APPOINTMENTS:**

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

6.	Deborah A. Zuloaga to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-552</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	
7.	Arlene Carroll to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-553</u>
	Members of the City Council Mayor Renard U. Johnson (915) 212-0021	

## **CONSENT AGENDA - BOARD APPOINTMENTS:**

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

8.	Johnny Escalante to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-547</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	
9.	Martin Morgades to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-548</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	
10.	Michelle Esparza to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-549</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	
11.	Edward Houghton, V to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-550</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	
12.	Steve Ortega to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.	<u>25-551</u>
	Members of the City Council, Mayor Renard U. Johnson, (915) 212-0021	

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

13. Isabel White to the Museums and Cultural Affairs Advisory Board by 25-537 Representative Alejandra Chávez, District 1. Members of the City Council, Representative Alejandra Chávez, (915) 212-0001 14. Bianca de Leon to the Museums and Cultural Affairs Advisory Board by 25-538 Representative Chris Canales, District 8. Members of the City Council, Representative Chris Canales, (915) 212-0008 Goal 8: Nurture and Promote a Healthy, Sustainable Community 15. Pamela Soto to the Women's Rights Commission by Representative Alejandra **25-536** Chávez, District 1. Members of the City Council, Representative Alejandra Chávez, (915) 212-0001 16. James H. Green Jr. to the Veterans Affairs Advisory Committee by 25-540 Representative Cynthia Boyar Trejo, District 4. Members of the City Council, Representative Cynthia Boyar Trejo, (915) 212-0004 17. Celinda R. Crews to the Animal Shelter Advisory Committee by Representative 25-541 Cynthia Boyar Trejo, District 4. Members of the City Council, Representative Cynthia Boyar Trejo, (915) 212-0004 **CONSENT AGENDA - APPLICATIONS FOR TAX REFUNDS:** 

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

18. A refund to Christopher Jared Alires, in the amount of \$24,514.62, for overpayments made on January 11, 2025 of 2022 and 2023 taxes and January 21, 2025 of 2024 taxes. Geo. # D465-999-0090-2100. 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.

#### District 1

Tax Office, Maria O. Pasillas, (915) 212-0106

19. That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments exceeding the three (3) year limit. (See Attachment B)

#### **All Districts**

Tax Office, Maria O. Pasillas, (915) 212-0106

**25-490** 

#### **CONSENT AGENDA - NOTICE FOR NOTATION:**

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

**20.** For notation only, Special Projects, Discretionary fund expenditures, and P-Card Transactions for the period of February 21, 2025 - March 20, 2025 for Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff.

**25-504** 

#### **All Districts**

City Manager's Office, Bonnie Cordova, (915) 212-1092

#### **REGULAR AGENDA - MEMBERS OF THE CITY COUNCIL**

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

21. Discussion and action to authorize the expenditure of District 2 discretionary funds, in an amount not to exceed \$1,200.00, to provide food for a public event during a Mother's Day celebration at Memorial Senior Center on May 9, 2025.

**25-529** 

#### All Districts

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

22. Discussion and action on a Resolution authorizing the expenditure of District 6 discretionary funds in an amount not to exceed SIX THOUSAND FOUR HUNDRED DOLLARS (\$6,400.00) towards the costs of equipment rental, movie license fees, permits, staff time and other related items necessary for the support of the "Movies in the Park" event, a series of movie nights in parks located within District 6, and declares that this expenditure serves the municipal purpose of providing recreational and cultural activities to the residents of and visitors to the City of El Paso, which benefits the community and instills community pride.

25-539

#### **All Districts**

Members of the City Council, Representative Art Fierro, (915) 212-0006

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

23. Discussion and action to amend the Resolution scheduling standing Council meetings and Work Sessions in accordance with the El Paso Municipal Charter.

<u>25-543</u>

#### **All Districts**

Members of the City Council, Representative Art Fierro, (915) 212-0006 Members of the City Council, Representative Deanna Maldonado-Rocha, (915) 212-0003

**24.** Discussion and action amending the Rules of Order to set the time for

25-544

ceremonial items, agenda items, and citizen participation.

#### **All Districts**

Members of the City Council, Representative Art Fierro, (915) 212-0006 Members of the City Council, Representative Deanna Maldonado-Rocha, (915) 212-0003

#### **REGULAR AGENDA - OPERATIONAL FOCUS UPDATES**

#### Goal 8: Nurture and Promote a Healthy, Sustainable Community

**25.** Animal Shelter Advisory Committee annual update.

**25-546** 

#### **All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

#### 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: 553-313-748#

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

26.	An Ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions), Chapter 20.08 (Appendix A), Table of Permissible Uses, Chapter 20.10 (Supplemental Use Regulations), and (Appendix C) Table of Parking Requirements and Standards of the El Paso City Code to support the goals and priorities of downtown redevelopment, add definitions, disallow incompatible uses within the C-5 (Commercial) Zoning District, and allow uses supportive of high-density development. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.	<u>25-535</u>
	<b>District 8</b> Economic and International Development, Karina Brasgalla, (915) 212-0094 Planning and Inspections, Philip F. Etiwe, (915) 212-1553	
	PUBLIC HEARING WILL BE HELD ON MAY 28, 2025	
Goal 3	3: Promote the Visual Image of El Paso	
27.	An Ordinance granting a non-exclusive franchise to Rio Grande Waste Services, Inc. to operate and maintain a solid waste collection and hauler service within the City of El Paso subject to the franchise terms and conditions; the penalty as provided in section 9.04.630 of the El Paso City Code.	<u>25-494</u>
	<b>All Districts</b> Environmental Services Department, Nicholas Ybarra, (915) 212-6000	
	PUBLIC HEARING WILL BE HELD ON MAY 13, 2025	
28.	An Ordinance changing the zoning of a portion of Tract 8, Milagro Acres, City of El Paso, El Paso County, Texas from R-4 (Residential) to C-1 (Commercial). 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.	<u>25-495</u>
	Subject Property: 9649 Dyer St. Applicant: Erica Becerra and Jesus Becerra, PZRZ24-00036	
	<b>District 4</b> Planning and Inspections, Philip F. Etiwe, (915) 212-1553 Planning and Inspections, Blanca Perez, (915) 212-1561	
	PUBLIC HEARING WILL BE HELD ON MAY 28, 2025	
	<u> REGULAR AGENDA – OTHER BUSINESS:</u>	

#### REGOLAR AGENDA OTHER BOOMEOU

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

29. Discussion and action that the City Manager, or designee, be authorized to deprogram the proposed "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding"; and that the City Manager, or designee, be authorized to make

**25-505** 

necessary budget transfers and execute any and all necessary documents to reprogram the 2012 Quality of Life Bond funding from the deprogrammed trails for the use on the "Mountain to River Trail", "Montana to I-10 EP Electric Corridor", and "Tierra del Este at Rich Beem Trail". In addition, that the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to transfer funding from the 2012 Quality of Life Bond investment interest proceeds for use on the "Tierra del Este at Rich Beem Trail".

#### **All Districts**

Capital Improvement Department, Gilbert Guerrero, (915) 212-0065

#### REGULAR AGENDA - OTHER BIDS, CONTRACTS, PROCUREMENTS:

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

**30.** The linkage to the Strategic Plan is subsection: 4.1 Deliver bond projects impacting quality of life across the city in a timely, efficient manner.

**25-502** 

#### **Award Summary:**

Discussion and action on the award of Solicitation 2025-0086 Mountain to River Trail Phase I to Martinez Bros, Contractors LLC for a total estimated amount of \$1,146,031.87. The project will consist of the construction of a trailhead parking lot, wayfinding signs, a BNSF concrete crossing, and related site work, including sidewalks, mechanically stabilized earth walls, striping, drainage and traffic control.

Department: Capital Improvement

Award to: Martinez Bros, Contractors LLC

City & State: El Paso, TX Item(s): Base Bid I

Contract Term: 212 Working Days
Base Bid I: \$1,146,031.87

Total Estimated Award: \$1,146,031.87

Account(s): 190-4800-29010-580270-PCP13PRKE01B

Funding Source(s): 2012 Quality of Life Bond

District(s):

This was a Competitive Sealed Proposal Procurement, unit price contract.

The Purchasing & Strategic Sourcing Department and Capital Improvement Department recommend award as indicated to Martinez Bros, Contractors LLC the highest ranked offeror(s) 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.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

#### District 1

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-0043 Capital Improvement Department, Gilbert Guerrero, (915) 212-1860

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

31. Discussion and action on Agreement No. 2001-017R, with Oracle to continue to provide Financial and Human Resources Management system software each fiscal year as governed by City Council's approval of the annual City budget.

#### 25-521

#### **All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-0043 Information Technology, Carolyn Patrick, (915) 212-1408

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

**32.** The linkage to the Strategic Plan is subsection: 7.2 Improve competitiveness through infrastructure improvements impacting the quality of life.

25-503

#### **Award Summary:**

Discussion and action on the award of Solicitation 2025-0087 On-Call Horizontal Construction 2025 to Keystone GC, LLC., and Amstar, Inc for an initial term of two (2) years and three (3), one (1) year options. The length of each contract including the initial term plus options is five (5) years for an estimated total aggregate of \$16,000,000.00. The project consists of the construction contracts to perform maintenance, repair, alteration renovation, remediation, or minor construction for City of El Paso infrastructure and Right of Ways on a task order basis.

Department: Capital Improvement

Award to: Keystone GC, LLC.

City & State: El Paso, TX
Initial Term: Two (2) Years

Option Terms: Three (3) - One (1) Year Terms

Award to: Amstar, Inc.

City & State: San Antonio, TX Initial Term: Two (2) Years

Option Terms: Three (3) - One (1) Year Terms

Total Aggregate Award: \$16,000,000.00

Account(s): Various
Funding Source(s): Various
District(s): All

This was a Competitive Sealed Proposal, requirements contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to Keystone GC, LLC., and Amstar, Inc the highest ranked offerors 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.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

#### **All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-0043 Capital Improvement Department, Gilbert Guerrero, (915) 212-1860

- 33. Discussion and action that the City Manager be authorized to sign a two year On-Call Agreement for Professional Services to perform geotechnical engineering and materials testing services on a task by task basis by and between the by City of El Paso and each of the following five (5) consultants:
- <u>25-507</u>

- 1. Atlas Technical Consultants, LLC
- 2. CQC Testing and Engineering, LLC
- 3. LEC Engineering, Inc. DBA LOI Engineers
- 4. Terracon Consultants, Inc.
- 5. WSP USA, Inc.

Each On-Call Agreement will be for an amount not to exceed \$500,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of the identified project and if the increased amounts are within the appropriate budget identified for the project. In addition, the City Manager is authorized to establish the funding sources and make any

necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

#### **All Districts**

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

#### REGULAR AGENDA - INTRODUCTION AND PUBLIC HEARINGS OF ORDINANCES:

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

34. An Ordinance authorizing the issuance of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds in an aggregate amount not to exceed \$339,400,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters.

#### **25-512**

#### **All Districts**

El Paso Water, Arturo Duran, (915) 594-5549

35. An Ordinance authorizing the issuance of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds in an aggregate amount not to exceed \$73,600,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters.

#### **25-513**

#### **All Districts**

El Paso Water, Arturo Duran, (915) 594-5549

#### REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:

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

**36.** An Ordinance amending Ordinance No. 10739 as amended by Ordinance Nos. 15658, 15167, 15006, 12909, and 12141, and amending the Budget Resolution Fee Schedule to revise the Overdue Fines for Materials charged by the El Paso Public Library to \$0.00 and forgive any outstanding fine balance for overdue materials.

25-401

#### **All Districts**

Libraries, Norma P. Martinez, (915) 212-3200

#### **REGULAR AGENDA - OTHER BUSINESS:**

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

37.	Discussion and action on a Resolution authorizing the City Manager or designee to submit FY2026 grant application for the Motor Vehicle Crime Prevention Authority (MVCPA) and to accept, alter, decline, modify, terminate and/or execute all necessary documents related to the grant. The grant period will be from September 1, 2025 to August 31, 2026. Requesting grant funding for \$2,023,985.00, with a cash match of \$596,445.00, and an In-kind of \$1,267,598.00. If awarded, the grant will provide financial support to the Police Department's Auto Theft Task Force to combat motor vehicle theft, burglary of motor vehicles and fraud-related motor vehicle crime.	<u>25-523</u>
	All Districts Police, Assistant Chief Humberto Talamantes, (915) 212-4309	
Goal 6	6: Set the Standard for Sound Governance and Fiscal Management	
38.	Discussion and action to accept the Actuarial Audit Reports of the El Paso City Employee's Pension Trust Fund as of September 1, 2022 valuation and El Paso Fireman and Policemen's Pension Fund as of January 1, 2024 valuation to be presented by Foster and Foster Actuaries and Consultants, to comply with the requirements of Section 802.1012 of the Texas Government Code.	<u>25-506</u>
	All Districts Human Resources, Mary Wiggins, (915) 212-1287	
39.	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 \$11,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project.	<u>25-524</u>
	All Districts Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341	
40.	Discussion and action on a Resolution authorizing the submission of an application to the Office of Congresswoman Veronica Escobar requesting an appropriation from the Community Project Funding program in the amount of \$4,000,000.00, with the federal government contributing \$3,200,000.00 and an \$800,000.00 match from the City, for the Ysleta International Port of Entry Engineering Design Project.	<u>25-525</u>
	All Districts Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341	
41.	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 \$3,000,000.00, with no match required from the City, for the Innovation Factory Phase II Project.	<u>25-526</u>
	All Districts Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341	

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

42. Discussion and action on a Resolution to authorize the City Manager, or designee, to execute loan applications for eligible transportation projects from FY2025 through FY2028 from the Texas Department of Transportation State Infrastructure Bank and to submit the applications, together with all required documentation, to the Texas Department of Transportation for consideration.

**25-447** 

#### **District 4**

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

#### <u>ADJOURN</u>

#### 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

## Legislation Text

File #: 25-501, 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 Regular City Council Meeting of April 15, 2025, the Agenda Review Meeting of April 14, 2025, the Work Session of April 14, 2025.

RENARD U. JOHNSON MAYOR

**DIONNE MACK**CITY MANAGER



#### CITY COUNCIL

Alejandra Chávez, District 1
Josh Acevedo, District 2
Deanna Maldonado-Rocha, District 3
Cynthia Boyar Trejo, District 4
Ivan Niño, District 5
Art Fierro District 6
Lily Limón, District 7
Chris Canales, District 8

# AGENDA REVIEW MINUTES COUNCIL CHAMBERS AND VIRTUALLY CITY HALL, 300 N. CAMPBELL April 14, 2025 9:00 A M

9.00 A.W.
The City Council met at the above place and date. Meeting was called to order at 9:02 a.m. Mayor Renard Johnson was present and presiding. The following Council Members answered roll call: Alejandra Chávez, Josh Acevedo, Deanna Maldonado-Rocha, Cynthia Boyar Trejo, Ivan Niño, Art Fierro, Lily Limón, and Chris Canales.
The agenda items for the April 15, 2025, Regular City Council Meeting were reviewed.
4. <u>CONSENT AGENDA – RESOLUTIONS</u>
That the Solid Waste liens on the attachment posted with this agenda be approved (See Attachment A).
Representative Limón commented on the Earth Day celebrations.
Mr. Nicholas Ybarra, Environmental Services Director, commented.
5. CONSENT AGENDA – RESOLUTIONS
That the El Paso City Council hereby renames the street currently known as Boggiano Drive to Sanfeliz Hill Court, in its entirety, beginning at Turnberry Road and ending at Franklin Mountain State Park, illustrated on Exhibit "A" attached to the Resolution and in compliance with the El Paso City Code 19.15.140, and authorizes the City Manager to take the necessary steps to change the name herein described.
Location: East of Bandolero Dr. and North of Thunderbird Dr. Applicant: Bret C. Preston and Maria A. Sanfeliz, SUNC24-00001
Representative Limón commented.

#### 8. CONSENT AGENDA - RESOLUTIONS

That City Council hereby requires that all budget transfers requiring Council approval that are over \$1,500,000 and all contracts, bids, request for proposals or request for qualifications awards that are over \$1,500,000, be placed on the regular agenda of the City Council Meeting Agenda.

Mr. Raul Garcia, Planning and Inspection Program Manager, commented.

Representative Acevedo commented.

The following City staff members commented:

Ms. Dionne Mack, City Manager

Ms. Claudia Garcia, Purchasing and Strategic Sourcing Director

ITEMS 18 AND 19 WERE REVIEWED TOGETHER

#### 18. REGULAR AGENDA - OTHER BUSINESS

Discussion and action that the City Manager be authorized to execute a First Amendment of the Chapter 380 Economic Development Program Agreement, dated July 2, 2024, by and between the CITY OF EL PASO, TEXAS, a home-rule municipality and NOTES LIVE INC., and its subsidiaries/affiliates a Colorado Corporation, incorporating a local preference for project-related hiring and procurement; updating project-related timelines; increasing the minimum investment to \$100,000,000; and increasing the real property acreage associated with the proposed development located at Northeast Corner of Cohen Avenue and Gateway Boulevard North, El Paso, Texas, 79924.

#### 19. REGULAR AGENDA - PUBLIC HEARING AND SECOND READING OF AN ORDINANCE

An Ordinance approving an amendment to the Contract of Sale between the City of El Paso and VENU (dba Notes Live Inc.), a Colorado Corporation, amending the acreage of the property located at the Northeast Corner of Cohen Avenue and U.S. Highway 54, El Paso, TX 79924, legally described as a Portion of Block 7, Castner Range Subdivision No. 1, City of El Paso, El Paso County, Texas; and clarifying provisions pertaining to the parking agreement, title, and closing.

Representatives Acevedo, Boyar Trejo, Limón, and Canales commented.

The following City staff members commented:

- Ms. Dionne Mack, City Manager
- Ms. Karina Brasgalla, Economic and International Development Director

#### 25. REGULAR AGENDA - PUBLIC HEARINGS AND SECOND READING OF ORDINANCES

An Ordinance amending Ordinance No. 10739 as amended by Ordinance Nos. 15658, 15167, 15006, 12909, and 12141, and amending the Budget Resolution Fee Schedule to revise the Overdue Fines for Materials charged by the El Paso Public Library to \$0.00 and forgive any outstanding fine balance for overdue materials.

Representative Canales commented.

Ms. Norma Martinez, Libraries Director, commented.

#### 37. <u>REGULAR AGENDA – OTHER BUSINESS</u>

Discussion and action on a Resolution adopting the 2024 Prevailing Wage Rates for each craft or classification of worker in Building Construction Trades and Heavy and Highway Construction Trades and authorizing the City Engineer, when necessary, to clarify the definitions of work performed by each craft or type of worker. The effective date for said wage rates to be April 15, 2025.

Representative Limón commented.

Ms. Michael Daniels, Business Contract Manager, commented.
Motion made by Representative Limón, seconded by Representative Niño, and unanimously carried to <b>ADJOURN</b> this meeting at 9:26 a.m.
AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón and Canales NAYS: None
APPROVED AS TO CONTENT:
Laura D. Prine, City Clerk

#### RENARD U. JOHNSON MAYOR

**DIONNE MACK**CITY MANAGER



Alejandra Chávez, District 1
Josh Acevedo, District 2
Deanna Maldonado-Rocha, District 3
Cynthia Boyar Trejo, District 4
Ivan Niño, District 5
Art Fierro, District 6
Lily Limón, District 7
Chris Canales, District 8

CITY COUNCIL

# CITY COUNCIL WORK SESSION MINUTES April 14, 2025 COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY 9:05 A.M.

The City Council met at the above place and date. Meeting was called to order at 9:26 a.m. Mayor Renard Johnson was present and presiding. The following Council Members answered roll call: Alejandra Chávez, Josh Acevedo, Deanna Maldonado-Rocha, Cynthia Boyar Trejo, Ivan Niño, Art Fierro, Lily Limón, and Chris Canales.

# AGENDA

1. Presentation and discussion on Robert's Rules of Order.

Ms. Laura Prine, City Clerk, introduced the item and the guest presenter, Ms. Mary Lynn Stratta.

Ms. Mary Lynn Stratta, Texas Registered Municipal Clerk and City Secretary Emeritus for the City of Bryan, Texas, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Johnson and Representatives Acevedo, Limón, and Canales commented.

Ms. Patricia Osmond, citizen, commented.

NO ACTION was taken on this item.

**2.** Presentation, Discussion, and Action on the Economic & International Development International Program and adoption of the City of El Paso's International Policy Agenda.

Ms. Adriana Pulecio, International Business and Trade Development Manager, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Chávez, Acevedo, Boyar Trejo, Niño, Limón, and Canales commented.

The following City staff members commented:

- Ms. Dionne Mack, City Manager
- Mr. Ian Voglewede, Strategic and Legislative Affairs Director
- Ms. Karla Nieman, City Attorney

Ms. Patricia Osmond, citizen, commented.

Motion made by Representative Boyar Trejo, seconded by Representative Niño, and unanimously carried to **APPROVE** the 2025 International Policy Agenda.

AYES: Representatives Chávez, Acevedo, Boyar Trejo, Niño, Limón, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Maldonado-Rocha and Fierro

**3.** Presentation on 2026 El Paso Days in DC.

Mr. Omar Martinez, Assistant Director of Legislative Affairs, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

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Mayor Johnson and Representatives Chávez, Acevedo, Boyar Trejo, Niño, and Canales commented.

Ms. Patricia Osmond, citizen, commented.

**NO ACTION** was taken on this item.

4. Presentation and discussion on the Fiscal Year 2024-2025 Second Quarter Financial Report.

Mr. Robert Cortinas, Chief Financial Officer, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Chávez, Boyar Trejo, and Limón commented.

Ms. Patricia Osmond, citizen, commented.

NO ACTION was taken on this item.

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The Regular City Council meeting was **RECESSED** at 12:41 p.m. for lunch.

The Regular City Council meeting was **RECONVENED** at 1:46 p.m.

#### **EXECUTIVE SESSION**

Motion made by Mayor Pro Tempore Chávez, seconded by Representative Limón, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 1:47 p.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 items:

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Niño, Fierro, and Limón

NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Boyar Trejo and Canales.

Motion made by Representative Niño, seconded by Representative Fierro, and unanimously carried to **ADJOURN** the Executive Session at 3:18 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

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**EX1.** Application of El Paso Electric Company to Change Rates - PUC#57568; HQ#UTILITY-60 (551.071)

Mayor Johnson verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Acevedo verbally disclosed a \$1,750 contribution received from El Paso Electric Employee Political Action Committee.

Representative Maldonado Rocha verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Niño verbally disclosed a contribution received from El Paso Electrical Employee Political Action Committee.

Ms. Patricia Osmond, citizen, commented.

**NO ACTION** was taken on this item.

**EX2.** Application of El Paso Electric Company's Approval to Implement a Time-Varying Rate Pilot Program - PUC#56658; HQ#UTILITY-41 (551.071)

Representatives Chávez, Acevedo, Maldonado Rocha and Canales commented.

Ms. Karla Nieman, City Attorney, commented.

Mayor Johnson verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Acevedo verbally disclosed a \$1,750 contribution received from El Paso Electric Employee Political Action Committee.

Representative Maldonado Rocha verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Niño verbally disclosed a contribution received from El Paso Electrical Employee Political Action Committee.

Ms. Patricia Osmond, citizen, commented.

Motion made by Mayor Pro Tempore Chávez, seconded by Representative Fierro, and unanimously carried that the City Attorney in consultation with the City Manager be **AUTHORIZED** to enter into a settlement agreement in the *Application of El Paso Electric* 

Company's Approval to Implement a Time-Varying Rate Pilot Program, under the Texas Public Utility Commission, Docket No. 56658, in Matter Number HighQ Utility-41, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

**EX3.** Application of El Paso Electric Company for Approval of a Military Resiliency Services Tariff; HQ#UTILITY-52 (551.071)

Mayor Johnson verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Acevedo verbally disclosed a \$1,750 contribution received from El Paso Electric Employee Political Action Committee.

Representative Maldonado Rocha verbally disclosed a contribution received from El Paso Electric Employee Political Action Committee.

Representative Niño verbally disclosed a contribution received from El Paso Electrical Employee Political Action Committee.

Motion made by Mayor Pro Tempore Chávez, seconded by Representative Canales, and unanimously carried that the City Attorney in consultation with the City Manager be authorized to **DENY** application in the *Application of El Paso Electric Company for Approval of a Military Resiliency Services Tariff*, under the Texas Public Utility Commission, in Matter Number HighQ Utility-52, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

**EX4.** Discussion on purchase, exchange, lease, or value of real property in El Paso; HQ 25-4751 (551.071) (551.072) (551.087)

Representatives Acevedo, Boyar Trejo, Niño, Limón, and Canales commented.

Motion made by Representative Boyar Trejo, seconded by Representative Limón, and carried to **POSTPONE** the item for **FOUR WEEKS**.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and Limón

NAYS: Representative Canales

Motion made by Representative Limón, seconded by Representative Niño, and unanimously carried to **ADJOURN** the meeting at 3:39 p.m.

## April 14, 2025 Page 5

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, an Canales NAYS: None
APPROVED AS TO CONTENT:
Laura D. Prine, City Clerk

RENARD U. JOHNSON MAYOR

**DIONNE MACK**CITY MANAGER



#### CITY COUNCIL

Alejandra Chávez, District 1 Josh Acevedo, District 2 Deanna Maldonado-Rocha, District 3

Cynthia Boyar Trejo, District 4 Ivan Niño, District 5 Art Fierro, District 6 Lily Limón, District 7

CHRIS CANALES, DISTRICT 8

### MINUTES FOR REGULAR COUNCIL MEETING

Motion made by Mayor Pro Tempore Chávez, seconded by Representative Niño, and unanimously carried to **APPROVE**, **AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {\*}.)

Can	S: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and ales S: None
••••	CONSENT AGENDA – APPROVAL OF MINUTES:
Goa	I 6: Set the Standard for Sound Governance and Fiscal Management
1.	*Motion made, seconded, and unanimously carried to <b>APPROVE</b> the Minutes of the Regular City Council Meeting of April1, 2025.
	CONSENT AGENDA – REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:
2.	REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMEBERS
	*NO ACTION was taken on this item.
	CONSENT AGENDA – RESOLUTIONS:
Goa	I 2: Set the Standard for a Safe and Secure City
3.	*RESOLUTION
	BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:
	That the City Manager is authorized to sign a Memorandum of Agreement by and between the City of El Paso and The Texas A&M Engineering Service on behalf of its Texas A&M Task Force 1, to increase the effectiveness of the TX-TF1 Water Rescue Program to begin on the date of the last signature and shall be in force until March 31, 2030.
Goa	I 3: Promote the Visual Image of El Paso
4.	*RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, TROPICANA DEVELOPMENT 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:

Lot 8 (Private Access & Landscape Easement, Block 6, La Puesta Del Sol #1 Subdivision, City of El Paso, El Paso County, Texas, PID #L070-999-0060-0800

to be \$354.00, 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 March, 2024, 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 FIFTY FOUR AND 00/100 DOLLARS (\$354.00) 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.

#### \*RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, MARCENA SARAH, 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:

1299 Southwestern Dr, more particularly described as Lot 27 (7700 Sq Ft) Block 2, Scenic Heights Subdivision, City of El Paso, El Paso County, Texas, PID # S171-999-0020-5300

to be \$385.00, 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 5<sup>th</sup> day of February, 2024, 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 FIVE AND 00/100 DOLLARS (\$385 .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.

#### \*RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, HACKETT PROPERTIES LLC & EST OF A B ROLAND, 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:

Lot E Pt of 8 (16.6531 Ac), Block 6, Castner Range Subdivision, City of El Paso, El Paso County, Texas, PID #C232-999-0060-7900

to be \$1302.00, 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 January, 2024, 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 ONE THOUSAND THREE HUNDRED TWO AND 00/100 DOLLARS (\$1302.00) 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.

#### \*RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, PUEBLA INVESTMENTS LP, 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:

Lot 4-D (2.8365 Ac) & 4-K-1 (0.226 Ac) (3.0625 Ac), Block 81, Tsp 1 Sec 29 T & P Surv Subdivision, City of El Paso, El Paso County, Texas, PID #X581-999-129C-0414

to be \$1610.75, 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 3rd day of April, 2024, 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 ONE THOUSAND SIX HUNDRED TEN AND 75/100 DOLLARS (\$1610.75) 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.

#### \*RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, TREX RE LLC, 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:

1907 Olive Ave, more particularly described as Lot 20 & W 15 Ft Of 21 4800 Sq Ft, Block 29, Bassett Subdivision, City of El Paso, El Paso County, Texas, PID #B202-999-0290-5100

to be \$458.00, 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 6th day of April, 2024, 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 EIGHT AND 00/100 DOLLARS (\$458.00) 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.

5. \*RESOLUTION

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

That the El Paso City Council hereby renames the street currently known as Boggiano Drive to Sanfeliz Hill Court, in its entirety, beginning at Turnberry Road and ending at Franklin Mountain State Park, illustrated on Exhibit "A"\*\* attached hereto and in compliance with the El Paso City Code 19.15.140, and authorizes the City Manager to take the necessary steps to change the name herein described.

\*\*Exhibit available at the City Clerk's Office.

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

\*DECOLUTION

### 6. \*RESOLUTION

**WHEREAS**, pursuant to Section 33.011(a)(1) of the Texas Tax Code ("Tax Code"), the governing body of a taxing unit shall waive penalties and may provide for the waiver of interest on a delinquent tax if an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district caused or resulted in the taxpayer's failure to pay the before delinquency date and if the tax is paid not later than the 21st day after the taxpayer knows or should know of the delinquency; and

**WHEREAS,** pursuant to Section 33.011(d) a request for waiver of penalties and interest pursuant to Section 33.011(a)(1) must be made before the 181st day after the delinquency date; and

**WHEREAS**, pursuant to Section 33.011(d) of the Tax Code, taxpayer, SABRÉ PAGE ("Taxpayer") requested a waiver of penalties and interest on February 25, 2025, before the 181<sup>st</sup> day after the delinquency date, in the amount of \$298.13 for the 2024 delinquent taxes for the property with the following legal description:

76 CHAPARRAL PARK LOT 3 (10643.63 SQ FT)

WHEREAS, the Taxpayer submits evidence sufficient to show that an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district caused or resulted

in the taxpayer's failure to pay the before delinquency date and if the tax is paid not later than the 21<sup>st</sup> day after the taxpayer knows or should know of the delinquency.

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

**THAT** the Taxpayer, SABRÉ PAGE, has met the requirements of Section 33.011 of the Tax Code for the request of waiver of penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(a)(1) of the Tax Code, in the amount of \$298.13 for the property with the following legal description:

76 CHAPARRAL PARK LOT 3 (10643.63 SQ FT)

#### 7. \*RESOLUTION

WHEREAS, pursuant to Section 33.011(k) of the Texas Tax Code ("Tax Code"), the governing body of a taxing unit may waive penalties and interest on a delinquent tax if the property for which the tax is owed is subject to a mortgage that does not require the owner of the property to fund an escrow account for the payment of the taxes on the property; the tax bill was mailed or delivered by electronic means to the mortgagee of the property, but the mortgagee failed to mail a copy of the bill to the owner of the property as required by Section 31.01(j); and the taxpayer paid the tax not later than the 21st day after the date the taxpayer knew or should have known of the delinquency; and

WHEREAS, pursuant to Section 33.011(d) a request for waiver of penalties and interest pursuant to Section 33.011(k) must be made before the 181st day after the delinquency date; and

**WHEREAS,** pursuant to Section 33.011(d) of the Tax Code, taxpayer, Arlette Y. Camacho ("Taxpayer") requested a waiver of penalties and interest on March 5, 2025, before the 181st day after the delinquency date, in the amount of \$246.82 for the 2024 delinquent taxes for the property with the following legal description:

34 HIGHLAND PARK N 1/2 OF 17 TO 20 (6000 SQ FT)

**WHEREAS**, the taxpayer submits evidence sufficient to show that the tax bill was mailed or delivered by electronic means to the mortgagee of the property, but the mortgagee failed to mail a copy of the bill to the owner of the property as required by Section 31.01(j); and the taxpayer paid the tax not later than the 21st day after the date the taxpayer knew or should have known of the delinquency;

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

**THAT** the Taxpayer, Arlette Y. Camacho, has met the requirements of Section 33.011 of the Tax Code for the request of waiver of penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(k) of the Tax Code, in the amount of \$246.82 for the property with the following legal description:

34 HIGHLAND PARK N 1/2 OF 17 TO 20 (6000 SQ FT)

8. RESOLUTION

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

THAT City Council hereby requires that all budget transfers requiring Council approval that are over \$1,500,000 and all contracts, bids, request for proposals or request for qualifications awards that are over \$1,500,000, be placed on the regular agenda of the City Council Meeting Agenda.

Ms. Claudia Garcia, Purchasing and Strategic Sourcing Director, and Ms. Bonnie Cordova Office of Management and Budget Interim Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Johnson and Representatives Chávez, Acevedo, Fierro, and Canales commented.

Mr. Dionne Mack, City Manager, commented.

The following members of the public commented:

- 1. Ms. Patricia Osmond
- 2. Ms. Lisa Turner

#### 1ST MOTION

\*Motion made, seconded, and unanimously carried to **MOVE** the item to the Regular Agenda.

#### **2<sup>ND</sup> AND FINAL MOTION**

Motion made by Alternate Mayor Pro Tempore Fierro, seconded by Representative Limón, and carried to **APPROVE** the Resolution.

AYES: Representatives Chávez, Maldonado-Rocha, Niño, Fierro, Limón, and Canales

NAYS: Representatives Acevedo and Boyar Trejo

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

#### 9. \*RESOLUTION

WHEREAS, on December 2, 2022, the City of El Paso ("City") awarded Contract No. 2023-0168 Autocar Proprietary Parts and Service to the following vendor:

1. TE of El Paso, LLC

WHEREAS, pursuant to the Purchase Order Terms and Conditions - Section 7A, the City is authorized to terminate the Contract for convenience; and

**WHEREAS**, the City desires to terminate the Contract for Convenience.

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

That the Director of Purchasing & Strategic Sourcing is authorized to notify TE of El Paso, LLC that the City is terminating Contract No. 2023-0168 Autocar Proprietary Parts and Service for convenience, pursuant to Contract Clauses- Section 7A of this contract, due to contract expenditures being met and that the termination shall be effective as of April 15, 2025.

## **CONSENT AGENDA - BOARD RE-APPOINTMENTS:**

Goal 8: Nurture and Promote a Healthy, Sustainable Community

10. \*Motion made, seconded, and unanimously carried to RE-APPOINT Scott Winton to the Regional Renewable Energy Advisory Council by Representative Art Fierro, District 6. CONSENT AGENDA – APPLICATIONS FOR TAX REFUNDS: Goal 6: Set the Standard for Sound Governance and Fiscal Management 11. \*Motion made, seconded, and unanimously carried to APPROVE the tax refunds greater than \$2.500 listed below: 1. Conrad Davis, in the amount of \$3,000.00, made an overpayment on December 11, 2024 of 2024 taxes. (Geo. #K216-999-1110-6100) 2. Luis Paiva, in the amount of \$4,714.17, made an overpayment on January 26, 2025 of 2024 taxes. (Geo. #P915-999-0010-2200) 3. AT&T, in the amount of \$4,457.36, made an overpayment on January 29, 2025 of 2024 taxes. (Geo. #U819-999-002A-0279) 4. Sara A. Drewes, in the amount of \$11,005.25, made an overpayment on January 24, 2025 of 2024 taxes. (Geo. #V897-999-1200-2300) **CONSENT AGENDA - NOTICE OF CAMPAIGN CONTRIBUTIONS:** Goal 5: Promote Transparent and Consistent Communication Amongst All Members of the Community **12.** \*Motion made, seconded, and unanimously carried to **NOTE** pursuant to Section 2.92.080 of the City Code: receipt of campaign contributions by Renard Johnson in the amounts of \$1,000 Kirk Robison, \$2,500 from Lisa Peisen, \$5,000 from Ted Houghton, \$2,500 from Paige Fox, \$1,000 from Rick Lange, and \$500 from Jack Champman. The Regular City Council meeting was RECESSED at 11:24 a.m. in order to address technical difficulties. The Regular City Council meeting was **RECONVENED** at 11:31 a.m. REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL: 

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

**13. ITEM:** Discussion and action to authorize the City Manager to submit a letter to the Texas District 3 Manager of the United States Postal Service in support of building additional facilities in Far East El Paso to support the amount of population increase in District 5.

Representative Niño commented.

Motion made by Representative Niño, seconded by Representative Maldonado-Rocha, and unanimously carried to **AUTHORIZE** the City Manager to submit a letter to the Texas District 3 Manager of the United States Postal Service in support of building additional facilities in Far East El Paso to support the amount of population increase in District 5.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro,

Limón, and Canales

NAYS: None

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

14. ITEM: Discussion and action to support House Bill No.4591 "related to contributions to and

benefits under certain fire and police pensions funds" as filed by Texas State Representative Mary Gonzalez.

Mr. Ian Voglewede, Strategic and Legislative Affairs Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Johnson and Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales commented.

The following City staff members commented:

- Ms. Dionne Mack, City Manager
- Mr. Robert Cortinas, Chief Financial Officer

The following members of the public commented:

- 1. Mr. Tyler Grossman
- 2. Mr. Paul Thompson
- 3. Mr. Wesley Lawerence
- 4. Ms. Lisa Turner

#### 1<sup>ST</sup> MOTION

\*Motion made, seconded, and unanimously carried to MOVE the item to the FOREFRONT of the Regular Agenda.

#### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Representative Limón, seconded by Representative Boyar Trejo, to SUPPORT House Bill No.4591 "related to contributions to and benefits under certain fire and police pensions funds" as filed by Texas State Representative Mary Gonzalez.

AYES: Representative Limón

NAYS: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and Canales

#### THE MOTION FAILED

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

..... 15.

## RESOLUTION

WHEREAS Neighborhoods USA is a national non-profit organization committed to building and strengthening neighborhood organizations to build stronger communities and therefore encourages the participation of Neighborhood Associations in the Conference; and

WHEREAS the 50th Anniversary Conference in Jacksonville, Florida is expected to bring together people across the country and will include over 40 workshops curated for practitioners and neighborhood leaders to educate and advocate on neighborhood concerns; and

**WHEREAS** the City established a Neighborhood Association Program to improve communication between neighborhoods, their residents, the private sector, and city government on matters affecting the livability and character of their neighborhoods; and

**WHEREAS** Neighborhood Associations that participate in the City's Neighborhood Association Program obtain recognition status and establish a means whereby early identification and resolution of potential conflict involving neighborhoods, their residents, and the private sector can be achieved; and

WHEREAS City Council Representative Cynthia Boyar Trejo, District 4 recognizes the importance of the participation of Neighborhood Associations in the Conference and recommends the allocation of District 4 discretionary funds in an amount not to exceed \$350 to be used towards funding of registration costs to the Neighborhoods USA conference for designees being awarded at the Conference from the North Hills Neighborhood Pride Association, in District 4; and

**WHEREAS** City Council finds that the expenditure of District 4 discretionary funds serves a municipal purpose of cultivating an environment conducive to strong, economic development, promoting the visual image of El Paso, enhancing El Paso's quality of life and nurturing and promoting a healthy, sustainable community.

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

That the City Council declares that the expenditure of the discretionary funds from City Council District 4 in an amount not to exceed \$350, to be used towards funding the registration costs to the Jacksonville Neighborhoods USA 50th anniversary conference for presidents or designees of the North Hills Neighborhood Pride Association, a recognized neighborhood association in District 4, serves a municipal purpose of cultivating an environment conducive to strong economic development, promoting the visual image of El Paso, enhancing El Paso's quality of life and nurturing and promoting a healthy, sustainable community.

That, the City Manager, or designee, be authorized to effectuate any budget transfers and execute any related agreements or amendments to such agreements necessary to ensure that the funds are properly expended for such purpose.

Representative Boyar Trejo commented.

Ms. Vanessa Betts, North Hills Neighborhood Pride Association representative, commented.

Motion made by Representative Boyar Trejo, seconded by Representative Chávez, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and Limón

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Canales

Goal 8: Nurture and Promote a Healthy, Sustainable Community

16. ITEM: Discussion and action to direct the City Manager and City Attorney to draft and present a City ordinance within 120 days that would require retail grocery stores to offer fair access to discount pricing to all consumers, regardless of their access to or familiarity with digital technology. The ordinance would further require any grocery store that sells goods in the City of El Paso and offers digital coupons and/or discounts via the Internet, text message, or a mobile/smartphone application, to make traditional, physical coupons with identical pricing available to consumers.

Representative Acevedo presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Johnson and Representatives Chávez, Maldonado-Rocha, Boyar Trejo, Fierro, Limón, and Canales commented.

The following City staff members commented:

- Ms. Karla Nieman, City Attorney
- Ms. Dionne Mack, City Manager

The following members of the public commented:

- 1. Ms. Melissa Santos
- 2. Ms. Patricia Osmond
- 3. Mr. Jose Reyes
- 4. Mr. Matt Corbin
- 5. Ms. Lisa Turner
- 6. Ms. Marisa Nunez
- 7. Ms. Amanda Palacios

#### 1<sup>ST</sup> MOTION (SECONDARY AMENDMENT)

Motion made by Representative Canales, seconded by Representative Boyar Trejo, to **AMEND** the pending motion by inserting the words "For the purposes of this item, "Grocery Store" means a business, market, supermarket, or warehouse club engaged primarily in the retail sale of food and beverage merchandise goods, rather than food prepared solely for consumption on the premises, from fixed point-of-sale locations to the general public for personal or household consumption" at the end so that the motion reads:

"To **DIRECT** the City Manager and City Attorney to draft and present a presentation within 120 days to offer fair access to discount pricing to all consumers, regardless of their access to or familiarity with digital technology and to include stakeholders. For the purposes of this item, "Grocery Store" means a business, market, supermarket, or warehouse club engaged primarily in the retail sale of food and beverage merchandise goods, rather than food prepared solely for consumption on the premises, from fixed point-of-sale locations to the general public for personal or household consumption".

AYES: Representatives Chávez, Acevedo, Boyar Trejo, and Canales NAYS: Representatives Maldonado-Rocha, Niño, Fierro, and Limón Mayor Johnson broke the tie by voting "NAY" THE MOTION FAILED

#### 2<sup>ND</sup> MOTION (PRIMARY AMENDMENT)

Motion made by Representative Boyar Trejo, seconded by Representative Limón, to **SUBSTITUTE** the pending motion with the following: "To direct the City Manager and City Attorney to draft and present a presentation within 120 days to offer fair access to discount

pricing to all consumers, regardless of their access to or familiarity with digital technology and to include stakeholders."

AYES: Representatives Acevedo, Boyar Trejo, Limón, and Canales NAYS: Representatives Chávez, Maldonado-Rocha, Niño, and Fierro

Mayor Johnson broke the tie by voting "NAY"

THE MOTION FAILED

#### 3<sup>RD</sup> AND FINAL MOTION (MAIN MOTION)

Motion made by Representative Acevedo, seconded by Representative Niño, to **DIRECT** the City Manager and City Attorney to draft and present a City ordinance within 120 days that would require retail grocery stores to offer fair access to discount pricing to all consumers, regardless of their access to or familiarity with digital technology. The ordinance would further require any grocery store that sells goods in the City of El Paso and offers digital coupons and/or discounts via the Internet, text message, or a mobile/smartphone application, to make traditional, physical coupons with identical pricing available to consumers.

AYES: Representatives Acevedo, Niño, and Canales

NAYS: Representatives Chávez, Maldonado-Rocha, Boyar Trejo, Fierro, and Limón

THE MOTION FAILED

# REGULAR AGENDA – OPERATIONAL FOCUS UPDATES:

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

17. Update on the February 3, 2025 City Council motion directing the City Manager to conduct an analysis of local, state, and federal funding sources that could help fund the design and construction of the Deck Plaza; and to request a formally adopted position statement from the Tax Increment Reinvestment Zone (TIRZ) #5 Board about potential boundary expansion and the use of TIRZ #5 funds for Deck Plaza design and/or construction activities; and to include said position statement from the TIRZ #5 in any work product or recommendation resulting from this item.

Ms. Karina Brasgalla, Economic and International Development Director, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Johnson and Representatives Chávez, Maldonado-Rocha, Fierro, Limón, and Canales commented.

Ms. Tracey Yellen, Chief Executive Officer for the El Paso Community Foundation, commented.

The following City staff members commented:

- Ms. Dionne Mack, City Manager
- Mr. Omar Martinez, Legislative Affairs Assistant Director

The following members of the public commented:

- 1. Mr. Bruno Vasquez
- 2. Ms. Patricia Osmond
- 3. Mr. Matthew Guzman

# REGULAR AGENDA – OTHER BUSINESS AND PUBLIC HEARING AND SECOND READING OF AN ORDINANCE:

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

#### **ITEMS 18 AND 19 WERE TAKEN TOGETHER**

18. RESOLUTION

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

That the City Manager be authorized to execute a First Amendment of the Chapter 380 Economic Development Program Agreement, dated July 2, 2024, by and between the CITY OF EL PASO, TEXAS, a home-rule municipality and NOTES LIVE INC., and its subsidiaries/ affiliates a Colorado Corporation, incorporating a local preference for project-related hiring and procurement; updating project-related timelines; increasing the minimum investment to \$100,000,000; and increasing the real property acreage associated with the proposed development located at Northeast Corner of Cohen Avenue and Gateway Boulevard North, El Paso, Texas, 79924.

Ms. Karina Brasgalla, Economic and International Development Director, presented a PowerPoint presentation (copy on file in the City Clerk's office).

Mr. Robert Mudd, Vice President of Construction Market Expansion for Notes Live, commented.

Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, and Canales commented.

Ms. Karla Nieman, City Attorney, commented.

The following members of the public commented:

- 1. Mr. Richard Amstater
- 2. Ms. Patricia Osmond
- 3. Ms. Lisa Turner

#### **1ST MOTION**

\*Motion made, seconded, and unanimously carried to **MOVE** the item to the **FOREFRONT** of the Regular Agenda.

#### 2<sup>ND</sup> MOTION

Motion made by Representative Boyar Trejo, seconded by Representative Acevedo, and carried to **AMEND** the Chapter 380 Economic Development Program Agreement to strike out Section 4I (3) in its entirety:

#### SECTION 4. OBLIGATIONS OF THE CITY.

I. CITY PARTICIPATION IN DEVELOPMENT OF COMPETING VENUES:

(3) As allowable by law; the City shall provide Applicant with a first right of refusal to develop and/or operate any voter approved project as of the Effective Date of this Agreement. Notwithstanding the foregoing, the Applicant shall have the right to pursue and enter into

bookings and exclusive booking agreements for any live entertainment venue within the Restricted Area.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and

Limón

NAYS: Representative Canales

#### 3<sup>RD</sup> MOTION

Motion made by Representative Acevedo, seconded by Representative Chávez, to **AMEND** the Chapter 380 Economic Development Program Agreement to strike out Section 4I (2) in its entirety:

#### SECTION 4. OBLIGATIONS OF THE CITY.

#### I. CITY PARTICIPATION IN DEVELOPMENT OF COMPETING VENUES:

(2) The City agrees to not develop a new live entertainment venue within 60 miles ("Restricted Area") of the Development having a capacity of more than 4,000 persons (a "Competing Venue") and with the intent of competing with the Development; including Applicant's Operator Contract(s) associated with this Development. This shall not be construed to limit the City's pursuit of voter approved projects, projects affirmed by judicial decree, or participation in regional projects which will not diminish the intent and operation of the purpose built Development as defined above.

AYES: Representatives Chávez and Acevedo

NAYS: Representatives Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

THE MOTION FAILED

#### **4<sup>TH</sup> AND FINAL MOTION**

Motion made by Representative Canales, seconded by Representative Limón, and carried to **APPROVE** the Resolution and the **AMENDED** Chapter 380 Economic Development Program Agreement.

AYES: Representatives Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: Representative Chávez and Acevedo

#### 19. ORDINANCE 019718

The City Clerk read an Ordinance entitled: AN ORDINANCE APPROVING AN AMENDMENT TO THE CONTRACT OF SALE BETWEEN THE CITY OF EL PASO AND VENU (DBA NOTES LIVE INC.), A COLORADO CORPORATION, AMENDING THE ACREAGE OF THE PROPERTY LOCATED AT THE NORTHEAST CORNER OF COHEN AVENUE AND U.S. HIGHWAY 54, EL PASO, TX 79924, LEGALLY DESCRIBED AS A PORTION OF BLOCK 7, CASTNER RANGE SUBDIVISION NO. 1, CITY OF EL PASO, EL PASO COUNTY, TEXAS; AND CLARIFYING PROVISIONS PERTAINING TO THE PARKING AGREEMENT, TITLE, AND CLOSING.

#### 1ST MOTION

\*Motion made, seconded, and unanimously carried to **MOVE** the item to the **FOREFRONT** of the Regular Agenda.

#### **2<sup>ND</sup> AND FINAL MOTION**

Motion made by Representative Canales, seconded by Representative Limón, and carried that the Ordinance be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: Representative Chávez and Acevedo

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

The Decider City Council receiving was PECESCED at 40.50 and for a mass confirmance

The Regular City Council meeting was **RECESSED** at 12:52 p.m. for a press conference.

The Regular City Council meeting was **RECONVENED** at 1:13 p.m.

# CALL TO THE PUBLIC – PUBLIC COMMENT:

The following members of the public commented:

- 1. Ms. Claudia Contreras
- 2. Mr. Ronald Comeau
- 3. Mr. Hugo Garcia
- 4. Mr. Frank Larios
- 5. Ms. Elizabeth Crawford
- 6. Ms. Patricia Osmond

Representative Canales commented.

## 

#### REGULAR AGENDA – FIRST READING OF ORDINANCES:

Motion made by Representative Limón, seconded by Representative Fierro, and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be **ADVERTISED** for public hearing:

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales NAYS: None

NATO. NOITE

NOT PRESENT FOR THE VOTE: Representative Chávez

# Goal 3: Promote the Visual Image of El Paso

## 20 An Ordinanae champing the gaming of Late C.O. Black 1. Coldan Lill Addition 1914 9 194

**20.** An Ordinance changing the zoning of Lots 6-9, Block 1, Golden Hill Addition, 1814 & 1818 Arizona Avenue, City of El Paso, El Paso County, Texas from R-5 (Residential) to A-O (Apartment/Office). 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: 1814 and 1818 Arizona Avenue Applicant: Fernando and Frances S. Guijarro, PZRZ24-00001

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21. An Ordinance granting Special Permit No. PZST24-00010, to allow for infill development with 50% parking reduction on the property described as Lots 6-9, Block 1, Golden Hill Addition, 1814 & 1818 Arizona Avenue, City of El Paso, El Paso County, Texas, pursuant to Section 20.10.280 Infill Development of the El Paso City Code. The penalty is 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: 1814 and 1818 Arizona Avenue

Applicant: Fernando and Frances S. Guijarro, PZST24-00010

22. An Ordinance granting Special Permit No. PZST24-00016, to allow for infill development with reductions to average lot width, front, rear, and side yard setbacks and 100% parking reduction on the property described as Lot 9, Block 38, Magoffin Subdivision, 903 Park Street, City of El Paso, El Paso County, Texas, pursuant to Section 20.10.280 Infill Development of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

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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: 903 Park Street

Applicant: Eleuteria Sandra Hering, PZST24-00016

23. An Ordinance changing the zoning of Tract 11B and Tract 12E, Block 7, Ysleta Grant, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to R-4 (Residential) and imposing a condition. 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: 8700 Pell Way

Applicant: Hector Saucedo and Rene Saucedo, PZRZ24-00013

**24.** An Ordinance changing the zoning of Tract 3-A-3 and Tract 5-A-1, Block 7, Ysleta Grant, City of El Paso, El Paso County, Texas: Parcel 1 from R-F (Ranch and Farm) to C-1 (Commercial) and Parcel 2 from R-F (Ranch and Farm) to C-2 (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: Northwest of Zaragoza Rd. and West of North Loop Dr. Applicant: North Goza LLC, PZRZ24-00009

PUBLIC HEARING WILL BE HELD ON MAY 13, 2025 FOR ITEMS 20 THROUGH 24

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

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**25.** An Ordinance amending Ordinance No. 10739 as amended by Ordinance Nos. 15658, 15167, 15006, 12909, and 12141, and amending the Budget Resolution Fee Schedule to revise the Overdue Fines for Materials charged by the El Paso Public Library to \$0.00 and forgive any outstanding fine balance for overdue materials.

**PUBLIC HEARING WILL BE HELD ON APRIL 29, 2025** 

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#### REGULAR AGENDA – OTHER BIDS, CONTRACTS, PROCUREMENTS:

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

26. Motion made by Representative Limón, seconded by Representative Fierro, and unanimously carried to AUTHORIZE the Director of Purchasing & Strategic Sourcing Department to issue Purchase Order(s) to increase contract 2020-487R Financial and Planning Services to Garver LLC and Ricondo & Associates, Inc. This change order will increase referenced contracts by \$625,000.00 for a total estimated amount not to exceed \$3,125,000.00. This change order will increase the capacity of the contract to cover services through its expiration on September 16, 2025.

#### Award Summary:

Department: El Paso International Airport

Supplier 1: Garver LLC
City & State: El Paso, TX
Current Contract Estimated Amount: \$1,250,000.00
Change Order Amount: \$312,500.00
Total Estimated Amount not to Exceed: \$1,562,500.00

Supplier 2: Ricondo & Associates, Inc.

City & State: Chicago, IL
Current Contract Estimated Amount: \$1,250,000.00
Change Order Amount: \$312,500.00
Total Estimated Amount not to Exceed: \$1,562,500.00

Current Contracts Estimated Amount: \$2,500,000.00
Total Change Order Amount: \$625,000.00
Total Estimated Amount not to Exceed: \$3.125,000.00

Account(s): 562-3000-521160-62030-P6201

Funding Source(s): Airport Enterprise Funds

District(s):

This was a Request for Proposals Award - service contract.

Representatives Acevedo and Canales commented.

Mr. Eduardo Maldonado, Procurement Analyst, commented.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and

Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

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

27. Motion made by Representative Niño, seconded by Representative Limón, and unanimously carried to AWARD of Solicitation 2025-0183 Tierra del Este Trail Improvements to LDCM Solutions, LLC for a total estimated amount of \$893,623.00. This project is for the construction of a new trail that will connect existing trails at Rainbow Vista Park and Holly Springs Linear Park.

Department: Capital Improvement Award to: LDCM Solutions, LLC

City & State: El Paso, TX

Item(s):

Contract Term: 210 Consecutive Calendar Days

 Base Bid I:
 \$758,489.00

 Additive Alternate:
 \$135,134.00

 Total Estimated Award:
 \$893,623.00

Account(s): 190-4800-29010-580270-PCP13PRKE01L

Funding Source(s): 2012 Quality of Life Bond

District(s): 5

This was a Low Bid Procurement - lump sum contract.

The Purchasing & Strategic Sourcing and Capital Improvements Departments recommend award as indicated to LDCM Solutions, LLC the lowest responsive and responsible bidder.

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.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and

Canales NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

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

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28. Motion made by Representative Limón, seconded by Representative Fierro, and unanimously carried to AUTHORIZE the Director of Purchasing & Strategic Sourcing Department to issue Purchase Order(s) for Solicitation 2025-0276 Autocar Proprietary Parts and Service to TE El Paso, LLC dba Vernon Gene's Megastore, the sole and authorized distributor, for a term of three (3) years for an estimated amount of \$1,140,000.00. Supplier will be required to provide an updated sole source letter and affidavit each year. This contract will allow the purchase of Autocar proprietary parts and service.

#### **Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$465,000.00 for the initial term, which represents a 68.89% increase due to price increases and additional contract capacity to maintain parts inventory.

Department: Streets & Maintenance

Award to: TE El Paso, LLC dba Vernon Gene's Megastore

City & State: El Paso, TX

Item(s):AllInitial Term:3 YearsOption Term:N/ATotal Contract Time:3 YearsAnnual Estimated Award:\$380,000.00

Initial Term Estimated Award: \$1,140,000.00

Option Term Estimated Award: N/A

Total Estimated Award: \$1,140,000.00

Account(s): 532-3600-531250-37020-P3701 (Service)

532-3600-531210-37020-P3701 (Parts)

Funding Source(s): Internal Service Fund

District(s):

Non-Competitive Procurement under Local Government General Exemption: Section 252.022 - (7) a procurement of items that are available from only one source - (D) captive replacement parts or components for equipment.

The Purchasing & Strategic Sourcing and Streets & Maintenance Departments recommend award as indicated to TE El Paso, LLC dba Vernon Gene's Megastore under the exemption listed above.

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.

Representative Limón commented.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and

Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

## REGULAR AGENDA – PUBLIC HEARINGS AND SECOND READING OF ORDINANCES:

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

#### ITEMS 29 THROUGH 32 WERE TAKEN TOGETHER

#### 29. ORDINANCE 019719

The City Clerk read an Ordinance entitled: AN ORDINANCE GRANTING DOMINION AMBULANCE, LLC., A FRANCHISE EXTENSION AND AMENDING ORDINANCE 019489 TO MODIFY ITS FRANCHISE RATE, AND TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.

#### 30. ORDINANCE 019720

The City Clerk read an Ordinance entitled: AN ORDINANCE GRANTING ELITE MEDICAL AIR TRANSPORT, LLC D/B/A EMERGENT AIR, A FRANCHISE EXTENSION AND AMENDING ORDINANCE 019518 TO MODIFY ITS FRANCHISE RATE, AND TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.

#### 31. ORDINANCE 019721

The City Clerk read an Ordinance entitled: AN ORDINANCE GRANTING ELITE MEDICAL TRANSPORT OF TEXAS, LLC., A FRANCHISE EXTENSION AND AMENDING ORDINANCE 019488 TO MODIFY ITS FRANCHISE RATE, AND TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICES.

Mr. Yossif Al-Harbi, Elite Medica Transport of Texas, LLC representative, commented.

#### 32. ORDINANCE 019722

The City Clerk read an Ordinance entitled: AN ORDINANCE GRANTING LIFE AMBULANCE SERVICE, INC., A FRANCHISE EXTENSION AND AMENDING ORDINANCE 019491 TO MODIFY ITS FRANCHISE RATE, AND TO OPERATE A NON-EMERGENCY AMBULANCE TRANSFER SERVICE.

The following members of the public commented:

- 1. Mr. Tony Baird
- 2. Mr. Yossif Al-Harbi

Motion duly made by Alternate Mayor Pro Tempore Fierro, seconded by Representative Maldonado-Rocha, and carried that the Ordinances be **ADOPTED**.

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinances which when so done resulted as follows:

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Niño, Fierro, Limón, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Boyar Trejo

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinances, the same be and the same are hereby **ADOPTED** 

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#### Goal 3: Promote the Visual Image of El Paso

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#### 33. ORDINANCE 019723

The City Clerk read an Ordinance entitled: AN ORDINANCE CHANGING THE ZONING OF TRACTS 2-B, 2-B-1, 2-B-5, BLOCK 18, YSLETA GRANT SURVEYS, 523 GILES, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-3 (RESIDENTIAL) TO C-1/C (COMMERCIAL/CONDITIONS), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

Representatives Maldonado-Rocha and Canales commented.

Mr. Raul Garcia, Planning and Inspections Project Manager, commented.

Motion duly made by Representative Limón, seconded by Representative Maldonado-Rocha, and carried that the Ordinance be **ADOPTED.** 

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

.....

#### 34. ORDINANCE 019724

The City Clerk read an Ordinance entitled: AN ORDINANCE CHANGING THE ZONING OF ALL OF TRACTS 1D1 AND 5A AND A PORTION OF TRACTS 2A1 AND 5C, SECTION 2, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO R-5 (RESIDENTIAL), AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

Representative Boyar Trejo commented.

Motion duly made by Representative Boyar Trejo, seconded by Representative Limón, and carried that the Ordinance be **ADOPTED.** 

Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

Whereupon the Mayor ordered that, the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

.....

#### **REGULAR AGENDA – OTHER BUSINESS:**

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

35. RESOLUTION

That the City Manager, or designee, is authorized to effectuate the purchase and closing of the property commonly known as 320 W. San Antonio Avenue, El Paso, Texas, and further described as a portion of Block 31, according to the Mills Map of the City of El Paso, El Paso, County, Texas, and a portion of Old Sonora Street (now closed), according to the map made for tax purposes on file at the Central Appraisal District, situated within the corporate limits of the City of El Paso, El Paso County, Texas, including any and all improvements located on the property, for \$2,450,000.00.

Further, the City Manager, or designee, is authorized to: (1) execute a Contract of Sale with Lynx Industries, Ltd. for the purchase of the property; (2) sign any and all documents related or necessary to effectuate the purchase and closing of the property; (3) exercise all rights and obligations as provided in the Contract of Sale; (4) sign any documents necessary to effectuate any rights or obligations in relation to the purchase and closing of the property; (5) sign any contract amendments provided that such amendments do not increase the purchase price; and (6) effectuate any budget transfers necessary for the purchase and closing of the property.

Representative Canales commented.

Ms. Patrica Osmond, citizen, commented.

Motion made by Representative Canales, seconded by Representative Limón, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

#### 36. RESOLUTION

That the City Manager, or designee, is authorized to effectuate the purchase and closing of the property commonly known as 301 W. Overland Avenue., El Paso, Texas, and further described as 159 feet on Chihuahua Street X 120 feet on Overland Street, Block 31, Mills Map Addition, situated within the corporate limits of the City of El Paso, El Paso County, Texas, including any and all improvements located on the Property, for \$2,340,000.00.

Further, the City Manager or designee is authorized to: (1) execute a Contract of Sale with Lynx Industries Ltd. for the purchase of the property; (2) sign any and all documents related or necessary to effectuate the purchase and closing of the property; (3) exercise all rights and obligations as provided in the Contract of Sale; (4) sign any documents necessary to effectuate any rights or obligations in relation to the purchase and closing of the property; (5) sign any contract amendments provided that such amendments do not increase the purchase price; and (6) effectuate any budget transfers necessary for the purchase and closing of the property.

Representative Canales commented.

Ms. Patrica Osmond, citizen, commented.

Motion made by Representative Canales, seconded by Representative Fierro, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Chávez

.....

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

27 DECOLUTION

37. RESOLUTION

**WHEREAS**, the City of El Paso ("City") is required by Chapter 2258 of the Texas Government Code to determine the prevailing rate of per diem wages for each craft or type of worker within the geographic limits of the City for construction of public works; and

WHEREAS, pursuant to Texas Government Code Section 2258.022(a)(1), the County of El Paso, in conjunction with the other local governmental bodies, conducted a survey of wages received by classes of workers employed on projects of a character similar to the contract work performed within the El Paso city limits;

WHEREAS, the City, in collaboration with a representative group of local unions and contractors, conducted a review of the survey results within the El Paso city limits, as well as

the wage rates established by the U.S. Department of Labor and the U.S. Department of Transportation pursuant to the Davis-Bacon Act; and

**WHEREAS**, the aforementioned parties have collectively agreed to recommend the wage rates, attached hereto as Exhibit A, for each craft or classification of worker involved in Building Construction Trades and Heavy and Highway Construction Trades, and the definitions of the work performed by each craft or classification of worker, attached hereto as Exhibit B\*\*.

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

That the Director of Purchasing and Strategic Sourcing Department is authorized to specify the wage rates attached hereto as Exhibit A\*\* for each craft or classification of worker in Building Construction Trades and Heavy and Highway Construction Trades in calls for bids for any public works contract and in the contract itself; that, when clarification is needed, the City Engineer is authorized to clarify the definitions of work performed by each craft or classification of worker attached hereto as Exhibit B; and that the wage rates are effective April 15, 2025.

Ms. Michael Daniels, Business Contract Manager, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Representatives Acevedo, Niño, Fierro, and Canales commented.

The following members of the public commented:

- 1. Mr. Paul Thompson
- 2. Ms. Patricia Osmond
- 3. Mr. Andre Makarski

#### 1<sup>ST</sup> MOTION

\*Motion made, seconded, and unanimously carried to **MOVE** the item to the **FOREFRONT** of the Regular Agenda.

#### 2<sup>ND</sup> AND FINAL MOTION

Motion made by Representative Niño, seconded by Representative Limón, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Chávez, Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, Limón, and Canales

NAYS: None

38.

.....

#### RESOLUTION

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

**THAT** the City of El Paso City Council authorizes the submission of an application to the U.S. Department of Defense (USDOD) Compatible Use and Installation Resilience grant program for the Fort Bliss SHIELD Study Project requesting funds in the amount of \$360,000.00 including a \$50,000.00 match required from the City for a total of \$410,000.00;

<sup>\*\*</sup>Exhibits available at the City Clerk's Office.

**THAT** the City Manager, or designee, is authorized to sign any documents necessary for the proper submission of the Application;

**THAT** the City Manager, or designee, is authorized to sign any documents necessary to accept a grant resulting from the 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 of work, 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 the Application and any grant resulting from the Application.

Representative Boyar Trejo commented.

The following City staff members commented:

- Mr. Paul Albright, Military Program Administrator
- Mr. Omar Martinez, Legislative Affairs Assistant Director

Ms. Patricia Osmond, citizen, commented.

Motion made by Alternate Mayor Pro Tempore Fierro, seconded by Representative Limón, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and Limón NAYS: None

NOT PRESENT FOR THE VOTE: Representatives Chávez and Canales

Motion made by Representative Limón, seconded by Representative Maldonado-Rocha, and unanimously carried to **ADJOURN** this meeting at 4:54 p.m.

AYES: Representatives Acevedo, Maldonado-Rocha, Boyar Trejo, Niño, Fierro, and Limón NAYS: None NOT PRESENT FOR THE VOTE: Representatives Chávez and Canales
APPROVED AS TO CONTENT:

Laura D. Prine, City Clerk

## El Paso, TX

## Legislation Text

File #: 25-86, 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

## El Paso, TX

#### **Legislation Text**

File #: 25-500, 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.

#### **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 is authorized to sign a Mutual Aid Agreement by and between the City of El Paso and US Army Garrison, Fort Bliss, Texas, to secure for each the benefits of mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction, hazard materials, medical emergencies, the protection of life and property from fire, and fire fighting for a period of up to nine (9) years after the effective date.

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



**DEPARTMENT:** Fire Department

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

CONTACT PERSON NAME: Jonathan P Killings PHONE NUMBER: 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 is authorized to sign a Mutual Aid Agreement by and between the City of El Paso and US Army Garrison, Fort Bliss, Texas, to secure for each the benefits of mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction, hazard materials, medical emergencies, the protection of life and property from fire, and fire fighting for a period of up to nine (9) years after the effective date.

BACKGROUND / DISCUSSION:
This MOU details the mutual aid terms referenced in the resolution and it confirms EPFD and For Bliss Fire Department agree to collaborate in the key areas of: Training, Emergency Response, Fire Fighting, Medical emergencies and Life and property protection.
COMMUNITY AND STAKEHOLDER OUTREACH:  N/A
PRIOR COUNCIL ACTION:  Last agreement revision signed in 2019.
AMOUNT AND SOURCE OF FUNDING:
N/A
REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:
N/A
NAME AMOUNT (\$)

NAME	AMOUNT (\$)

**DEPARTMENT HEAD:** 

Jonathan P Killings Digitally signed by Jonathan P Killings Date: 2025.04.14 16:06:47 -06'00'

#### RESOLUTION

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

That the City Manager is authorized to sign a Mutual Aid Agreement by and between the City of El Paso and US Army Garrison, Fort Bliss, Texas, to secure for each the benefits of mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction, hazard materials, medical emergencies, the protection of life and property from fire, and fire fighting for a period of up to nine (9) years after the effective date.

Approved this day of	2025.
	CITY OF EL PASO
	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine, City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Carlos L. Armendariz	Jonathan Killings, Fire Chief
Assistant City Attorney	El Paso Fire Department

MEMORANDUM OF UNDERSTANDING (MUTUAL AID AGREEMENT) BETWEEN CITY OF EL PASO, TEXAS AND

HEADQUARTERS, UNITED STATES ARMY GARRISON FORT BLISS, TEXAS FOR

MUTUAL AID IN FIRE PREVENTION, TRAINING ACTIVITIES, RESPONSE TO INCIDENTS INVOLVING WEAPONS OF MASS DESTRUCTION, HAZARDOUS MATERIALS, MEDICAL EMERGENCIES, THE PROTECTION OF LIFE AND PROPERTY FROM FIRE AND FIREFIGHTER

AGREEMENT NUMBER IM-W583FE-25-MOU-005

This Memorandum of Understanding (MOU) between the City of El Paso, Texas and US Army Garrison (USAG), Fort Bliss, Texas. When referred to collectively, the City of El Paso, Texas and USAG Fort Bliss are referred to as the "Parties."

1. PURPOSE: This MOU, between the USAG acting on behalf of the Secretary of the Army in accordance with 42 U.S.C. § 1856a; and the City of El Paso, Texas, a home-ruled municipal corporation, is to secure for each the benefits of mutual aid in fire prevention, training activities, response to incidents involving weapons of mass destruction (WMD), hazardous materials, medical emergencies, the protection of life and property from fire, and firefighting.

#### 2. UNDERSTANDINGS OF THE PARTIES:

- 2.1 The City of El Paso will -
  - 2.1.1 Automatically, provide initial response services for fire, medical, and hazardous material emergency incidents on Fort Bliss properties west of Railroad Drive to include Chapin High School, Colin L. Powel Elementary, Isaac Carnacho Head Start, Logan Elementary, Navarrete Middle School, Upper and Lower Beaumont areas, Logan Heights and Lower Logan housing areas, Hayes Housing, the Golf Course, and the Paso Del Norte housing area, Logan Child Development Center, Fort Bliss RV Park, WBAMC Legacy Hospital, El Paso VA Medical Center. The City of El Paso Fire Department will also automatically provide initial response services to U.S. Government properties along Montana Avenue between Texas State Highway Loop 375 and Global Reach Drive and areas of Montana Freeway (U.S. Route 62/ U.S. Route 180) that are over Fort Bliss property contingent upon the relocation of Fire Station 12. See Exhibit A.
  - 2.1.2 On request to a representative of the El Paso Fire Department by a representative of the Fort Bliss Fire Department, firefighting equipment and personnel of the El Paso Fire Department will be dispatched when available to any point within the firefighting jurisdiction of the Fort Bliss Fire Department.
- 2.2 The USAG Fort Bliss Fire Department will-
  - 2.2.1 Immediately respond and provide follow-on emergency services and may assume incident command or join a Unified Incident Command at an appropriate time once they arrive on scene.
  - 2.2.2 Automatically provide initial response services to any emergency on or under Texas State Highway Spur 601 between Loop 375 and Chaffee Road and portions of Texas State Highway Loop 375 between Montana Avenue to the south and Railroad Drive to the north. Fort Bliss will provide ambulance service and transport to Fort Bliss Property. Fort Bliss will remain responsible for the maintenance, inspection and

Page 1 of 6

testing of fire hydrant, and the inspection and enforcement of building's fire codes on Fort Bliss property.

- 2.2.3 On request to a representative of the El Paso Fire Department by a representative of the Fort Bliss Fire Department, firefighting equipment and personnel of the El Paso Fire Department will be dispatched when available to any point within the firefighting jurisdiction of the Fort Bliss Fire Department.
- 2.3 Both Parties agree that: -
  - 2.3.1. Other than the automatic responses detailed in Sections 2.1-2.2, the rendering of assistance under the terms of this MOU shall not be mandatory, but the Party receiving the request for assistance should immediately inform the requesting department if, for any reason, if assistance cannot be rendered.
  - 2.3.2. Any dispatch of equipment and personnel pursuant to this MOU is subject to the following conditions:
    - 2.3.2.1. Any request for aid under this MOU will specify the location to which the equipment and personnel are to be dispatched; however, the amount and type of equipment and number of personnel to be furnished will be determined by a representative of the responding organization.
    - 2.3.2.2. The responding organization will report to the officer in charge of the requesting organization at the location to which the equipment is dispatched and will be subject to the orders of the official.
    - 2.3.2.3. A responding organization will be released by the requesting organization when the services of the responding organization are no longer required, or when the responding organization is needed within the area for which it normally provides fire protection.
    - 2.3.2.4. If a crash of aircraft owned or operated by the United States or military aircraft of any foreign nation occurs within the area for which the El Paso Fire Department normally provides fire protection, the Chief of the Fort Bliss Fire Department or his or her representative may operate using unified command on arrival at the scene of the crash.
  - 2.3.3. Each Party hereby waives all claims against the other Party for any loss, damage, injury or death occurring as a consequence of the performance of this MOU except those claims authorized under 15 U.S.C. §2210 which governs compensation to municipalities for direct costs and losses sustained while fighting fires on federal property. Reciprocally, as provided in 42 U.S.C. §1856a, Fort Bliss is entitled to reimbursement by the City of El Paso of all costs incurred by Fort Bliss in furnishing fire protection off Fort Bliss on behalf of and at the request of the El Paso Fire Department.
  - 2.3.4. The Chief Fire Officers and personnel of the fire departments of both Parties are invited and encouraged, on a reciprocal basis, to frequently visit each other's activities for guided familiarization tours consistent with local security requirements

and, as feasible, to jointly conduct pre-fire planning inspection and drills.

- 2.3.5. The technical heads of the fire departments of the Parties are authorized and directed to meet and draft any detailed plans and procedures of operation necessary to effectively implement this MOU. Such plans and procedures of operations shall become effective upon ratification by the Parties.
- 2.3.6. All equipment used by the El Paso Fire Department in carrying out this agreement will be owned by the El Paso Fire Department; and all personnel acting for the El Paso Fire Department under this MOU will be an employee or volunteer member of the El Paso Fire Department.
- 2.3.7. Failure by either Party on one or more occasion to exercise one or more of its rights herein shall not be construed as a waiver of such right or rights and the rights granted herein are in addition to those available under law and equity.
- 3. PERSONNEL: Each Party is responsible for all costs of its personnel, including pay and benefits, support, and travel. Each Party is responsible for supervision and management of its personnel.

#### 4. GENERAL PROVISIONS:

- 4.1 POINTS OF CONTACT: The following points of contact will be used by the Parties to communicate in the implementation of this MOU. Each Party may change its points of contact upon reasonable notice to the other Party.
  - 4.1.1. For the City of El Paso
    - 4.1.1.1 Dionne Mack, City Manager, (915)212-1064, email: mackdx@elpasotexas.gov
    - 4.1.1.2 Jonathan Killings, Fire Chief of El Paso Fire Department, (915) 493-5609, email: killingsjp@elpasotexas.gov
  - 4.1.2 For the Fort Bliss USAG -
    - 4.1.2.1. Joseph F. Allen, Fire Chief, DES/FESD Fort Bliss Fire & Emergency Services 20709 Sergeant Major Blvd. Fort Bliss, TX, 79918 COMM: (915)744-8401 joseph.f.allen14.civ@army.mil
    - 4.1.2.2 Beverley J. Court, Support Agreements Manager, RMO Manpower-RMIC Manager 1741 Marshall Rd 2<sup>nd</sup> Floor RM 310 Fort Bliss, TX 79916 (915)569-8099 beverley.j.court.civ@army.mil

- 4.2 FUNDS AND MANPOWER: This MOU does not document nor provide for the exchange of funds or manpower between the Parties nor does it make any commitment of funds or resources.
- 4.3 REVIEW OF MOU: This MOU will be reviewed annually on or around the anniversary of its effective date, and triennially in its entirety. The estimated reimbursement responsibilities in this MOU will be reviewed annually to ensure continued accuracy. Minor changes may be made any time by correcting the existing document or attaching an addendum; relevant Parties must initiate changes.
- 4.4 MODIFICATION OF MOU: This MOU may only be modified by the written agreement of the Parties, duly signed by the authorized representatives. This MOU will be reviewed annually on or around the anniversary of its effective date, and triennially in its entirety.
- 4.5 DISPUTES: Any disputes relating to this MOU will, subject to any applicable law, Executive order, directive, or instruction, be resolved by consultation between the Parties. Any disputes relating to this MOU will, subject to any applicable law, Executive Order, Directive, or Instruction, be resolved by consultation between the Parties or in accordance with DoDI 4000.19.
- 4.6 TERM INATION OF UNDERSTANDING: This MOU may be terminated by either Party by giving at least 180 days written notice to the other Party. The MOU may also be terminated at any time upon the mutual written consent of the Parties. Due to a mission change, either Party may unilaterally terminate, suspend, or significantly modify this MOU during a fiscal year, so long as the 180-day advance notification is met. That Party is responsible for any unavoidable costs associated with this change.
- 4.7 TRANSFERABILITY: This MOU is not transferable except with the written consent of the Parties.
- 4.8 ENTIRE UNDERSTANDING: It is expressly understood and agreed that this MOU embodies the entire understanding between the Parties regarding the MOU's subject matter.
- 4.9 EFFECTIVE DATE: This MOU takes effect beginning on the day after the last Party signs.
- 4.10 EXPIRATION DATE: This MOU expires no later than 9 years after the effective date.
- 4.11 CANCELLATION OF PREVIOUS MOU: This MOU cancels and supersedes the previously signed MOU between the same Parties with the subject Mutual Aid Agreement to secure for each the benefits of mutual aid in fire prevention,

training activities, response to incidents involving weapons of mass destruction (WMD), hazardous materials, medical emergencies, the protection of life and property from fire, and firefighting Agreement #IM-W45C21-19-MOU-F22 with an effective date of 10 December 2019.

#### APPROVED AS TO FORM:

CARLOS L. ARMENDARIZ Assistant City Attorney

#### APPROVED AS TO CONTENT:

JOHNATHAN P. KILLINGS

Chief

El Paso Fire Department

JOSEPH F. ALLEN

Pire Chief

Fort Bliss Fire Department

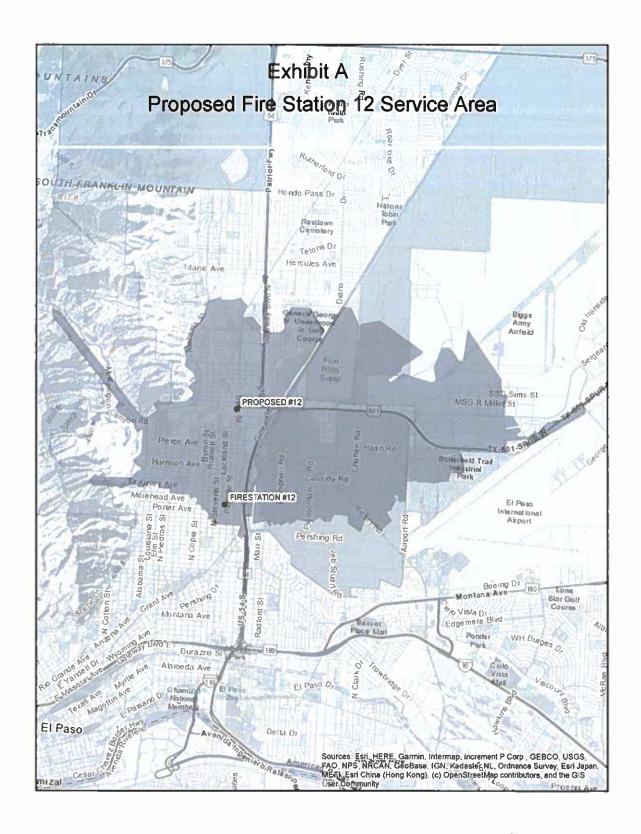
APPROVED:

DIONNE MACK
City Manager
City of El Paso, Texas

BRENDAN R. GACLAGHER

COL, IN

**USAG Fort Bliss** 



## El Paso, TX

## Legislation Text

File #: 25-457, 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 1, 2, 3, 4** 

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 with this agenda be approved (see Attachment A).

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



**DEPARTMENT:** Environmental Services Department

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

CONTACT PERSON NAME: Nicholas Ybarra PHONE NUMBER: 915-212-6000

DISTRICT(S) AFFECTED: 1, 2, 3, 4

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:	
Placing solid waste liens on properties cleaned by the City of licitizen-owned property with City staff.	El Paso allows us to recoup the cost of cleaning
COMMUNITY AND STAKEHOLDER OUTREACH:	
City of El Paso Code Enforcement posts notices and sends le	tters to property owners prior to involvement of ESD.
PRIOR COUNCIL ACTION:	
Routine item - similar items brought regularly for different address	esses.
AMOUNT AND SOURCE OF FUNDING:	
N/A	
DEPORTING OF CONTRIBUTION OF DONATION TO CITY	COUNCIL.
REPORTING OF CONTRIBUTION OR DONATION TO CITY	<u>SOUNCIL:</u>
N/A	
NAME	AMOUNT (\$)
	(4)
**************************************	THORIZATION************************************
negonie Ao	
DEPARTMENT HEAD:	

# ATTACHMENT A SOLID WASTE LIENS April 29, 2025

Address	Owner of Record	Amount	District
251 COUNTRY CLUB RD	AMERICAN EAGLE EQUITY INC	\$525.00	1
405 PRIME DESERT DR	SAENZ LUZ G	\$363.00	1
409 PRIME DESERT DR	PALAFOX REYES	\$363.00	1
453 PRIME DESERT DR	O'REILLY ALANA M	\$350.50	1
115 TOBIN PL	DELGADO SANDRA A & YESENIA	\$344.00	2
3030 ALTURA AVE	MELENDEZ JOE SR & CARMEN	\$656.00	2
3425 DOUGLAS AVE	QUEZADA IRMA Y S	\$350.00	2
3801 TITANIC AVE	GREER ARLAN H (LE) & GREER SYLVIA O (LE)	\$519.00	2
4320 OXFORD AVE	ZSAKO STEVEN L	\$480.00	2
5112 ANDES DR	ARENAS VERONICA & MARQUEZ JOANNA M	\$487.00	2
5637 VENEZUELA RD	HOLGUIN RICARDO & ELENA	\$358.00	2
370 S GLENWOOD ST	GUZMAN PAUL M	\$330.00	2
536 S CONCEPCION ST	HERRADA J L & MARGARITA	\$341.00	2
543 DOLAN ST	SALAS JESUS A	\$325.00	2
3501 RED SAILS DR	BLANCO GERARDO	\$358.00	3
367 LYNNE WAY	HERNANDEZ JOSE M	\$344.00	3
623 LA PAZ DR	AGUILERA EULOGIO O & ELIA C	\$344.00	3
4724 LOMA DE PLATA DR	NAVAJAS ABEL III & JENNIFER	\$342.00	4
10068 NEWCASTLE DR	ORDAZ MARIA V & DANIEL S	\$1,899.00	4
10109 WOLVERINE DR	VELA MARIA D C	\$347.00	4

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, AMERICAN EAGLE EQUITY 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:

251 Country Club Rd, more particularly described as Tr 1 (0.875 Ac), Harvey Place Subdivision, City of El Paso, El Paso County, Texas, PID #H156-999-0010-0100

to be \$525.00, 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 1st day of August, 2024, 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 TWENTY FIVE AND 00/100 DOLLARS (\$525.00) 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	of the City Cl	erk's office	relating to	the proceeding	against the	above
described p	roperty are mad	e a part of this	s Resolution	by referen	ce.		

PASSED AND APPROVED this	day of	, 2025.
	CITY OF EL PASO:	
ATTEST:	Renard U. Johnson Mayor	
ATTEST:		
Laura D. Prine City Clerk		
APPROVED AS TO FORM:	APPROVED AS TO CO	NTENT:
Leslie B. Jean-Pierre	Mulalas H. Ylanı Nicholas Ybarra, P.E., Di	
Assistant City Attorney	Environmental Services I	

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS	)		
COUNTY OF EL PASO	)		
This instrument was by Renard U. Johnson, as M.	_	ore me on this day of El Paso.	_, 2025
		Notary Public, State of Texas Notary's Printed or Typed Name:	
My Commission Expires:			
DDEDADED IN THE AEI	EICE OF:		

#### 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 LUZ G, 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:

405 Prime Desert Dr, more particularly described as Lot 2, Block 6, West Desert Marketplace Amending Subdivision, City of El Paso, El Paso County, Texas, PID #W135-999-0060-0200

to be \$363.00, 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 25th day of September, 2023, 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 SIXTY THREE AND 00/100 DOLLARS (\$363.00) 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	_, 2025.
	CITY OF EL PASO:	
	Renard U. Johnson Mayor	
ATTEST:	Mayor	
Laura D. Prine City Clerk		
APPROVED AS TO FORM:	APPROVED AS TO CONT	ENT:
Lehie Mr Ph.	Hulalas H. Ylanna	
Leslie B Jean-Pierre	Nicholas Ybarra, P.E., Direct	
Assistant City Attorney	Environmental Services Depa	artment

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged befo by Renard U. Johnson, as Mayor, of the City of	
	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, PALAFOX REYES, 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:

409 Prime Desert Dr, more particularly described as Lot 3, Block 6, West Desert Marketplace Amending Subdivision, City of El Paso, El Paso County, Texas, PID #W135-999-0060-0300

to be \$363.00, 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 25th day of September, 2023, 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 SIXTY THREE AND 00/100 DOLLARS (\$363.00) 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	of the City Cl	erk's office	relating to	the proceeding	against the	above
described p	roperty are mad	e a part of this	s Resolution	by referen	ce.		

PASSED AND APPROVED this	day of, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Lehi Ma-Pa	Huhalas H. Ylarua
Leslie B. Jean-Pierre	Nicholas Ybarra, P.E., Director
Assistant City Attorney	Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	fore me on this day of, 2025, 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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, O'REILLY ALANA M, 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:

453 Prime Desert Dr, more particularly described as Lot 14, Block 6, West Desert Marketplace Amending Subdivision, City of El Paso, El Paso County, Texas, PID #W135-999-0060-1400

to be \$350.50, 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 22<sup>nd</sup> day of September, 2023, 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 FIFTY AND 50/100 DOLLARS (\$350.50) 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, 2025.	
	CITY OF EL PASO:	
ATTEST:	Renard U. Johnson Mayor	
Laura D. Prine City Clerk		
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:	
Leslie B. Jean-Pierre	Hulolas H. Ylanna Nicholas Ybarra, P.E., Director	
Assistant City Attorney	Environmental Services Department	

PREPARED IN THE OFFICE OF:		
My Commission Expires:		
	Notary Public, State of Texas Notary's Printed or Typed Name:	
This instrument was acknowledged be by Renard U. Johnson, as Mayor, of the City of	efore me on this day of, 202 of El Paso.	5,
COUNTY OF EL PASO )		
STATE OF TEXAS		

### 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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, DELGADO SANDRA A & YESENIA, 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:

115 Tobin Pl, more particularly described as Lots 34 & N 1/2 of 35 (4687 Sq Ft), Block 2, Tobins Second Subdivision, City of El Paso, El Paso County, Texas, PID #T582-999-0020-5300

to be \$344.00, 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 21st day of August, 2024, 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 FOUR AND 00/100 DOLLARS (\$344.00) 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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Juan S. Gonzalez Senior Assistant City Attorney	Micholas Ybarra, P.E., Director Environmental Services Department

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	Fore me on this day of, 2025, 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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, MELENDEZ JOE SR & CARMEN, 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:

3030 Altura Ave, more particularly described as Lots 17 & E 16 Ft Of 18 (4920 Sq Ft), Block 27, Altura Park Subdivision, City of El Paso, El Paso County, Texas, PID #A520-999-0270-4600

to be \$656.00, 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 12th day of September, 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 SIX HUNDRED FIFTY SIX AND 00/100 DOLLARS (\$656.00) 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	, 2025.
	CITY OF EL PASO:	
ATTEST:	Renard U. Johnson Mayor	
Laura D. Prine City Clerk		
APPROVED AS TO FORM:	APPROVED AS TO COM	VTENT:
Juan S. Gonzalez	Hulalas H. Ylanna Nicholas Ybarra, P.E., Dire	

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

Environmental Services Department

Senior Assistant City Attorney

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, QUEZADA IRMA Y 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:

3425 Douglas Ave, more particularly described as Lots 13 & 14 (7000 Sq Ft), Block 131, East El Paso Subdivision, City of El Paso, El Paso County, Texas, PID #E014-999-1310-3100

to be \$350.00, 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 24th day of May, 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 FIFTY AND 00/100 DOLLARS (\$350.00) to be a lien on the above described property, said amount being due and payable within ten (10) days

1

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	, 2025.
	CITY OF EL PASO:	
	Renard U. Johnson Mayor	
ATTEST:		
Laura D. Prine City Clerk		
APPROVED AS TO FORM:	APPROVED AS TO CO	NTENT:
Juan S. Gonzalez Senior Assistant City Attorney	Mulalas H. Ylan Nicholas Ybarra, P.E., Dir Environmental Services D	rector

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged by Renard U. Johnson, as Mayor, of the City	pefore me on this day of, 2025, of El Paso.
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	_

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, GREER ARLAN H (LE) & GREER SYLVIA O (LE) & 2, 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:

3801 Titanic Ave, more particularly described as W 100 Ft Of 61 (12600 Sq Ft), Sunrise Acres #3 Subdivision, City of El Paso, El Paso County, Texas, PID #S922-999-003C-3400

to be \$519.00, 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 10th day of June, 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 NINETEEN AND 00/100 DOLLARS (\$519.00) 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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

**Environmental Services Department** 

Senior Assistant City Attorney

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, ZSAKO STEVEN 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:

4320 Oxford Ave, more particularly described as 22 & E 1/2 Of 23 (5250 Sq Ft), Block 75, Government Hill Subdivision, City of El Paso, El Paso County, Texas, PID #G569-999-0750-6100

to be \$480.00, 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 11th day of May, 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 EIGHTY AND 00/100 DOLLARS (\$480.00) 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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Juan S. Gonzalez	Micholas Ybarra, P.E., Director

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

Environmental Services Department

Senior Assistant City Attorney

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged befo by Renard U. Johnson, as Mayor, of the City of	
	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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, ARENAS VERONICA & MARQUEZ JOANNA M, 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:

5112 Andes Dr, more particularly described as Lot 1019 (8700 Sq Ft), Block 40, Mountain View Subdivision, City of El Paso, El Paso County, Texas, PID #M851-999-0400-3700

to be \$487.00, 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 11th day of May, 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 EIGHTY SEVEN AND 00/100 DOLLARS (\$487.00) 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, 2025.
	CITY OF EL PASO:
	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
> 5 A H	Hulalas H. Ylanna
Juan S. Gonzalez	Nicholas Ybarra, P.E., Director
Senior Assistant City Attorney	Environmental Services Department

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged by Renard U. Johnson, as Mayor, of the C.	d before me on this day of, 2025, ity of El Paso.
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
	<u> </u>

#### 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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, HOLGUIN RICARDO & ELENA, 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:

5637 Venezuela Rd, more particularly described as Lot 20, Block 8, Zia Village Subdivision, City of El Paso, El Paso County, Texas, PID #Z021-999-0080-5800

to be \$358.00, 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 2nd day of May, 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 FIFTY EIGHT AND 00/100 DOLLARS (\$358.00) 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.

The City Clerk is directed to give notice of the lien by filing a copy of this 3. Resolution for record with the County Clerk.

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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:

Senior Assistant City Attorney

**Environmental Services Department** 

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged before by Renard U. Johnson, as Mayor, of the City of	
	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

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, GUZMAN PAUL M, 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:

370 S Glenwood St, more particularly described as Lot 27 (Excw 10 Ft On St) (20185 Sq Ft), Block 6, Alameda Acres Subdivision, City of El Paso, El Paso County, Texas, PID #A438-999-0060-5101

to be \$330.00, 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 6th day of August, 2024, 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 THIRTY AND 00/100 DOLLARS (\$330.00) 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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
ATTEST.	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Leslie B Jean-Pierre Assistant City Attorney	Mulalas H. Ylanna Nicholas Ybarra, P.E., Director Environmental Services Department

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged by Renard U. Johnson, as Mayor, of the Cir	before me on this day of, 2025, ty of El Paso.
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	_

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, HERRADA J L & MARGARITA, 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:

536 S Concepcion St, more particularly described as Lot 37 (4200 Sq Ft), Block 2, Clardy Fox Subdivision, City of El Paso, El Paso County, Texas, PID #C622-999-0020-3700

to be \$341.00, 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 29th day of September, 2023, 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 ONE AND 00/100 DOLLARS (\$341.00) 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
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
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

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged before by Renard U. Johnson, as Mayor, of the City of	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, SALAS JESUS A, 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:

543 Dolan St, more particularly described as Lot 132, Block 8, Riverside Subdivision, City of El Paso, El Paso County, Texas, PID #R601-999-0080-1900

to be \$325.00, 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 9th day of August, 2024, 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 FIVE AND 00/100 DOLLARS (\$325.00) to be a lien on the above described property, said amount being due and payable within

3.	Тре	City	Clerk	si	directed	01	əvig	aoiton	Ĵο	the	lien	ρλ	guilit	B	собу	Ĵο	sidt
interest per ar	·wnu																
ten (10) days	mori	the c	date of	Cit	y Counc	s li	pprov	al, and	tpe	esie	fter b	ear	nət gni	dι	ercent	1) 1	(%0

Resolution for record with the County Clerk.

qe All records of the City Clerk's office relating to the proceeding against the above

	CILX OF EL PASO:	
. 2025.	To yab	PASSED AND APPROVED this
	solution by reference.	scribed property are made a part of this Res

Leslie B. Jean-Pierre	Nicholas Ybarra, P.E., Director
The Mr. R.	Malaba H. Glowina
,	,,,
<b>V</b> PPROVED AS TO FORM:	APPROVED AS TO CONTENT:
City Clerk	
Laura D. Prine	

Mayor

Renard U. Johnson

(YCKNOWLEDGEMENT ON FOLLOWING PAGE)

Environmental Services Department

Assistant City Attorney

Leslie B. Jean-Pierre

**ATTEST:** 

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, BLANCO GERARDO, 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:

3501 Red Sails Dr, more particularly described as Lot 76, Block 82, Pebble Hills #9 Subdivision, City of El Paso, El Paso County, Texas, PID #P654-999-0820-7600

to be \$358.00, 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 April, 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 FIFTY EIGHT AND 00/100 DOLLARS (\$358.00) 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
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Juan S. Gonzalez Senior Assistant City Attorney	Micholas Ybarra, P.E., Director Environmental Services Department

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged before by Renard U. Johnson, as Mayor, of the City of	•
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, HERNANDEZ JOSE M, 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:

367 Lynne Way, more particularly described as Lot 14, Block 3, Millers Lakeside Subdivision, City of El Paso, El Paso County, Texas, PID #M452-999-0030-4000

to be \$344.00, 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 7th day of September, 2023, 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 FOUR AND 00/100 DOLLARS (\$344.00) 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, 2025.
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
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 a by Renard U. Johnson, as Ma	acknowledged before me on this day of ayor, of the City of El Paso.	
	Notary Public, State of Texas Notary's Printed or Typed Name:	
My Commission Expires:		
PREPARED IN THE OFFI	CE OF:	

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, AGUILERA EULOGIO O & ELIA C, 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:

623 La Paz Dr, more particularly described as Lot 12 & S 7 Ft Of 13 (5985 Sq Ft), Block 25, Sageland Replat Subdivision, City of El Paso, El Paso County, Texas, PID #S029-999-0250-5600

to be \$344.00, 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 13th day of September, 2023, 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 FOUR AND 00/100 DOLLARS (\$344.00) 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, 2025.
	CITY OF EL PASO:
	Renard U. Johnson
ATTEST:	Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Ledie Mr- Mi	Hulalas H. Ylama
Leslie B. Jean-Pierre	Nicholas Ybarra, P.E., Director
Assistant City Attorney	Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS )	
COUNTY OF EL PASO )	
This instrument was acknowledged before by Renard U. Johnson, as Mayor, of the City of	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, NAVAJAS ABEL III & JENNIFER, 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:

4724 Loma De Plata Dr, more particularly described as Lot 7 (5742.89 Sq Ft), Block 30, North Hills #10 Subdivision, City of El Paso, El Paso County, Texas, PID #N425-999-0300-0700

to be \$342.00, 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 13th day of June, 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 TWO AND 00/100 DOLLARS (\$342.00) 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
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Juan S. Gonzalez Senior Assistant City Attorney	Micholas H. Harna Nicholas Ybarra, P.E., Director Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS		
COUNTY OF EL PASO	)	
This instrument was a by Renard U. Johnson, as Ma	acknowledged before me on this day of ayor, of the City of El Paso.	<u>,</u> 2025,
	Notary Public, State of Texas Notary's Printed or Typed Name:	
My Commission Expires:		
PREPARED IN THE OFFI	ICE OF:	

#### FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, ORDAZ MARIA V & DANIEL 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:

10068 Newcastle Dr, more particularly described as Lot 25, Block 13, Colonia Verde #3 Subdivision, City of El Paso, El Paso County, Texas, PID #C741-999-0130-4900

to be \$1899.00, 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 4th day of January, 2023, 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 ONE THOUSAND EIGHT HUNDRED NINETY NINE AND 00/100 DOLLARS (\$1899.00) 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, 2025.
	CITY OF EL PASO:
	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
-5- Dil	Hulalas H Ylanna
Juan S. Gonzalez	Nicholas Ybarra, P.E., Director
Senior Assistant City Attorney	Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

STATE OF TEXAS	
COUNTY OF EL PASO )	
This instrument was acknowledged bef by Renard U. Johnson, as Mayor, of the City o	
	Notary Public, State of Texas Notary's Printed or Typed Name:
My Commission Expires:	
PREPARED IN THE OFFICE OF:	

# FOR PAY-OFF INFORMATION PLEASE CONTACT:

Environmental Services Department 7968 San Paulo El Paso, Texas 79907 (915) 212-6000

Office of the City Attorney

El Paso, Texas 79950-1890

P.O Box 1890

#### RESOLUTION

WHEREAS, in accordance with Chapter 9.04 of the El Paso City Code, VELA MARIA D C, 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:

10109 Wolverine Dr, more particularly described as Lot 6 (7836.25 Sq Ft), Block 5, Bellewood Replat Subdivision, City of El Paso, El Paso County, Texas, PID #B351-999-0050-1100

to be \$347.00, 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 3rd day of May, 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 SEVEN AND 00/100 DOLLARS (\$347.00) 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, 2025.
	CITY OF EL PASO:
A TOTAL COT	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
SAily	Hichalas H. Ylanna
Just S. Gonzalez	Nicholas Ybarra, P.E., Director
Senior Assistant City Attorney	Environmental Services Department

(ACKNOWLEDGEMENT ON FOLLOWING PAGE)

#### ACKNOWLEDGEMENT

PREPARED IN THE OFFICE OF:		
My Commission Expires:		
	Notary Public, State of Texas Notary's Printed or Typed Name:	
This instrument was acknowledged be by Renard U. Johnson, as Mayor, of the City of		
COUNTY OF EL PASO )		
STATE OF TEXAS )		

# 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 29, 2025

Address	Owner of Record	Amount	District
251 COUNTRY CLUB RD	AMERICAN EAGLE EQUITY INC	\$525.00	1
405 PRIME DESERT DR	SAENZ LUZ G	\$363.00	1
409 PRIME DESERT DR	PALAFOX REYES	\$363.00	1
453 PRIME DESERT DR	O'REILLY ALANA M	\$350.50	1
115 TOBIN PL	DELGADO SANDRA A & YESENIA	\$344.00	2
3030 ALTURA AVE	MELENDEZ JOE SR & CARMEN	\$656.00	2
3425 DOUGLAS AVE	QUEZADA IRMA Y S	\$350.00	2
3801 TITANIC AVE	GREER ARLAN H (LE) & GREER SYLVIA O (LE) & 2	\$519.00	2
4320 OXFORD AVE	ZSAKO STEVEN L	\$480.00	2
5112 ANDES DR	ARENAS VERONICA & MARQUEZ JOANNA M	\$487.00	2
5637 VENEZUELA RD	HOLGUIN RICARDO & ELENA	\$358.00	2
370 S GLENWOOD ST	GUZMAN PAUL M	\$330.00	2
536 S CONCEPCION ST	HERRADA J L & MARGARITA	\$341.00	2
543 DOLAN ST	SALAS JESUS A	\$325.00	2
3501 RED SAILS DR	BLANCO GERARDO	\$358.00	3
367 LYNNE WAY	HERNANDEZ JOSE M	\$344.00	3
623 LA PAZ DR	AGUILERA EULOGIO O & ELIA C	\$344.00	3
4724 LOMA DE PLATA DR	NAVAJAS ABEL III & JENNIFER	\$342.00	4
10068 NEWCASTLE DR	ORDAZ MARIA V & DANIEL S	\$1,899.00	4
10109 WOLVERINE DR	VELA MARIA D C	\$347.00	4

#### Legislation Text

File #: 25-491, 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**

Tax Office, Maria O. Pasillas, (915) 212-0106

#### AGENDA LANGUAGE:

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

A Resolution that Taxpayers, ROBERTO TELLO & OLIVIA ALAMOS, have met the requirements of Section 33.011 of the Tax Code for the request of waiver of penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(a)(1) of the Tax Code, in the amount of \$543.24 for the property with the following legal description:

18 HACIENDA HEIGHTS #3 LOT 9

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



**DEPARTMENT:** Tax Office

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

**CONTACT PERSON NAME: Maria O. Pasillas PHONE NUMBER: 915-212-0106** 

**DISTRICT(S) AFFECTED: 3** 

**STRATEGIC GOAL:** 

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

SUBGOAL:

6.11 Provide efficient and effective services to taxpayers

#### SUBJECT:

A resolution that the Taxpayer, ROBERTO TELLO & OLIVIA ALAMOS, has met the requirements of Section 33.011 of the Tax Code for the request of waiver of penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(a)(1) of the Tax Code, in the amount of \$543.24 for the property with the following legal description:

18 HACIENDA HEIGHTS #3 LOT 9

NAME	AMOUNT (\$)
N/A	OOHOIL.
REPORTING OF CONTRIBUTION OR DONATION TO CITY O	COUNCII ·
N/A	
AMOUNT AND SOURCE OF FUNDING:	
Council has considered this previously on a periodic basis.	
PRIOR COUNCIL ACTION:	
N/A	
COMMUNITY AND STAKEHOLDER OUTREACH:	
agent of the taxing unit or the appraisal district caused or resul date and if the tax is paid not later than the 21st day after the tax	ted in the taxpayer's failure to pay the before delinquency axpayer knows or should know of the delinquency.
Pursuant to Section 33.011(a)(1) of the Texas Tax Code ("Tax penalties and may provide for the waiver of interest on a deline	uent tax if an act or omission of an officer, employee, or

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

Maria O. Pasillas

2025.04.11 16:04:01 -06'00'

Maria O. Pasillas

**DEPARTMENT HEAD:** 

#### RESOLUTION

WHEREAS, pursuant to Section 33.011(a)(1) of the Texas Tax Code ("Tax Code"), the governing body of a taxing unit shall waive penalties and may provide for the waiver of interest on a delinquent tax if an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district caused or resulted in the taxpayer's failure to pay the before delinquency date and if the tax is paid not later than the 21st day after the taxpayer knows or should know of the delinquency; and

WHEREAS, pursuant to Section 33.011(d) a request for waiver of penalties and interest pursuant to Section 33.011(a)(1) must be made before the 181st day after the delinquency date; and

WHEREAS, pursuant to Section 33.011(d) of the Tax Code, taxpayer, ROBERTO TELLO & OLIVIA ALAMOS ("Taxpayer") requested a waiver of penalties and interest on March 24, 2025, before the 181st day after the delinquency date, in the amount of \$543.24 for the 2024 delinquent taxes for the property with the following legal description:

#### 18 HACIENDA HEIGHTS #3 LOT 9

WHEREAS, the Taxpayer submits evidence sufficient to show that an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district caused or resulted in the taxpayer's failure to pay the before delinquency date and if the tax is paid not later than the 21st day after the taxpayer knows or should know of the delinquency.

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

**THAT** the Taxpayer, ROBERTO TELLO & OLIVIA ALAMOS, has met the requirements of Section 33.011 of the Tax Code for the request of waiver of penalties and interest, and the City waives the penalty and interest amount on the 2024 delinquent taxes, pursuant to Section 33.011(a)(1) of the Tax Code, in the amount of \$543.24 for the property with the following legal description:

18 HACIENDA HEIGHTS #3 LOT 9

(Signatures Begin on Following Page)

APPROVED this da	y of20
	CITY OF EL PASO:
ATTEST:	Renard U. Johnson Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
	Maria O. Pasillas
Oscar Gomez Assistant City Attorney	Maria O. Pasillas, RTA City Tax Assessor/Collector

#### Legislation Text

File #: 25-552, 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 Renard U. Johnson, (915) 212-0021

#### AGENDA LANGUAGE:

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

Deborah A. Zuloaga to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.

## Legislation Text

File #: 25-553, Version: 1

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

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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#### AGENDA LANGUAGE:

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

Arlene Carroll to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.

## Legislation Text

File #: 25-547, Version: 1

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

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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#### AGENDA LANGUAGE:

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

Johnny Escalante to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.



# Roard Appointment Form

Boar City Clerk	d Appointment Form
CITY OF EL 9650	
Appointing Office	Mayor Renard U. Johnson
Agenda Placement	Consent
Date of Council Meeting	04/29/25
Name of Board	Tax Increment Reinvestment Zone Number 5
	Agenda Posting Language
Appointment of Jonathan (J Number 5 by Mayor Renard	ohnny) Escalante to the Tax Increment Reinvestment Zone U. Johnson.
Appointment Type	Regular
	Member Qualifications
Nominee Name	Jonathan (Johnny) Escalante
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	District 8
City Employed Relatives	N/A
	Board Membership
Greater El Paso Civic, Conv Downtown Management Dis	vention, and Tourism Advisory Board strict Board of Directors
	Real estate owned in El Paso County
Previous Appointee	Elliot Berg
Reason for Vacancy	Term Expired
Date of Appointment	04/29/25
Term Begins On	03/02/25
Term Expires On	03/01/27
Term	First Term

Johnny Escalante is a seasoned entrepreneur, hospitality leader, and innovative concert promoter with over 14 years of experience in entertainment, nightlife, and real estate ventures. As the owner-operator of renowned establishments such as Lost & Found, Hush Hush, Later Later, and One-One Co-working, Johnny has been instrumental in shaping El Paso's vibrant cultural scene.

Johnny co-founded J & K Present, a premier live music and events company known for producing large-scale events, including El Paso's Downtown Block Party, Boiler Room events, and the celebrated Elmont Pool series. His visionary approach to entertainment blends creativity with strategic marketing and dynamic event programming.

In real estate, Johnny manages multifamily projects with a strategic focus on remodeling and long-term investment holding, demonstrating versatility and forward-thinking financial acumen.

Committed to community leadership, Johnny serves or has served on the boards of the Downtown Management District (DMD), El Paso Tourism, Progress 321, and the TABC IT Board. He actively participates in citywide initiatives, contributing valuable insights on policy and urban development, notably through collaborations with local government officials and community stakeholders.

Continuously evolving, Johnny's endeavors represent a unique intersection of hospitality, culture, real estate, and community impact.

## Legislation Text

File #: 25-548, 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 Renard U. Johnson, (915) 212-0021

#### AGENDA LANGUAGE:

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

Martin Morgades to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.



# **Board Appointment Form**

City Clerk	's Office
Appointing Office	Mayor Renard U. Johnson
Agenda Placement	Consent
Date of Council Meeting	04/29/25
Name of Board	Tax Increment Reinvestment Zone Number 5
	Agenda Posting Language
Appointment of Martin Morg Mayor Renard U. Johnson.	ades to the Tax Increment Reinvestment Zone Number 5 by
Appointment Type	Regular
	Member Qualifications
Nominee Name	Martin Morgades
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	District 1
City Employed Relatives	N/A
	Board Membership
Parks and Recreation Advis	sory Board (November 12, 2019, to September 09, 2022)
	Real estate owned in El Paso County
Previous Appointee	George Salom Jr.
Reason for Vacancy	Term Expired
Date of Appointment	04/29/25
Term Begins On	03/19/25
Term Expires On	03/18/27
	03/10/27

Martin A. Morgades – Martin is the Founder and Managing Partner of Rio Bravo Group, LLC, and RBG Realty, LLC which focuses on office, health care and hospitality real estate in the Paso del Norte region. He brings 20 years of related acquisition, development, leasing, management, and real estate experience to his role at Rio Bravo Group and RBG Realty. A native El Pasoan, Martin returned to the area in 2004 to participate in opportunities generated by the growth and integration of the Paso del Norte region.

That growth has led to several new projects revitalizing downtown El Paso. Martin has been involved in several office, hospitality and mixed-use projects including Stanton House, a 42 room boutique hotel. Martin and his partners are focused on strengthening and expanding the strong sense of community through projects that highlight the region's distinct architectural and culture.

Prior to founding Rio Bravo Group, Martin was Executive Vice President of TVO Development Services, LLC, a developer of healthcare, hospitality, and multi-family real estate. Martin joined TVO Development from Borderplex Community Trust where he consulted on various acquisitions and administrative matters relating to the formation and initial private placement of the Borderplex Community Trust. Prior thereto Mr. Morgades was with L&M Asset Management where he was Vice President of Real Estate, responsible for acquisitions, dispositions, leasing and property management of various properties in El Paso, Southern New Mexico and Juarez.

Mr. Morgades is a graduate of The University of Texas at Austin with a B.A. in Latin American Studies. Martin began his career at El Paso Energy International in Houston, where he acquired and developed energy infrastructure projects throughout Latin America. He then received his Masters in Business Administration from Rice University.

## Legislation Text

File #: 25-549, 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 Renard U. Johnson, (915) 212-0021

#### AGENDA LANGUAGE:

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

Michelle Esparza to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.



# **EPA**Board Appointment Form

	d Appointment Form	
CITY OF EL PASO	d's Office	
Appointing Office	Mayor Renard U. Johnson	
Agenda Placement	Consent	
Date of Council Meeting	04/29/25	
Name of Board	Tax Increment Reinvestment Zone Number 5	
	Agenda Posting Language	
Appointment of Michelle Esparza to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.		
Appointment Type	Regular	
	Member Qualifications	
Nominee Name	Michelle Esparza	
Nominee Email Address		
Nominee Residential Address		
Nominee Primary Phone Number		
Residing District	District 1	
City Employed Relatives	N/A	
	Board Membership	
Committee on Border Relations (June 01, 2022, to May 31, 2024)		
	Real estate owned in El Paso County	
Previous Appointee	Justin Underwood	
Reason for Vacancy	Term Expired	
Date of Appointment	04/29/25	
Term Begins On	03/19/25	
Term Expires On	03/18/27	
Term	First Term	





# Michelle D. Esparza

#### PRACTICE AREAS

Appellate

Bankruptcy and Creditors' Rights
International Law

Trial

#### **EDUCATION**

The Ohio State University, Moritz College of Law, J.D., 2019

University of Texas at El Paso, B.A. in Economics, 2016

#### **BAR & COURT ADMISSIONS**

Texas, 2019

U.S. District Court, Western District of Texas

U.S. District Court, Northern District of Texas

U.S. District Court, Southern District of Texas

U.S. District Court, Eastern District of Texas

U.S. Court of Appeals, Fifth Circuit

U.S. Court of Appeals, Tenth Circuit

Michelle D. Esparza is a partner in the firm's Trial Department. The focus of her practice is business and commercial litigation, bankruptcy and creditors' rights, and appeals.

Michelle has represented clients in all stages of litigation before trial, bankruptcy, appellate, and alternative resolution tribunals, including in breach of contract actions, breach of fiduciary duty actions, partnership and shareholder disputes, unfair and deceptive trade practices litigation, fraud actions, derivative actions, debtor and creditor actions, and construction litigation.

She received her Juris Doctor from The Ohio State University and Bachelor of Business Administration in Economics from the University of Texas at El Paso. Michelle has been recognized as a 2024 Texas Super Lawyer Rising Star, which recognizes the top up-and-coming attorneys across the state.

#### PROFESSIONAL & CIVIC INVOLVEMENT

- El Paso Bar Association, 2019-Present
- YWCA Foundation Board of Directors 2024-Present
- George A. McAlmon American Inn of Court, 2024
- UTEP Alumni Association Board of Directors, 2020-2023
- City of El Paso's Committee on Border Relations, 2021-2022
- Panelist for UTEP's 35 Under 35, Alumni in Law, 2021

## Legislation Text

File #: 25-550, Version: 1

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

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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#### AGENDA LANGUAGE:

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

Edward Houghton, V to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.



# **Board Appointment Form**

City OF EL PASO	's Office
Appointing Office	Mayor Renard U. Johnson
Agenda Placement	Consent
Date of Council Meeting	04/29/25
Name of Board	Tax Increment Reinvestment Zone Number 5
Nume of Board	Agenda Posting Language
Appointment of Edward Hou Mayor Renard U. Johnson.	ghton, V to the Tax Increment Reinvestment Zone Number 5 by
Appointment Type	Regular
	Member Qualifications
Nominee Name	Edward Houghton, V
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	District 1
City Employed Relatives	N/A
	Board Membership
Public Service Board Select	ion Committee (February 25, 2025, to February 25, 2029)
	Real estate owned in El Paso County
Previous Appointee	William Kell
Reason for Vacancy	Term Expired
Date of Appointment	04/29/25
Term Begins On	03/19/25
Term Expires On	03/18/27
Term	First Term

# Edward "Cinco" Houghton, V

#### **Cuatro Land Holdings**

Land Developer - Partner

El Paso, Texas December 2020 - Present

- Oversee land acquisitions
- Manage financing of land and construction operations
- Underwrite land purchases to ensure viability of the project
- Actively maintain and create new business relationships with home builders and realtors

#### **Cadence Lending Group**

Mortgage Group - Partner

El Paso, Texas December 2018 - Present

- Oversee sales and operations of mortgage branches to ensure profitability, compliance with regulators and smooth delivery of loans to investors
- Collaborate with loan officers to structure unique mortgage strategies to help increase loan originations
- Manage underwriting department to assure loan turn times and compliance to regulations
- Actively maintain and create new business relationships with home builders and realtors in the community

#### WestStar Bank, Vice President

Mortgage Group

El Paso, Texas June 2016 – December 2018

- Oversee sales and operations of mortgage branches to ensure profitability, compliance with regulators and smooth delivery of loans to investors
- Operate lock desk to guarantee margins set by management
- Collaborate with loan officers to structure unique mortgage strategies to help increase loan originations
- Manage underwriting department to assure loan turn times and compliance to regulations
- · Actively maintain and create new business relationships with home builders and realtors in the community

#### Home USA Mortgage, Senior Loan Officer

Mortgage Group

Houston, Texas May 2005 – June 2016

- Created and maintained partnership with outside realty group yielding 20% increase in monthly revenues; expanded and managed additional staff to support increased volume
- Coordinate and simplify home buying process through ongoing relationships with mortgage banks, appraisers, custom home builders and title companies
- Structure unique mortgage strategies (VA, FHA, jumbo, conforming, non-conforming, fixed rate and ARM) to support diverse financial circumstances
- Actively cultivate new business ventures through event sponsorship and continuing education seminars

#### Bear, Stearns & Co. Inc., Financial Analyst

Public Finance Investment Banking Group

New York, New York July 2002 – July 2004

- Specialize in quantitative analysis and structuring of debt transactions for public sector clients, with transactions ranging from \$20 million to \$700 million
- Survey clients' existing capital structure and projected funding requirements, and recommend financing plans using both traditional debt and derivative-based structures
- Draft proposals, presentations, and correspondence for review by clients and other finance professionals, including attorneys, financial advisors, engineers and accountants
- Coordinate preparation and distribution of legal documents associated with public securities offerings, including Offering Documents, Trust Indentures and Escrow Agreements
- Clients include governments, governmental authorities and not-for-profit corporations operating in the healthcare, higher education, transportation and infrastructure sectors throughout the United States

#### **Texas A&M University**

College Station, Texas May 2002

Bachelor of Arts, Economics Minors: Business and Spanish

## Legislation Text

File #: 25-551, Version: 1

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

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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#### AGENDA LANGUAGE:

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

Steve Ortega to the Tax Increment Reinvestment Zone Number 5 by Mayor Renard U. Johnson.



# Board Appointment Form

Oib : Olayld	d Appointment Form
City Clerk's	s Office
Appointing Office	Mayor Renard U. Johnson
Agenda Placement	Consent
Date of Council Meeting	04/29/25
Name of Board	Tax Increment Reinvestment Zone Number 5
	Agenda Posting Language
Appointment of Steve Ortega Renard U. Johnson.	a to the Tax Increment Reinvestment Zone Number 5 by Mayor
Appointment Type	Regular
	Member Qualifications
Nominee Name	Steve Ortega
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	
residing District	District 8
City Employed Relatives	District 8 N/A
City Employed Relatives	N/A  Board Membership
City Employed Relatives  Ad Hoc Charter Advisory Co	N/A  Board Membership
City Employed Relatives  Ad Hoc Charter Advisory Co	N/A  Board Membership  mmittee (2022)
City Employed Relatives  Ad Hoc Charter Advisory Co	Board Membership mmittee (2022) ment District Board of Directors (September 2021 - August 2024)
City Employed Relatives  Ad Hoc Charter Advisory Co	Board Membership mmittee (2022) ment District Board of Directors (September 2021 - August 2024)
City Employed Relatives  Ad Hoc Charter Advisory Co El Paso Downtown Manager	Board Membership  mmittee (2022) ment District Board of Directors (September 2021 - August 2024)  Real estate owned in El Paso County
City Employed Relatives  Ad Hoc Charter Advisory Co El Paso Downtown Manager  Previous Appointee	Board Membership mmittee (2022) ment District Board of Directors (September 2021 - August 2024)  Real estate owned in El Paso County  Holt Grambling
City Employed Relatives  Ad Hoc Charter Advisory Co El Paso Downtown Manager  Previous Appointee  Reason for Vacancy	Board Membership mmittee (2022) ment District Board of Directors (September 2021 - August 2024)  Real estate owned in El Paso County  Holt Grambling Resigned
City Employed Relatives  Ad Hoc Charter Advisory Co El Paso Downtown Manager  Previous Appointee  Reason for Vacancy  Date of Appointment	Board Membership Immittee (2022) Iment District Board of Directors (September 2021 - August 2024)  Real estate owned in El Paso County  Holt Grambling Resigned 04/29/25

# STEVE ORTEGA



AREAS OF FOCUS: ELDER LAW, ESTATE PLANNING AND PROBATE

Legal executive with over 15 years of experience in civil law and state and local government public policy advocacy

#### PROFESSIONAL EXPERIENCE

# LAW OFFICE OF STEVE ORTEGA, P.L.L.C., El Paso, TX

2004 - Present

- Attorney at Law and Public Policy Advocate
  - Attorney specializing in wills, trusts and estatesPractice areas to include estate planning, probate and civil law
  - In the Top 1% of local client-reviewed attorneys
  - Policy Consultant to several local leading businesses and non-profit organizations
  - Vice-President of Hospice of El Paso
  - Co-Chairman of the El Paso Chamber Mobility Coalition
  - Board Member El Paso Heart Gallery

# CITY OF EL PASO, El Paso, TX City Council Representative

2005 - 2013

- Chairman of the Metropolitan Planning Commission
- Chairman of the Economic Development Legislative Committee
- Recipient of the Conquistador Award, the City of El Paso's Highest Award of Recognition

#### **EDUCATION & CREDENTIALS**

Bachelor of Arts, Political Science, University of Texas at Austin, Austin, TX
 Bachelor of Arts, Sociology, University of Texas at Austin, Austin, TX
 Juris Doctorate, The George Washington University Law Center, Washington, D.C.

Honored Alumni, Cathedral High School (2005)

Member of the Texas Bar College and the Texas Bar Foundation (2016-Present)

Former Vice-Chairman of the KCOS Board of Directors (2014-2018)

Former President of the El Paso Downtown Management District (2024)

# Legislation Text

File #: 25-537, 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.

Members of the City Council, Representative Alejandra Chávez, (915) 212-0001

### AGENDA LANGUAGE:

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

Isabel White to the Museums and Cultural Affairs Advisory Board by Representative Alejandra Chávez, District



# Board Appointment Form

Alejandra Chávez, District 1  Consent  04/29/25						
04/29/25						
Museums and Cultural Affairs Advisory Board						
Agenda Posting Language						
Appointment of Isabel White to the Museums and Cultural Affairs Advisory Board by Representative Alejandra Chávez, District 1.						
Regular						
Member Qualifications						
Isabel brings over 23 years of nonprofit volunteer experience and 11 years in public education, demonstrating a longstanding commitment to community service and cultural enrichment. Her strong organizational and collaborative skills position her to contribute meaningfully to the board's vision and initiatives. She is particularly enthusiastic about working with Museum leadership to support operations, preserve cultural assets, and advance El Paso's vibrant arts community.						
Isabel White						
District 1						
N/A						
Board Membership N/A						
Real estate owned in El Paso County						
David Herrera						
Resigned						
Resigned 04/29/25						
04/29/25						

# Isabel Reza White

# **EDUCATION & CERTIFICATIONS**

**Principal**, Principal as Instructional Leader Grades (EC-12) **Classroom Teacher**, English Language Arts and Reading Grades (7-12) **Classroom Teacher**, English as a Second Language Supplemental Grades (7-12) **M.Ed., Instructional Specialist,** *University of Texas at El Paso*, 4.0 GPA, graduated December 2008.

**B.A.**, English with a concentration in Technical Communication, *Texas Tech University*, graduated December 2002. Minor in Education.

#### **EXPERIENCE**

Jan. 2022 – present, Assistant Principal, Bowie High School, Jefferson Silva High School: Administrator over JHS P-TECH Medical. Coordinated first medical health fair for P-TECH (2023) and first Art Gallery Exhibition with Bowie culinary dept. and Austin's mariachi group (2024). Administrator over Attendance, Registration, Discipline and Clerks, Athletics; English Department Administrator. Coordinated and supervised Saturday School, after school tutoring, Intersession logistics and curriculum, culture building (teachers) Organized attendance initiatives, technology and bookroom support, and parent and community liaison. Worked with 504, discipline, administrative duty.

Oct. 2020 – Jan. 2022, Campus Teaching Coach, Franklin High School. Onboarded and coached a campus of 56 Magnet teachers on instruction and teacher development; Assisted in organizing, managing credit recovery program (Twilight); Helped collaborate and manage Accelerated Tutoring (AI) for HB 4545; Held PLC trainings and individual coaching sessions. Created instructional videos for new teachers. Facilitated EOC bootcamps.

Jan. 2015 – Oct. 2020, English Teacher and NT Dept. Chair, Franklin High School. Certified New Tech trainer for department (3-year badge process) and held teacher workshops for new NT facilitators; Apple Teacher through EPISD Vanguard. Led PLCs during virtual learning. Wrote onboarding process for new teachers to campus.

**Aug. 2013 –Dec. 2015, University Writing Center, Office Supervisor,** Manages the center's budget, 13 tutors and 19 graduate tutors. Responsible for payroll and all the center's expenditures.

Aug. 2009 – May 2013, *Adjunct Instructor*, University of Texas at El Paso. Instructor for TED 5304 Scholarly Writing for Educators in mainly online format. Collaborated with Dr. Erika Mein to create the online and hybrid course. Experience with Blackboard Learn.

May 2004 – Present, Community Volunteer, Junior League of El Paso, Inc.

**Sept. 2003 – Dec. 2003,** *Multimedia Sales***, CEV Multimedia.** Presented Biology curriculum to EPISD teachers during adoption period.

Jan. 2003 – Aug. 2003, Administrative Assistant, CEV Multimedia. Assistant to Director of Sales. Responsible for organizing company's 2003 conference schedule (21), wrote and edited descriptive product paragraphs, helped edit catalogs, continued working with Teacher's Resource Guides and GrantMaster, created several documents/spreadsheets for sales team and aided in creation of a Biology workbook.

Nov. 2002 – Jan. 2003, *Technical Writer*, CEV Multimedia. Wrote, edited, and created eight Teacher's Resource Guides for educational multimedia company. Assisted in creating a grant-writing program.

Aug. 2002 – Nov. 2002, *Copy Editor, The University Daily*, Texas Tech University. Responsible for all print published in the UD, ensuring that all copy was correct for the following: spelling, grammar, punctuation, and Associated Press style.

# **COMMUNITY SERVICE**

# President - Junior League of El Paso, Inc., 2013-2014

- Oversaw a membership of more than 560; a Board of 15 members; a Council of 27 members.
- Experience includes areas of fundraising, marketing, publications, facilitating community projects throughout El Paso.
- Member since 2004, serving in various leadership roles since 2009.
- Extensive training on various aspects of leadership and the nonprofit sector.



March 3, 2025

Dionne Mack Manager, City of El Paso 300 N. Campbell El Paso, Texas 79901

Dear Ms. Mack:

I am writing to express my interest in serving on the Museums and Cultural Affairs Advisory Board. With a deep passion for the arts and community, I am eager to contribute my skills, experience, and enthusiasm to support the valuable work of the department.

My background in more than 23 years of non-profit, volunteer work with The Junior League of El Paso and 11 years of dedication to public education, combined with my strong organizational and collaborative skills, makes me confident in my ability to effectively contribute to the board's vision. Additionally, I am particularly drawn to the opportunity to collaborate with the Director and Museum staff on a quarterly basis to provide guidance and insight into museum operations and the preservation of our cultural assets.

I am committed to the growth and success of El Paso's cultural landscape and look forward to working alongside fellow board members and the Museums and Cultural Affairs Department to ensure that the City's cultural initiatives continue to thrive. If selected, I would approach this role with diligence, passion, and a willingness to work towards policies that serve both the cultural community and the public at large.

Thank you for considering my application. I look forward to the opportunity to discuss how my background and passion for our city can contribute to the continued success of the Museums and Cultural Affairs Advisory Board. Please feel free to contact me at 915-253-6150 or isabelwhite 721@gmail.com if you need any additional information.

Sincerely, Isabel White

# Legislation Text

File #: 25-538, 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 Chris Canales, (915) 212-0008

#### AGENDA LANGUAGE:

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

Bianca de Leon to the Museums and Cultural Affairs Advisory Board by Representative Chris Canales, District 8.



# Board Appointment Form

	Obris Oscalas Districto				
Appointing Office	Chris Canales, District 8				
Agenda Placement	Consent				
Date of Council Meeting	04/29/25				
Name of Board	Museums and Cultural Affairs Advisory Board				
	Agenda Posting Language				
Appointment of Bianca de Representative Chris Can	Leon to the Museums and Cultural Affairs Advisory Board by ales, District 8.				
Appointment Type	Regular				
	Member Qualifications				
Please see resume.					
Namina Mana	Dianas da Laga				
Nominee Name	Bianca de Leon				
Nominee Email Address					
Nominee Primary Phone Number					
Nominee Primary Phone Number Residing District	District 1				
	N/A				
Nominee Primary Phone Number Residing District City Employed Relatives	N/A  Board Membership				
Nominee Primary Phone Number Residing District City Employed Relatives	N/A				
Nominee Primary Phone Number Residing District City Employed Relatives	N/A  Board Membership				
Nominee Primary Phone Number Residing District City Employed Relatives	N/A  Board Membership  m February 2022 - June 2022				
Nominee Primary Phone Number Residing District City Employed Relatives City Plan Commission from	N/A  Board Membership  m February 2022 - June 2022				
Nominee Primary Phone Number Residing District City Employed Relatives  City Plan Commission from	N/A  Board Membership  m February 2022 - June 2022  Real estate owned in El Paso County				
Nominee Primary Phone Number Residing District City Employed Relatives  City Plan Commission from Previous Appointee Reason for Vacancy	N/A  Board Membership  m February 2022 - June 2022  Real estate owned in El Paso County  Beth Leffler				
Nominee Primary Phone Number Residing District City Employed Relatives  City Plan Commission from Previous Appointee Reason for Vacancy Date of Appointment	Board Membership m February 2022 - June 2022  Real estate owned in El Paso County  Beth Leffler Term Expired				
City Employed Relatives	Board Membership m February 2022 - June 2022  Real estate owned in El Paso County  Beth Leffler Term Expired 04/29/25				

# Bianca De Leon

## Offering expertise in project management, strategic planning, and community engagement.

Insightful and success-driven professional with expertise and experience in philanthropy, non-profit initiatives, client management, and objective setting. Skilled in creating strategies to acquire funding and refining program elements to promote ongoing growth and expansion. Engaging communicator able to build and maintain strong relationships with stakeholders and partners, as well as create and lead committees/cohorts. Experience leading communications campaigns, reviewing developing materials and providing thoughtful feedback, managing diverse teams, and synthesizing data.

# Core Competencies

- Grant-Making Strategies
- Program Development
- Foundations / Non-profits
- Grant Management
- Objective-Setting / Goals
- Strategic / Actionable Planning
- Local / Executive Partnerships
- Qualitative / Quantitative Analysis
- Project Management
- Policy / Procedural Design
- Fund Allocation / Budgeting
- Strategy / Team Development

# **Professional Experience**

#### PROGRESS321, El Paso, TX

Nov. 2024 - Present

#### **Executive Director**

Lead and manage all aspects of the organization's operations and business development. Maintain strong, professional relationships with Board members and provide leadership to ensure their full engagement. Responsible for ensuring that the mission of unifying a professional ecosystem to provide access and placement to create a better quality of life in our region is a daily reality.

- Lead the planning, development and execution of all organizational projects and events.
- Manage all aspects of the organization's finances.
- Build relationships with local, state, regional and federal government bodies to influence advocacy efforts.
- Develop and grow membership base, including efforts in Ciudad Juarez and Las Cruces.

#### ZELIE CONSULTING LLC., El Paso, TX

2021 - Present

#### Non-profit Consultant

Lead numerous high-impact projects encompassing program management, process development, and strategic planning, to achieve their mission. Significantly enhanced organizational capacity, energized Board engagement, and achieved key program objectives. Contribute to the organization's long-term sustainability by leveraging the client's expertise to strengthen the organization's capacity, effectiveness, and resilience.

- · Guide organizations to develop a clear, actionable strategic plans with long-term objectives, and strategies.
- Develop strategies for recruiting diverse and skilled board members who can contribute to growth and stability.
- Facilitate board retreats/workshops to enhance engagement, strategic thinking, collaboration.
- · Oversee end-to-end project management; build and maintain relationships to achieve collective goals.

Bianca De Leon

## PASO DEL NORTE HEALTH FOUNDATION, El Paso, TX

2012 - 2021

## **Program Officer**

Focused on community health efforts by spearheading multiple public health initiatives from the original concept and planning to successful launch. Reliable source of technical support for grantees and community partners, which increased organizational capabilities and effectiveness. Expanded efforts by introducing a framework to create a binational community network of more than forty-five community partners and programs.

- Lead contact on policy development, communications campaigns and strategic design of initiatives.
- · Reviewed high volume of incoming proposal requests and provided funding recommendations to Board of Directors.
- · Restructured the grant process for higher efficiency and led grants management team.
- Built an initiative from the ground up, expanding to more than a \$3M portfolio with 20 binational grantees.

#### GIRL SCOUTS OF THE DESERT SOUTHWEST, El Paso, TX

2012

#### **Fund Development Manager**

Added value at all stages of regional fundraising campaigns across West Texas and southern New Mexico including all planning, logistics coordination, staffing, and project management. Utilized technical expertise to customize marketing tools with features that directly supported fund development. Increased engagement and funding by coordinating and executing engaging events geared towards alumni, potential new partners, and repeat donors.

- Maximized awareness of upcoming initiatives by streamlining communication with stakeholders.
- Secured \$100K+ from first-time funders; gained clarity on program objectives to increase fundraising.

#### SAN MIGUEL HIGH SCHOOL, Tucson, AZ

2010 - 2011

#### **Associate Director**

Took charge of the student-employee workforce and provided top-tier training for more than 300 high school students. Spearheaded program development and collaboration with the staff including structure, policies, procedures, objectives, and strategies for a successful launch. Position students to thrive by scheduling orientations to get them acclimated to their new positions.

- Promoted cohesive collaboration among academic departments and the work program.
- Developed and launched the Corporate Internship Student Advisory Committee.
- Lead staff for hiring and termination of all student employees.

# **Volunteer Experience**

Board Member | Kelly Center for Hunger Relief (2024 – Present)

Advisory Board Member | Trinity First Day School (2021 – Present)

Board of Directors Member | Texas Alliance of Boys & Girls Clubs (2022 – 2024)

Board of Directors Member | Better Business Bureau Paso del Norte (2017 - 2020)

#### **Education & Certifications**

Master of Arts, International Education | SIT Graduate Institute, Brattleboro, VT

Bachelor of Arts, International Education, Latin American Studies | St. Edwards University, Austin, TX

Correliante of Non-profit Board Correlling | Board Correl

Certificate of Non-profit Board Consulting | BoardSource

Change Management Certificate | University of Texas at Austin (expected March 2025)

# Bianca De Leon

February 4, 2025

Dionne Mack, City Manager City of El Paso

Subject: Statement of Interest for Museums and Cultural Affairs Board

Dear Ms. Mack,

I am writing to express my interest in serving on the Museums and Cultural Affairs Board. As a native El Pasoan with extensive experience in nonprofit leadership, program funding, and cross-cultural collaboration, I am deeply committed to fostering the growth and sustainability of El Paso's arts and cultural landscape.

Throughout my career, I have worked to secure and manage multimillion-dollar grant portfolios, including my role as Program Officer at the Paso del Norte Health Foundation, where I expanded initiatives across a binational network of over 45 partners. In my current role as Executive Director of Progress321 and as a nonprofit consultant, I specialize in strategic planning, program sustainability, and community engagement, all of which are critical to advancing cultural initiatives in El Paso.

My experience living in Massachusetts, Vermont, Arizona, and Oaxaca, Mexico, coupled with my work in binational partnerships, has provided me with a unique perspective on cultural preservation and artsdriven economic development. I am passionate about leveraging my expertise to enhance accessibility to arts and culture, promote diverse representation, and strengthen cross-border collaborations that benefit the region.

I would be honored to contribute my knowledge and experience to the **Museums and Cultural Affairs Board** and help shape initiatives that celebrate El Paso's rich cultural heritage while ensuring sustainable growth for future generations. Thank you for your time and consideration. I look forward to the opportunity to serve.

Sincerely,

Bianca De Leon

# Legislation Text

File #: 25-536, 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.

Members of the City Council, Representative Alejandra Chávez, (915) 212-0001

#### AGENDA LANGUAGE:

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

Pamela Soto to the Women's Rights Commission by Representative Alejandra Chávez, District 1.



# **Board Appointment Form**

City Clerk's Office

	A rear de Bretina I en reces					
Name of Board	Women's Rights Commission					
Date of Council Meeting	04/29/25					
Agenda Placement	Consent					
Appointing Office	lejandra Chávez, District 1					

#### Agenda Posting Language

Appointment of Pamela Soto to the Women's Rights Commission by Representative Alejandra Chávez, District 1.

Appointment Type Regular

# **Member Qualifications**

Ms. Soto has extensive experience in housing, socio-economic issues, and education, particularly through her work with the Housing Authority and Canutillo ISD. She has advocated for safe, affordable housing and equitable opportunities for families, ensuring positive impacts on women within their local communities.

Nominee Name	Pamela Soto
Nominee Email Address	
Nominee Residential Address	
Nominee Primary Phone Number	
Residing District	District 1
City Employed Relatives	N/A

**Board Membership** 

N/A

# Real estate owned in El Paso County

Previous Appointee Maxey Scherr

Reason for Vacancy Term Expired

Date of Appointment 04/29/25

Term Begins On 09/01/24

Term Expires On 08/31/26

Term Unexpired Term

# Pamela Soto

# PROFESSIONAL EXPERIENCE

Procedeo January 2025 - Current

Communications Manager

- Develop and implement communication strategies that align with the organization's goals and brand identity.
- Create compelling content for press releases, newsletters, social media, blogs, speeches, presentations, and internal communications.
- Manage media relations: build relationships with journalists, pitch stories, and serve as the point of contact for media inquiries.
- Oversee digital communications, including website content, email marketing, and social media platforms.
- Support crisis communications by preparing key messages, talking points, and statements. Collaborate across departments to ensure consistent messaging and support strategic initiatives.
- Measure the effectiveness of communication efforts and adjust strategies based on data and feedback.
- Coordinate events and public appearances to enhance the organization's visibility and community engagement.

# **Housing Opportunity Management Enterprise (HOME)** February 2018 – December 2024 PIO/Special Assistant to the CEO

- Managed relations with local, regional, and national media outlets; developed press releases, media advisories, and news stories to promote housing initiatives and programs.
- Developed and executed communication strategies for crisis management.
- Designed and implemented comprehensive communication plans to support housing initiatives, resident engagement, and community partnerships.
- Produced engaging content for social media platforms, newsletters, and other communication channels to promote the organization.
- Acted as a spokesperson for HOME, delivering presentations, speeches, and interviews to various audiences, including media, community groups, and government officials.
- Coordinated and managed company events such as ribbon cuttings, press conferences, and ground breakings.

# Compliance Coordinator

- Attended pre-bids and other meetings to provide an overview of Section 3 and Davis-Bacon compliance obligations on contracts prior to award.
- Reviewed the required compliance documents submitted by vendors for contract purposes, investigate vendor discrepancies, and conduct on-site visits to the project sites.
- Developed and implemented contractor's violation resolution plans to ensure compliance
- Gathered and collected data to analyze and create reports on expenditures, Section 3, and Davis-Bacon.

• Reviewed, analyzed, and compared certified payrolls of project site employees to ensure contractors follow the assigned prevailing wages.

# **High Ridge Construction Inc.**

January 2016 – February 2018

Project Manager and Administrator

- Assisted with project design and management for both private & government sectors.
- Managed projects to be on time, on budget, and with high-quality completion.
- Reviewed project documentation to ensure compliance with all applicable policies.
- Overviewed of construction costs and change order estimates.
- Scheduled workforce as necessary to ensure project completion.
- Managed all accounting and invoicing for assigned projects including payrolls.

# **Permian Sand Operations LLC**

November 2014 - January 2016

Office Manager

- Planned and implemented office operations, layouts, and procurement.
- Implemented office policies by establishing standards and procedures.
- Completed operational requirements by scheduling and assigning employees to each project.
- Prepared and executed invoices by verifying transaction information; scheduling and preparing disbursement.
- Ensured financial objectives by preparing the annual budget, scheduling expenditures, and analyzing variances.
- Conducted weekly payroll.

# **TEB Benefits Group Inc.**

April 2012 - October 2014

Account Manager

- Conducted day-to-day bookkeeping and administrative duties.
- Managed liaison between the company and vendors.
- Reviewed the financial aspects of product development, such as budgets, expenditures, and research.
- Managed ancillary benefits plan for each designated group.
- Conducted monthly benefits presentations for new employee orientations.
- Provided assistance with employee questions regarding benefits and process claims.
- Conducted monthly billing, invoicing, and payroll.

# **University of Texas at El Paso (UTEP)**

February 2009 – April 2012

Librarian (Work-study)

# **SKILLS**

- Bilingual (Spanish and English).
- Proficient in Microsoft Office, Adobe Premiere Pro, Creative Cloud and Yardi.
- Excellent analytical and communication skills.
- Crisis management
- Project coordinating and execution.
- Public speaking

# **EDUCATION**

# University of Texas at El Paso (UTEP) - El Paso, TX

Master of Science in Construction Management	2019
Bachelor of Business Administration in Marketing and International Business	2013

**AWARDS**• Texas NAHRO Media Recognition (2023)

# **ADDITIONAL ACTIVITIES**

UTEP Women in Business Association (WBA) 2011-2013 Board Member

# Legislation Text

File #: 25-540, 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.

Members of the City Council, Representative Cynthia Boyar Trejo, (915) 212-0004

#### AGENDA LANGUAGE:

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

James H. Green Jr. to the Veterans Affairs Advisory Committee by Representative Cynthia Boyar Trejo, District 4.



# Board Appointment Form City Clerk's Office

CITY OF IL 2450	Office					
Appointing Office	Cynthia Boyar Trejo, District 4					
Agenda Placement	Consent					
Date of Council Meeting	05/13/25					
Name of Board	Veterans Affairs Advisory Committee					
	Agenda Posting Language					
Appointment of James H. Gre Representative Boyar Trejo, [	en Jr. to the Veterans Affairs Advisory Committee by District 4.					
Appointment Type	Regular					
Member Qualifications						
Please see attached resume						
Nominee Name	James H. Green Jr.					
Nominee Email Address						
Nominee Residential Address						
Nominee Primary Phone Number						
Residing District	District 4					
City Employed Relatives	N/A					
	Board Membership					
N/A						
	Real estate owned in El Paso County					
N/A						
Previous Appointee	Jonathan Bohannon					
Reason for Vacancy	Term Expired					
Date of Appointment	04/29/25					
Term Begins On	06/29/25					
Term Expires On	06/28/29					
Term	First Term					

# **JAMES GREEN**

Disabled American Veteran Chapter Commander

#### PROFESSIONAL SUMMARY

Dedicated and results-oriented Disabled American Veteran Chapter Commander with 5 years of experience advocating for veteran rights and services. Proven track record in leading community initiatives, fostering strong partnerships with local organizations, and enhancing member engagement. Skilled in program development, strategic planning, and resource management to improve the quality of life for veterans and their families. Committed to empowering fellow veterans and promoting awareness of their needs and contributions.

### **EMPLOYMENT HISTORY**

# MILITARY BUSINESS LIAISON CONSULTANT

May 2019 - Jun 2019 El Paso

# Manpower Government Solutions

- Finds business opportunities (government contractors, military suppliers, etc.), and manages customer relationships within a military base environment.
- Directly responsible for the preservation and expansion of our customer base on Fort Bliss, TX.
- Has talent in sales, workforce systems and experience in Customer Service.

DRIVER Mar 2019 - May 2019

# Project Amistad

- Drive vehicles over specified routes or to specified destinations according to time schedules, complying with traffic regulations to ensure that passengers have a smooth and safe ride.
- Park vehicles at loading areas so that passengers can board.
- Inspect vehicles, check gas, oil, and water levels prior to and after departure.
- Announce stops to passengers.
- Assist passengers, such as elderly or disabled individuals, on and off bus, ensure they are seated properly, help carry baggage, and answer questions about bus schedules or routes.

# OPERATIONS DEVELOPMENT MANAGER

Jun 2013 - Mar 2019

#### United States Army

- Implemented updated course management plans to update formal training courses; designed training models that leveraged changes in technology, online learning systems, and classroom instruction.
- Trained instructors on updated instructional standards, record retention, and instructional techniques.
- Coordinated with work groups to perform needs and/or task assessment that determined training needs and most effective delivery method; tracked training for assigned units to maximize training opportunities.
- Generated training reports and analyzed results to adjusted training programs to achieve organizational objectives; prepared quarterly reports that covered logistics, instructor evaluations, and strategic plans.
- Provided technical training and instruction for over 1,080 Soldiers annually.
- Responsible for over \$1M worth of office equipment and supplies with no loss or damages reported.
- Responsible for performing and supervising preventive maintenance checks and services for over 18 military vehicles, six trailers and four generators with no down time or breakdowns reported.

## **EDUCATION**

**BACHELOR'S DEGREE** 

**ASSOCIATE'S DEGREE** 

Oct 2019

Excelsior College

Albany, New York

Central Texas College

Oct 2019

Texas

Major: Business Admin/Management

GPA: 3.38

MASTERS IN BUSINESS ADMINISTRATION AND MANAGEMENT Grand Canyon University

Jul 2024 - Present *Phoenix* 

# **SKILLS**

Training, Operations, Microsoft Office, Customer Service, Team Leadership,

# **LANGUAGES**

English (Highly proficient).

# ADDITIONAL INFORMATION

# **CERTIFICATES**

Mobile Notary Public Certified Mobile Notary Signing Agent Remote Online Notary Notary Permit Runner

# Legislation Text

File #: 25-541, 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. Members of the City Council, Representative Cynthia Boyar Trejo, (915) 212-0004

#### AGENDA LANGUAGE:

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

Celinda R. Crews to the Animal Shelter Advisory Committee by Representative Cynthia Boyar Trejo, District 4.



# Board Appointment Form

City Clerk	's Office					
Appointing Office	Cynthia Boyar Trejo, District 4					
Agenda Placement	Consent					
Date of Council Meeting	05/13/25					
Name of Board	Animal Shelter Advisory Committee					
Name of Board	-					
	Agenda Posting Language					
Appointment of Celinda R. C Representative Boyar Trejo,	Crews to the Animal Shelter Advisory Committee by District 4.					
Appointment Type	Regular					
	Member Qualifications					
Nominee Name	Celinda R. Crews					
Nominee Email Address						
Nominee Residential Address						
Nominee Primary Phone Number						
Residing District	District 4					
City Employed Relatives	N/A					
	Board Membership					
N/A						
	Real estate owned in El Paso County					
Previous Appointee	Terry M. Breaux					
Reason for Vacancy	Removed					
Date of Appointment	04/29/25					
Term Begins On	06/27/23					
Term Expires On	06/21/27					
Term	Unexpired Term					
	•					

#### **CURRICULUM VITAE**

## **PERSONAL DATA:**

Name: <u>Celinda Rae Crew</u>s

#### **EDUCATIONAL DATA:**

1982. Post-graduate course work.

1981. M.S., University of Texas at El Paso, Texas. Major - Biology.

1979. B.S., University of Texas at El Paso, Texas. Major – Biology; Minor - Chemistry.

1975. Graduated Kaiserslautern American High School, Kaiserslautern, Germany.

#### PROFESSIONAL EXPERIENCE:

**April 2014-present** Consultant, Undergraduate Research, Mosquito Ecology and Surveillance Laboratory, Biology Department, University of Texas at El Paso, El Paso, Texas.

**November 2005-August 2012** Manager for Institutional Research and Review, Institutional Animal Care and Use Administrator, Office of Research and Sponsored Projects, University of Texas at El Paso, El Paso, Texas. Responsible for following areas:

IACUC Coordinator. This position included professional, administrative, and clerical responsibilities for the UTEP Institutional Animal Care and Use Committee, including day-to-day interaction with the support staff working within the program and coordination with Principal Investigators. To ensure efficient committee operations, this portion of the position included setting meeting agendas, recording minutes, writing correspondence, maintaining the quality of data in the compliance databases, monitoring approval periods to prevent lapses, generating appropriate reports to Institutional Officials and federal regulatory agencies, organizing semiannual laboratory inspections and program reviews, initiating or assisting in developing policies and procedures, maintaining records for the Institution's Animal Program Council, managing the prompt reporting system for non-compliance incidents, and populating and maintaining the departmental web sites for all six components of the animal care program. A good working knowledge of the Association for the Assessment and Accreditation of Laboratory Animals International (AAALAC), PHS and USDA and sponsor guidelines as they relate to the use of animals in research was required.

## Training Coordinator.

This portion of the position included coordinating federally mandated species-specific webbased and hands-on training to include supervision of Laboratory Animal Technician/Trainers and students who assist in species-specific hands-on classes; developing and preparing educational material; coordinating specialized technique training; developing and maintaining a database for documenting training completions and deficiencies; coordinating Standard Operating Procedure development, updates, and revisions; assisting in the development and implementation of new training programs and other educational opportunities for the research

Crews

Abbreviated Vitae June 2022

community; and procuring media and supplies required for providing education and/or technique training.

Facility Manager. (This portion of the position was required during the initial establishment of the Veterinary Services Department and during a vacancy in the Attending Veterinarian position.) It included responsibility for several, independent, and comprehensive animal facilities to include the overall operation and management of the facilities to ensure that animal care was provided in accordance with state, federal, and university policies and regulations, and AAALAC accreditation standards. The position was directly involved in the management of animal care that had an impact on a multi-million dollar research budget funded by extramural and intramural sources. The success of these funded programs largely depended on the animal care program and the work of this position. Duties included the responsibility for overseeing husbandry personnel and related Human Resources matters; developing departmental policies. procedures and processes; managing the procurement and inventory control of all feed, bedding, and husbandry supplies for the department; training and implementing standard operating procedures; assuring that appropriate records and files related to facility operation and maintenance are properly maintained; developing and modifying employee work schedules; assisting investigators in problem solving; formulating budget proposals; selecting and managing the purchase of major equipment; and participating in the planning of new or renovated animal facility space.

**February 1988-November 2005** Building and Operations Manager (Sep 2001), Technical Staff Associate (Sep 1997), Technical Staff Assistant V, Biology Department, University of Texas at El Paso, El Paso, Texas. Responsible for following areas: facilities management to capital equipment control, internal and external equipment maintenance contracting, internal and external renovation contracting, security, safety compliance and training, liability considerations, overseeing stockroom operations, financial management of maintenance and operations and course fee budgets, and controlled substance management.

**March 2004-August 2005** Collaborated with Dr. Lillian Mayberry on a student research projects to trap and identify mosquito species on the University Campus in cooperation with the El Paso County Vector Control Program. Participants included students from the Senior Honors Program, special problems research, and Socorro High School.

**August 2004** Coordinated the facilities, equipment, and other logistical support for the first Bi-national, Texas Department of Health-provided Medical Entomology Training Course in El Paso. Attendees included professionals from El Paso, Juarez, Sunland Park, and Las Cruces.

#### **MILITARY EXPERIENCE:**

**March 1983-August 2011** Medical Service Corps Officer, United States Navy Reserves Promoted to Captain in 2001; retired reserve 1 September 2011. Assignments included:

02OCT01-07JAN01 Commanding Officer, Voluntary Training Unit (VTU) Navy Operational Support Center, El Paso, Texas

02OCT01-05SEP30 Assistant Director/Instructor, Navy Reserve Officer Leadership Team, Readiness Command South, Fort Worth, Texas

01OCT01-02SEP30 Member, VTU El Paso, Texas

00OCT01-01SEP30 Officer-in-Charge (OIC), NSA BAHRAIN, DET B, San Antonio, TX. Established new unit and prepared members for deployment to Naval Support Activity Bahrain, Central Command.

- 97OCT01-00SEP30 Director for Administrative Services, Naval Reserve Fleet Hospital, Dallas HQ. Responsible for the Patient Administration, Manpower Management, and Operating Management Departments for a 500-bed, 978-personnel, combat zone fleet hospital.
- 95OCT01-97SEP30 Training Officer/MOB: HD Patient Admin, Naval Reserve Fleet Hospital 500 Combat Zone Detachment Foxtrot (NR FH500 CBTZ21 DET F)
- 95FEB01-95SEP30 OIC/MOB: HD Patient Admin, NR FH500 CBTZ21 DET F
- 93OCT01-95JAN31 OIC/MOB: Asst HD Patient Admin, NR FH500 CBTZ21 DET F
- 90OCT01-93SEP30 AOIC/MOB: Patient Admin Off, NR FH500 CBTZ21 DET F
- 89OCT01-90SEP30 Admin Officer/MOB: Admin Officer, NR FH500 CBTZ21 DET F
- 88FEB01-89SEP30 Training Officer/MOB: Admin Officer, NR FH500 CBTZ21 DET F
- 87NOV01-88JAN31 Admin Officer/MOB: HD Patient Admin, Naval Hospital/Dental Clinic 0189 Naval Air Station (NAS) Whidbey Island
- 85NOV01-87OCT31 Training Officer/MOB: HD Patient Admin, NH/DCL 0189 NAS Whidbey Island
- 85MAR01-85OCT31 Admin Officer/MOB: HD Patient Admin, NH/DCL 0189 NAS Whidbey Island
- 84JUL01-94OCT31 Instructor, USNA Annapolis
- 83AUG01-84JUN30 Assistant Division Officer, Naval Aerospace Medical Institute
- 83FEB01-83JUL31 Student, Naval Aerospace Medical Institute

#### **HONORS AND PROFESSIONAL SOCIETIES:**

1996. Completed, with a class standing 1/30, the Navy Medical Entomology and Pest Management Technology Course, US Navy Disease Vector Ecology and Control Center, NAS Jacksonville, FL.

1988. Selected as one of 75 staff and faculty as a Diamond "Jubilee Gem" for noteworthy contribution to the University of Texas at El Paso.

#### **PUBLICATIONS:**

Harris, A. H., and C. R. Crews. 1983. Conkling's roadrunner--A subspecies of the California roadrunner? Southwestern Naturalist 28:407-412.

Metcalf, A. L., and C. R. Crews. 1982. A new species of fossil Oreohelix (Pulmonata: Oreohelicidae) from Otero County, New Mexico. Veliger 24:265-266.

Harris, A. H., and C. R. Crews. 1982. (ABSTRACT) Conkling roadrunner--A subspecies of the California roadrunner? New Mexico Journal of Science 22:50.

Fries, J. N., M. J. Fuller, and C. R. Crews. 1982. An albino long-tailed vole from New Mexico. Southwestern Naturalist 27:222.

Crews, C. R., and A. L. Metcalf. 1982. A new species of oreohelicid land snail from the San Agustin Plains, New Mexico. Proceedings of the Biological Society of Washington 95:256-264.

# Legislation Text

File #: 25-489, 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.

#### **District 1**

Tax Office, Maria O. Pasillas, (915) 212-0106

#### AGENDA LANGUAGE:

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

A refund to Christopher Jared Alires, in the amount of \$24,514.62, for overpayments made on January 11, 2025 of 2022 and 2023 taxes and January 21, 2025 of 2024 taxes. Geo. # D465-999-0090-2100. 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**



**DEPARTMENT:** Tax Office

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

**CONTACT PERSON NAME: Maria O. Pasillas PHONE NUMBER: 915-212-0106** 

**DISTRICT(S) AFFECTED: 1** 

**STRATEGIC GOAL:** 

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

SUBGOAL:

6.11 Provide efficient and effective services to taxpayers

# SUBJECT:

A refund to Christopher Jared Alires, in the amount of \$24,514.62, for overpayments made on January 11, 2025 of 2022 and 2023 taxes and January 21, 2025 of 2024 taxes. Geo. # D465-999-0090-2100. 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.

DEPARTMENT HEAD:	*********REQUIRED AUTH	Maria O. Pasillas 2025.04.11 15:58:08 -06'00'	
NAME		AMOUNT (\$)	
N/A			
REPORTING OF CONTRIBUTION OF	R DONATION TO CITY CO	DUNCIL:	
N/A			
AMOUNT AND SOURCE OF FUNDIN	IG:		
,			
PRIOR COUNCIL ACTION:  Council has considered this previously	on a routine basis.		
N/A			
COMMUNITY AND STAKEHOLDER	OUTREACH:		
Approve property tax overpayment re- Refunds of Overpayments or Erroneo	funds greater than \$2,500. us Payments.	00, per the Texas Property Tax Code, Sec. 31.11 –	
BACKGROUND / DISCUSSION:			

APR 0 2 2025

# 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

	402 10 10 10 10 10 10 10 10	APPLIC	ATION FOR T	AX REFU	ND		
The Con	solidated Tax Office col	lects proper	ty taxes for all elig	ible property	taxing entit	ies within El	Paso County.
APPLICANT MUST PRO	VIDE THE FOLLOWING INF	ORMATION:					
Refund To:		Phone:			Property ID# (One application per account)		
		HOME: 60	02-721-7213				=
Christopher Jared Alires		WORK:			642346		
		7	WORK.			D465-999-0090-2100	
Address (mail refund to	) 1	Property Address:			010 2000		
, and a second s		And/or Legal Description: 2112 Nearpoint Drive, EL Paso TX 79911					
38708 N 10th Street	t, Phoenix AZ 85086	Legal Descr	ription: 2112 Near	point Drive, I	EL Paso TX	79911	
Tax year requested:	Date payment made:	Check No. 6	& Date, if known:	Amount of ta	axes paid:	Amount	of refund requested:
1. 2022	01/11/2025	N.A.	T	\$11,291.39		\$11,291.39	
2. 2023	01/11/2025	N.A.		\$9,796.01		\$9,796.01	
3. 2024	01/21/2025	N.A.		\$3,427.22		\$3,427.22	
			ne above amounts)	\$24,514.62	)	\$24,514.62	
	. 011 12 / 1110 0	in loan or n	io abovo amountoj	I	***************************************		ed if over \$2,500)
	BEOLUBED:	Conv. of ori	iginal receipt, fron	DECEMBER CONTROL OF THE PARTY O	DAMESTON DESCRIPTION OF THE PROPERTY OF THE PR	MICHAEL CHARACTER CONTRACTOR	ed ij over \$2,500)
			ginai receipt, from n cleared (both thi				ml .
REASON FOR OV							
	t the time that the hous		k property taxes the				
	vned this home. The pr						
at the time. Since	e the sale of the proper	ty paid for ti	ne back property t	axes I am re	equesting m	y payments	pe retunded.
91					****		
r certify that int	ormation given to obt	ain this reti	und is true and c	orrect."			
0//	2	_					
The state of the s		<del></del>			Data: (	04/02/2025	
Requester signature:							
		. 1	,				
Christer	oher Jare	1 41	irre				
Printed name:	THE GALL		<i>_</i> ,,		Title:		
A A	ny person knowlngly submit	tina false entr	ies is subject to: /1) Im	ntisonment of	THE RESERVE OF THE PERSON NAMED IN COLUMN TWO	or \$5,000 fine	or hath
	up to one year, or fine not o						
			the taxpayer waives th				
TAX OFFICE Entry:	LIXPERI	IND APPROV	/ED				
TAN OFFICE CHUY:			LU				
Tax Office Approval:	~	nic				Date:	413125
E.M 41	3/25		×			Date:	
(Placed on City Cou	ıncil Agenda over \$2,50	00)					
( ) DISAPPROVE ( ) Required ( ) Record of		rned to send eceipt, Cand nd on this p	celed Check, Bank property.	See below/a Statement,		ot submitted	
***************************************							

# Legislation Text

File #: 25-490, 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) 212-0106

#### AGENDA LANGUAGE:

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

That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments exceeding the three (3) year limit. (See Attachment B)

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



**DEPARTMENT:** Tax Office

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

**CONTACT PERSON NAME: Maria O. Pasillas PHONE NUMBER: 915-212-0106** 

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:

That the tax refunds listed on the attachment posted with this agenda be approved. This action would allow us to comply with state law which requires approval by the legislative body of refunds of tax overpayments exceeding the three (3) year limit. (See

BACKGROUND / DISCUSSION:	
Approve property tax overpayment refunds exceeding the sta Sec. 31.11 – Refunds of Overpayments or Erroneous Payme	atutory three (3) year limit, per the Texas Property Tax Code, ents.
COMMUNITY AND STAKEHOLDER OUTREACH:	
N/A	
PRIOR COUNCIL ACTION:	
Council has considered this previously on a routine basis.	
·	
AMOUNT AND SOURCE OF FUNDING:	
N/A	
REPORTING OF CONTRIBUTION OR DONATION TO CITY	COUNCIL:
N/A	
NAME	AMOUNT (\$)
**************************************	JTHORIZATION************************************
1.	Maria O. Pasillas
DEPARTMENT HEAD: Maia O Pasillas	2025.04.11 16:00:39 -06'00'

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

**DEPARTMENT HEAD:** 

2025.04.11 16:00:39 -06'00'

# TAX REFUNDS OVER THREE (3) YEARS April 29, 2025

4	Oursland Tay Oursians III O in the annual of \$400.04 and be an annual and December	l
1.	. Corelogic Tax Services LLC, in the amount of \$192.31, made an overpayment on Decem 20, 2021 of 2021 taxes. (Geo. #P588-999-0020-1900)	iber
2.	. Rogelio Romero, in the amount of \$138.79, made an overpayment on January 31, 2022 of 2021 taxes. (Geo. #V893-999-0260-0300)	of
-	Maria O. Papillas	
	Laura D. Prine Maria O. Pasillas, RTA City Clerk Tax Assessor/Collector	



CITY TAX OFFICE

MARIA O. PASILLAS, RTA
CITY OF EL PASO TAX ASSESSOR COLLECTOR
221 N. KANSAS, STE 300
EL PASO, TX 79901
PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexassgor

JAN 28 2025

Geo No. P588-999-0020-1900 Prop ID 373493

Legal Description of the Property 2 PASEO ESCONDIDO N 29 FT OF S 29.62 FT OF 7 (3132 SQ FT)

342 VILLA CANTO ST

OWNER: PUJALS MARIO B & ROSA M

2021 OVERAGE AMOUNT \$192.31

CORELOGIC PO BOX 9205 COPPELL, TX 75019-9214

1: CITY OF EL PASO, 3: EL PASO ISD. 6: COUNTY OF EL PASO. 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO

Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party. you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

APPLICATION FOR PROPER	TY TAX REFUND:	This application must	be completed, signed.	and submitted with supp	forting documentation to be valid.	
Step 1. Identify the refund	Who should the refur	nd be issued to:				
recipient. Show information for whomever will be receiving the refund.	Name:	CORELOGIC TA	X SERVICES LLC	1+	See COLE OGIC'S	
	Address:	PO BOX 9202			10 Jos Atack	
	City, State, Zip: COPPELL TEXAS		S 75019		igon in	
	Daytime Phone No.:	817-699-2106		E-Mail Address:	shenshwetha@corelogic.co	
Step 2. Provide payment information. Please attach copy of cancelled check, original receipt, online	Payment made by:		Check No.	Date Paid	Amount Paid	
	Electronic Fund Tran	nsfer	RG211217205	4 12/20/2021	\$274,189,766.61	
	[					
payment confirmation or bank/credit card statement.	TOTAL AMOUNT PAID (sum of the above amounts)					
Step 3. Provide reason for this refund. Please list any accounts and/or years that you intended to pay with this overage.	Please check one of the following:					
	I paid this account in error and I am entitled to the refund.					
	I overpaid this account. Please refund the excess to the address listed in Step 1.					
	I want this payment applied to next year's laxes.					
	This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):					
Tlasianed applications cannot	By signing below, I hereby apply for the refund of the above-described taxes and certify that the information I have given on this form is true and correct. (If you make a false statement on this application, you could be found iguilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10.)					
	SIGNATURE OF RE	EQUESTOR (REQ Abhishek		PRINTED NAME & 03/03/2	V	
MAR 0 3 2025 RECEIVED FOR TAX OFFICE USE ONLY:	Approved	Denied I	Ву: Ю	Date:	3-5-25 V	

v52.1.9

Print Date: 07/12/2024

4. 1. 1. 13. 成年

# **RESOLUTION**

**WHEREAS**, pursuant to Section 31.11 (c) of the Texas Code an application for a refund must be made within three (3) years after the date of the payment or the taxpayer waives the right to the refund; and

WHEREAS, pursuant to Section 31.11 (c-1) the governing body of the taxing unit may extend the deadline for a single period not to exceed two years on a showing of good cause by the taxpayer; and

WHEREAS, taxpayer, Corelogic Tax Services LLC ("Taxpayer") has applied for a refund with the tax assessor for their 2021 property taxes that were overpaid on December 20, 2021in the amount of \$192.31 (One Hundred and Ninety-Two and 31/100 Dollars) for all taxing entities; and

WHEREAS, City Council may extend the deadline for the Taxpayer's application for the overpayment of the 2021 taxes for a period not to exceed two years on a showing of good cause by the taxpayer; and

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

THAT THE City finds that Corelogic Tax Services LLC showed a good cause to extend the deadline to apply for a refund of the overpayment of the 2021 taxes and the tax refund in the amount of \$192.31 (One Hundred and Ninety-Two and 31/100 Dollars) is approved.

APPROVED this	day of	, 2025.			
		CITY OF EL PASO:			
		Renard U. Johnson Mayor			
ATTEST:		Mayor			
Laura D. Prine City Clerk					
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:			
		Maria O. Pasillas			
Oscal Gomez		Maria Pasillas			
Assistant City Attorney		Tax Assessor/Collector			



MAR 1 0 2025

# MARIA O. PASILLAS, RTA CITY OF EL PASO TAX ASSESSOR COLLECTOR 221 N. KANSAS, STE 300 EL PASO, TX 79901

PH: (915) 212-0106 FAX: (915) 212-0107 Email: taxforms@elpasotexas.gov

Prop ID

V893-999-0260-0300

164633

Legal Description of the Property

26 VISTA DEL SOL #3 LOT 2

10902 LAKEWOOD AVE

ROMERO ROGELIO JR ROMERO MAGDALENA 10902 LAKEWOOD AVE EL PASO, TX 79925-.340

OWNER: ROMERO ROGELIO JR & MAGDALENA

2021 OVERAGE AMOUNT

1: CITY OF EL PASO, 5: YSLETA ISD, 6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL

Dear Taxpayer:

Our records indicate that an overpayment exists on the property tax account listed above as of the date of this letter. If you paid the taxes on this account and believe you are entitled to a refund, please complete the application below, sign it, and return it to our office. If the taxes were paid by your mortgage/title company or any other party, you must obtain a written letter of release in order for the refund to be issued in your name. If you did not make the payment(s) on this account, please forward this letter to the person who paid these taxes. You may also request the transfer of this overpayment to other tax accounts and/or tax years in the space provided or by attaching an additional sheet if necessary. Your application for refund must be submitted within three years from the date of the overpayment, or you waive the right to the refund (Sec. 31.11c). Governing body approval is required for refunds in excess of \$2500.

APPLICATION FOR PROPER	TY TAX REFUND: This application must be	completed, signed, an	nd submitted with support	ing documentation to be valid.					
Step 1. Identify the refund	Who should the refund be issued to:			<b>建</b>					
recipient. Show information for whomever will be receiving	Name: Kogelio ROMENO Address: 10902 ACENDOS AR								
the refund.	City, State, Zip: DASO T	X 799°	35	0.6					
	Daytime Phone No. (915) 355-7	109	E-Mail Address:	gerro mero 590					
Step 2. Provide payment	Payment made by:	Check No.	Date Paid	Amount Paid					
information.  Please attach copy of cancelled check, original receipt, online	Check Payment	103234	01/31/2022	. \$5,138.79					
payment confirmation or bank/credit card statement.	TOTAL AMOUNT PAID (sum of the above amounts)								
Step 3. Provide reason for	Please check one of the following:								
this refund. Please list any accounts and/or	paid this account in error and I am entitled to the refund.								
years that you intended to pay	I overpaid this account. Please refund the excess to the address listed in Step 1.								
with this overage.	I want this payment applied to next year's taxes.								
	This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):								
	·	Latert A	s. Saw						
Step 4. Sign the form. Unsigned applications cannot be processed.	By signing below, I hereby apply for the rechave given on this form is true and correct. guilty of a Class A misdemeanor or a state	( If you make a fal jail felony under th	se statement on this ap	oplication, you could be found sec. 37.10.)					
TAX OFFICE USE ONLY:	V Approved Denied By:	N.1	Date:	3-10-25					

Print Date: 07/12/2024

### RESOLUTION

**WHEREAS**, pursuant to Section 31.11 (c) of the Texas Code an application for a refund must be made within three (3) years after the date of the payment or the taxpayer waives the right to the refund; and

WHEREAS, pursuant to Section 31.11 (c-1) the governing body of the taxing unit may extend the deadline for a single period not to exceed two years on a showing of good cause by the taxpayer; and

WHEREAS, taxpayer, Rogelio Romero through Rogelio Jr and Magdalena Romero ("Taxpayer") has applied for a refund with the tax assessor for their 2021 property taxes that were overpaid on January 31, 2022in the amount of \$138.79 (One Hundred and Thirty-Eight and 79/100 Dollars) for all taxing entities; and

WHEREAS, City Council may extend the deadline for the Taxpayer's application for the overpayment of the 2021 taxes for a period not to exceed two years on a showing of good cause by the taxpayer; and

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

THAT THE City finds that Rogelio Romero showed a good cause to extend the deadline to apply for a refund of the overpayment of the 2021 taxes and the tax refund in the amount of \$138.79 (One Hundred and Thirty-Eight and 79/100 Dollars) is approved.

2025

APPROVED this	day of	, 2025.
		CITY OF EL PASO:
		Renard U. Johnson Mayor
ATTEST:		
Laura D. Prine City Clerk	_	
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:
		Maria O. Pasillas
Oscar Gomez	<b>→</b> ;	Maria Pasillas
Assistant City Attorney		Tax Assessor/Collector

ADDDOVED 41.

### ATTACHMENT B

### TAX REFUNDS OVER THREE (3) YEARS April 29, 2025

1. Corelogic Tax Services LLC, in the amount of \$192.31, made an overpayment on December 20, 2021 of 2021 taxes. (Geo. #P588-999-0020-1900)

2. Rogelio Romero, in the amount of \$138.79, made an overpayment on January 31, 2022 of 2021 taxes.

(Geo. #V893-999-0260-0300)

Maria O. Pasillas

Maria O. Pasillas, RTA Tax Assessor/Collector

Laura D. Prine City Clerk

# El Paso, TX

# Legislation Text

File #: 25-504, 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 Manager's Office, Bonnie Cordova, (915) 212-1092

### AGENDA LANGUAGE:

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

For notation only, Special Projects, Discretionary fund expenditures, and P-Card Transactions for the period of February 21, 2025 - March 20, 2025 for Mayor, City Council Representatives, City Attorney's Office, City Manager's Office and staff.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
2nd CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:		
COMMUNITY AND STAKEHOLDER OUTREACH:		
PRIOR COUNCIL ACTION:		
AMOUNT AND SOURCE OF FUNDING:		
REPORTING OF CONTRIBUTION OR DONATION TO CITY	COUNCIL:	
NAME	AMOUNT (\$)	-
		_
********REQUIRED A	JTHORIZATION************************************	
DEPARTMENT HEAD:		

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMOUNT	DESCRIPTION
CITY ATTORNEY	Garcia Sandra	Tx Oag Open Records	3/19/2025	\$ 7.5	to upload ORR for AG opinion
CITY ATTORNEY	Garcia Sandra	Tx Oag Open Records	3/19/2025	\$ 7.5	to upload ORR for AG opinion
CITY ATTORNEY	Garcia Sandra	Tx Oag Open Records	3/17/2025	\$ 7.5	to submit ORR for AIG opinion
CITY ATTORNEY	Garcia Sandra	Ut Cont Legal Educ	3/11/2025	\$ 795.0	JAQ to learn land use case law updates, possible legislative updates, hear from other city attorneys about land use issues as well as from land use planners, engineers, and developers' attorneys.
CITY ATTORNEY	Garcia Sandra	Springhill Suites San	3/7/2025	\$ (0.0	credit hold for Hotel stay
CITY ATTORNEY	Garcia Sandra	Southwes	3/4/2025	\$ 248.9	The annual land use conference provides the continuing legal education credits needed for my State of Texas Bar License.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/17/2025	\$ 7.5	Fee for uploading documents to the AG.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/12/2025	\$ 7.5	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/12/2025	\$ 7.5	Fee for uploading documents to the AG.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/11/2025	\$ 7.5	Fee for uploading documents to the AG's office.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/10/2025	\$ 7.5	Fee for uploading documents to the AG.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/10/2025	\$ 7.5	Fee for uploading documents to the AG.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/7/2025	\$ 7.5	
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/7/2025	\$ 7.5	
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/7/2025	\$ 7.5	

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMC	UNT	DESCRIPTION
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/6/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/6/2025	\$	7.50	Fee for uploading documents to AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/5/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/5/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/5/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/5/2025	\$	7.50	Receipt for uploading documents to the AG.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/4/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	3/3/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/27/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/27/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/26/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/26/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/25/2025	\$	7.50	Fee for uploading documents to the AG protal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/25/2025	\$	7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/24/2025	\$	7.50	Fee for uploading documents to the AG.

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMOUNT	DESCRIPTION
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/24/2025	\$ 7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/21/2025	\$ 7.50	Fee for uploading documents to the AG portal.
CITY ATTORNEY	Scott Belinda	Tx Oag Open Records	2/20/2025	\$ 7.50	Fee for uploading documents to the AG portal.
CITY MANAGER	Albright Paul.D	Radisson Hotel El Paso	3/18/2025	\$ 2,308.00	Food for reception for 2025 BVFCE
CITY MANAGER	Albright Paul.D	Hyatt Centric Austin Dt	2/20/2025	\$ 729.57	Approved travel to Austin to attend El Paso Days with SLA
CITY MANAGER	Albright Paul.D	Uber *trip	2/20/2025	\$ 24.95	Uber to Airport during approved travel to Austin for El Paso Days with SLA
CITY MANAGER	Argumedo Angel	Delta Air	3/18/2025	\$ 258.18	Flight for M. D'Agostino for Metro Fire Chief Conference.
CITY MANAGER	Argumedo Angel	Southwes	2/28/2025	\$ (611.57)	Southwest canceled and credited M. D'Agostino's flight for the Metro Fire Chief Conference.
CITY MANAGER	Beard Jackie	Universal Graphics	2/26/2025	\$ 1,550.00	Folders for New Employee Orientation. Purchase approved by Rosemary Crawford. Approved invoice attached as well as receipt.
CITY MANAGER	Beard Jackie	Dc	2/19/2025	\$ 344.98	Effective Supervisory Practices Training Series Books purchased and approved by Rosemary Crawford.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	3/17/2025	\$ 12.98	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Envato	3/16/2025	\$ 645.00	Annual subscription for use of stock video, audio and graphics for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	3/13/2025	\$ 38.94	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	3/14/2025	\$ 38.94	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Zoom.Com 888-799-9666	3/11/2025	\$ 15.99	For use to conduct interviews with media and for community outreach programming.

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMOUNT	DESCRIPTION
CITY MANAGER	Cruz-Acosta Laura	Eig	3/7/2025	\$ 628.00	E-newsletter programming for community outreach about City TV programming and City events/services
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	3/7/2025	\$ 45.43	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	3/5/2025	\$ 64.90	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	2/28/2025	\$ 51.92	Subtitles and captions for City TV programming.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	2/26/2025	\$ (32.45)	Subtitles and captions for City TV programming. NOTE THIS ORDER WAS MADE ON FEB. 25, 2025, BUT WAS VOIDED.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	2/25/2025	\$ 32.45	Subtitles and captions for City TV programming. NOTE: THIS ORDER WAS VOIDED ON 02/26/2026.
CITY MANAGER	Cruz-Acosta Laura	Rev.Com	2/21/2025	\$ 45.43	Closed captioning and subtitles for City TV programming.
CITY MANAGER	D Agostino Mario M	Hyatt Centric Austin Dt	2/20/2025	\$ 853.59	Hotel stay for DCM D'Agostino for El Paso Days in Austin.
CITY MANAGER	Esquivel Luz	Big Media	3/3/2025	\$ 26.91	Purchase 2 name plates for the Council photo hanging in the hallway 2nd floor near the council department.
CITY MANAGER	Esquivel Luz	Hobby-Lobby #0221	2/24/2025	\$ 100.63	Custom frame for the current Council. Photo to be hung at City Hall 2nd Floor by the Council Departments offices.
CITY MANAGER	Isaias Ricardo	Apple.Com/Bill	2/26/2025	\$ 9.99	Extra storage for videos and photos for City iPhone. Storage is needed to maintain photos and videos of City events archived for future use for CITY TV use.
CITY MANAGER	Lozano Martha	Crowne Plaza Chandler	3/5/2025	\$ 44.66	CM Mack travel to Large Cities Executive Forum
CITY MANAGER	Lozano Martha	Crowne Plaza Chandler	3/1/2025	\$ 528.44	CM Mack travel to Large Cities Executive Forum
CITY MANAGER	Martinez Omar	Government Finance Off	2/27/2025	\$ 985.00	Approved Martinez registration June 25
CITY MANAGER	Martinez Omar	Southwes	2/27/2025	\$ 762.36	Travel approved Martinez June 25

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMOUNT	DESCRIPTION
CITY MANAGER	Martinez Omar	Hyatt Centric Austin Dt	2/20/2025	\$ 853.59	Travel approved Martinez June 25
CITY MANAGER	Sepulveda Denice	Currency Conversion Fee	3/18/2025	\$	This is the additional conversion rate from Slido. Receipt submitted for the 210.00. This charge was because we used a credit card. Please see the receipt. For CM office live polling.
CITY MANAGER	Sepulveda Denice	Sli Do	3/18/2025	\$ 210.00	Program for live polling used for the City Managers FY 2026 Budget Retreat for City Council and Leadership
CITY MANAGER	Sepulveda Denice	Target 00022160	2/24/2025	\$	Supplies for our February Human Centered Design City Workshop
CITY MANAGER	Voglewede Stephen	Hamilton Hotel Dc	3/13/2025	\$	Hotel for NLC
DISTRICT 01	Johnson Theresa	Paypal	3/11/2025	\$ 136.03	Purchase of embroidered Polo Shirts for Rep Chavez (3), Gladys Acosta (2) & Theresa Johnson (2) for use when at community events.
DISTRICT 02	Carlos Diego	Canva* I04444-57573594	3/3/2025	\$	graphic design, office newsletters and flyers
DISTRICT 02	Carlos Diego	Mailchimp	3/3/2025	\$	newsletter services
DISTRICT 02	Carlos Diego	Hyatt Centric Austin Dt	2/20/2025	\$ 853.59	Hotel for advocacy travel
DISTRICT 02	Carlos Diego	Hyatt Centric Austin Dt	2/20/2025	\$ 853.59	Hotel for advocacy travel
DISTRICT 03	Maldonado-Rocha Deanna	Canva* I04455-48340580	3/14/2025	\$	Monthly charge for graphic design making service for D3 office.
DISTRICT 03	Maldonado-Rocha Deanna	Eig	3/5/2025	\$ 56.00	Monthly charge for email distribution service for D3 office newsletter.
DISTRICT 03	Maldonado-Rocha Deanna	Sams Club #6502	2/26/2025	\$ 39.14	Provided some snacks for our Bi-weekly Community Meeting
DISTRICT 03	Maldonado-Rocha Deanna	Openai *chatgpt Subscr	2/24/2025	\$	One time charge for chatbox, used for D3 staff.
DISTRICT 04	Trejo Cynthia	Hyatt Centric Austin Dt	2/20/2025	\$	Hyatt Hotel from the EP Days in Austin event.

DEPARTMENT	CARDHOLDER	VENDOR	TRAN DATE	AMOUNT	DESCRIPTION
DISTRICT 05	Fraga Gabriela	Eig	3/14/2025	\$ 22.38	This purchase was made to make monthly subscription for our District 5 Newsletter.
DISTRICT 05	Fraga Gabriela	Hyatt Centric Austin Dt	2/20/2025	\$	El Paso Days in Austin, TX, February 2025, District #5
DISTRICT 05	Nino Ivan	Hyatt Centric Austin Dt	2/20/2025	\$	EL PASO DAYS -HOTEL - TRAVEL APPROVED PER RESOLUTION 1/22/25
DISTRICT 06	Maldonado Mariaelena	Eig	3/4/2025	\$	Constant Contact yearly subscription. Used to send out district 6 newsletters
DISTRICT 06	Maldonado Mariaelena	Gannett Media Co	2/25/2025	\$	El Paso Times newspaper subscription
DISTRICT 08	Abbas Tatiana	In *tovar Printing, Inc.	2/26/2025	\$	Printing of business cards for sharing District 8 contact information.
DISTRICT 08	Canales Jorge	Sqsp* Inv173950721	3/16/2025	\$ 20.00	District 8 office newsletter subscription.

# CITY COUNCIL SPECIAL PROJECTS OR DISCRETIONARY FUNDS EXPENDITURES

### **MARCH 2025**

DISTRICT	VENDOR	DATE	AMOUNT	DESCRIPTION
DISTRICT 6	Mariaelena Maldonado	3/10/2025	\$ 3,659.12	Reimburse EP Days in Austin

# El Paso, TX

# Legislation Text

File #: 25-529, 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 Josh Acevedo, (915) 212-0002

#### 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 2 discretionary funds, in an amount not to exceed \$1,200.00, to provide food for a public event during a Mother's Day celebration at Memorial Senior Center on May 9, 2025.

### CITY OF EL PASO, TEXAS AGENDA ITEM AGENDA SUMMARY FORM



DEPARTMENT:	Mayor & Council	

**AGENDA DATE**: 04/29/2025

CONTACT PERSON NAME Representative Josh Acevedo PHONE NUMBER: 915-212-0002

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 4 - Enhance El Paso's Quality of Life

SUBGOAL:

SUBJECT: Discussion and action to authorize the expenditure of District 2 discretionary funds, in an amount not to exceed \$1,200.00, to provide food for a public event during a Mother's Day celebration at Memorial Senior Center on May 9, 2025

### **COMMUNITY AND STAKEHOLDER OUTREACH:**

Multiple constituents have contacted my office to help sponsor a Mother's Day luncheon at the Memorial Senior Center.

### REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:

NAME	AMOUNT (\$)	DATE		

### BACKGROUND / DISCUSSION:

This event is open to El Paso seniors to celebrate Mother's Day.

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Yes.

### AMOUNT AND SOURCE OF FUNDING:

### RESOLUTION

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

That the City Council declares that the expenditure of District 2 discretionary funds in an amount not to exceed \$1,200.00 to be used for the purchase of meals to be served to the public on Mother's Day at the Memorial Senior Center on May 9, 2025, and serves the municipal purpose of enhancing the quality of the life of the citizens of El Paso, and by fostering community pride and encouraging civic engagement; and

That the City Manager be authorized to effectuate any budget transfer necessary to ensure that the funds are properly expended for such purpose and to execute any related agreements and amendments to such agreements.

APPROVED this	day of	, 2025.
		THE CITY OF EL PASO:
ATTEST:		Renard U. Johnson, Mayor
Laura D. Prine, City Clerk		
APPROVED AS TO FORM:		
Ignacio R Troncoso		

**Assistant City Attorney** 

# El Paso, TX

## Legislation Text

File #: 25-539, 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 Art Fierro, (915) 212-0006

#### 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 expenditure of District 6 discretionary funds in an amount not to exceed SIX THOUSAND FOUR HUNDRED DOLLARS (\$6,400.00) towards the costs of equipment rental, movie license fees, permits, staff time and other related items necessary for the support of the "Movies in the Park" event, a series of movie nights in parks located within District 6, and declares that this expenditure serves the municipal purpose of providing recreational and cultural activities to the residents of and visitors to the City of El Paso, which benefits the community and instills community pride.

### **CITY OF EL PASO, TEXAS AGENDA ITÉM AGENDA SUMMARY FORM**



DEPARIMENT:	
AGENDA DATE:	
CONTACT PERSON NAME	PHONE NUMBER:
2nd CONTACT PERSON	PHONE NUMBER:
3rd CONTACT PERSON	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

COMMUNITY AND STAKEHOLDER OUTREACH:								
REPORTING OF CONTRIBUTION OR DO	NATION TO CITY COUNCIL:							
NAME	AMOUNT (\$)	DATE						
BACKGROUND / DISCUSSION:		<u>'</u>						
PRIOR COUNCIL ACTION:								
AMOUNT AND SOURCE OF EUNDING:								
AMOUNT AND SOURCE OF FUNDING:								

#### RESOLUTION

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

That the City Council authorizes the expenditure of District 6 discretionary funds in an amount not to exceed SIX THOUSAND FOUR HUNDRED DOLLARS (\$6,400.00) towards the costs of equipment rental, movie license fees, permits, staff time and other related items necessary for the support of the "Movies in the Park" event, a series of movie nights in parks located within District 6, and declares that this expenditure serves the municipal purpose of providing recreational and cultural activities to the residents of and visitors to the City of El Paso, which benefits the community and instills community pride; and

That the City Manager or designee is authorized to accept donations for sponsorship of the event, to negotiate and sign contracts as approved by the City Attorney, to execute any related documents, to effectuate any budget transfers and to appropriate and ensure that the funds are properly expended for the municipal purpose.

<b>APPROVED</b> his day of _	, 2025.
	CITY OF EL PASO:
	Renard U. Johnson
ATTEST:	Mayor
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	
Volesta Bisto	
Roberta Brito	

Senior Assistant City Attorney

# El Paso, TX

# Legislation Text

File #: 25-543, 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**

Members of the City Council, Representative Art Fierro, (915) 212-0006 Members of the City Council, Representative Deanna Maldonado-Rocha, (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 amend the Resolution scheduling standing Council meetings and Work Sessions in accordance with the El Paso Municipal Charter.

### **CITY OF EL PASO, TEXAS AGENDA ITÉM AGENDA SUMMARY FORM**



DEPARTMENT:	
AGENDA DATE:	
CONTACT PERSON NAME	PHONE NUMBER:
2nd CONTACT PERSON	PHONE NUMBER:
3rd CONTACT PERSON	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

COMMUNITY AND STAKEHOLDER OUTREACH:								
REPORTING OF CONTRIBUTION OR DO	NATION TO CITY COUNCIL:							
NAME	AMOUNT (\$)	DATE						
BACKGROUND / DISCUSSION:		<u>'</u>						
PRIOR COUNCIL ACTION:								
AMOUNT AND SOURCE OF EUNDING:								
AMOUNT AND SOURCE OF FUNDING:								

#### RESOLUTION

WHEREAS, Section 3.5(A) of the El Paso City Charter, as approved by the voters on November 3, 2015, requires that Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution:

WHEREAS, Section 3.5(A) of the Charter also allows "special meetings and informal work sessions of the Council [to] be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk";

WHEREAS, on December 1, 2015, Council established the regularly scheduled meetings, and also resolved to call standing Monday City Council Work Sessions;

WHEREAS, on June 16, 2023 the City Council adopted a Resolution to allow one standing Monday City Council Work Session and Agenda Review meeting per month and;

WHEREAS, City Council desires to return to two Work Session and agenda review meetings twice per month on the regular work day preceding a regularly scheduled City Council Meeting.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY **COUNCIL AS FOLLOWS;** 

#### 1. STANDING CITY COUNCIL WORK SESSIONS.

Commencing on Monday, April 8, 2024May 12, 2025, and continuing every other Monday thereafter, the El Paso City Council shall conduct a standing work session for the purpose of reviewing the agenda prior to the Tuesday Regular City Council Meeting and any other matter which a Council Representative and/or the City Manager determine is appropriate for a Monday City Council Work Session, or Executive Session items as determined appropriate by the City Attorney. However, if there is a City holiday or other closure on such Monday, City Council will conduct the standing work session on Tuesday of that same week.

2. All City Council Rules and Procedures not expressly modified herein remain in full force and effect.

Page 1 of 2

\*\*Signatures are in next page\*\*

HQ24-2465|Trans# 514813 City Clerks Resolution Work Session 2024 RTA

Passed and Approved this day of _	, 202 <u>5</u> 4.		
	CITY OF EL PASO		
	Oscar LeeserRenard U. Johnson Mayor		
ATTEST:			
Laura D. Prine City Clerk			
APPROVED AS TO FORM:			
Russell T. Abeln Senior Assistant City Attorney	-	<b>-</b>	Formatted: Space After: 8 pt, Line spacing: M
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HQ24-2465 Trans# <u>514813</u>  City Clerks		<b>←</b>	Formatted: Centered, Space After: 8 pt, Line s Multiple 1.08 li
Resolution Work Session <del>2024</del> RTA		Page 2 of 2	

# El Paso, TX

# Legislation Text

File #: 25-544, 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.

### **All Districts**

Members of the City Council, Representative Art Fierro, (915) 212-0006 Members of the City Council, Representative Deanna Maldonado-Rocha, (915) 212-0003

### AGENDA LANGUAGE:

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

Discussion and action amending the Rules of Order to set the time for ceremonial items, agenda items, and citizen participation.

### **CITY OF EL PASO, TEXAS AGENDA ITÉM AGENDA SUMMARY FORM**



DEPARTMENT:	
AGENDA DATE:	
CONTACT PERSON NAME	PHONE NUMBER:
2nd CONTACT PERSON	PHONE NUMBER:
3rd CONTACT PERSON	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

COMMUNITY AND STAKEHOLDER OUTREACH:								
REPORTING OF CONTRIBUTION OR DO	NATION TO CITY COUNCIL:							
NAME	AMOUNT (\$)	DATE						
BACKGROUND / DISCUSSION:								
PRIOR COUNCIL ACTION:								
AMOUNT AND SOURCE OF FUNDING:								

### RESOLUTION ADOPTING THE RULES OF ORDER FOR THE EL PASO CITY COUNCIL REVISED, AS EFFECTIVE DECEMBER 12, 2023

### SECTION 1. PURPOSE OF RESOLUTION

This Resolution is adopted pursuant to Section 3.5.B of the Charter of the City of El Paso as a procedural guide for the benefit of the City Council and for the general information of the public. These rules shall apply to regular, special, and work session meetings at which action is to be taken, but shall not apply to meetings for committees of the City Council or to informational gatherings of the Council. The Rules of Debate shall apply in Executive Session.

### SECTION 2. RULES OF ORDER

Robert's Rules of Order Revised shall govern the procedures of Council unless they are in conflict with these rules.

### SECTION 3. EFFECT OF FAILURE TO FOLLOW THESE RULES

No action of the Council that is otherwise legal shall be invalidated merely by reason of the failure of the Council or City staff to follow these Rules of Order, unless the majority of the Council agrees that such action shall be invalidated.

### **SECTION 4. STANDING**

No one other than a member of the City Council shall have standing to assert before the Council that any action taken by the Council is invalid by reason of the Council's failure to comply with these Rules of Order.

### SECTION 5. SUSPENSION OF RULES

These rules may be suspended temporarily by a majority of the Council members present and voting, except as they pertain to a quorum, or to the majority required for any motion, or to other matters pre-empted by laws other than those Rules of Order.

### SECTION 6. PRESIDING OFFICER

The Mayor shall preside at all meetings of the City Council, but if for any reason he is absent from the City, sick or unable to act, then the Mayor Pro Tempore shall preside at such meetings and at such times shall exercise all of the powers and discharge the duties of the Mayor, except that the Mayor Pro Tempore shall vote as a Representative. In the absence or inability of both the Mayor and the Mayor Pro Tempore, the Alternate Mayor Pro Tempore shall preside and shall vote as a Representative. Upon the arrival of the Mayor, the Mayor Pro Tempore or the Alternate Mayor Pro Tempore, the acting chairman shall immediately relinquish the chair upon the conclusion of the business immediately pending before the Council.

HQ2023-City Clerk-392 | TRAN#508367 | RTA Resolution Amending the Rules of Order for City Council Meetings The presiding officer shall preserve strict order and decorum at all regular and special meetings of the Council, and shall state questions coming before the Council as necessary for clarity, and shall announce the decision of the Council on all subjects. The Presiding Officer shall disable the microphone at the podium when he determines that the speaker has violated council rules of order.

### **SECTION 7. QUESTIONS OF ORDER**

All questions of order shall be decided by the presiding officer with the right of appeal from his or her decision to the Council that is present, the majority of whom, present and voting, may override the decision.

### SECTION 8. VOTING

The electronic voting system shall be utilized for the casting of the roll call votes of the Council in Council Chambers except as otherwise provided herein. The City Clerk shall call for an electronic vote and each Representative shall, without undue delay, cast his or her vote on the electronic voting system. When all votes have been cast, the City Clerk will review, announce and display the results of the voting, and staff will capture the display on the digital recording of the meeting or fully read the results into the record. In the event of a tie vote, the City Clerk will announce the results and call for the Mayor's vote before displaying the results. Any error in voting or any discrepancy between the display of the votes and the City Clerk's announcement of the results shall be corrected prior to the time that the Council proceeds to consider the next agenda item.

The requirements under this section for the use of the electronic voting system shall be automatically suspended under the following circumstances and for the duration as announced by the City Clerk: (a) upon the announcement of the City Clerk that the electronic voting system is not working properly; (b) for votes on procedural matters including motions to recess and to take an agenda item out of order, and votes by acclamation; (c) when the Council is voting on more than one agenda item simultaneously; and (d) when more than one vote will be taken pertaining to an agenda item and in such instance, the City Clerk shall announce which vote shall be taken by use of the electronic voting system and which vote(s) shall be taken only by voice vote.

In the event that the use of the electronic voting system is suspended or the system is otherwise not available, the City Clerk shall call the roll beginning with the Representative seated furthest to the Mayor's right and continuing in that order. Each Representative shall audibly indicate his or her vote.

Records of all roll call votes shall be incorporated in the Minutes of the meeting.

### SECTION 9. RECORDED DEBATE

A Representative may request, through the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Council entered in the Minutes or to attach any document referenced during a Council meeting to the Minutes. The recording secretary may be directed by the presiding officer to enter in the Minutes a synopsis of the discussion on any question coming before the Council.

HQ2023-City Clerk-392 | TRAN#508367 | RTA Resolution Amending the Rules of Order for City Council Meetings

### SECTION 10. ORDER OF PRECEDENCE OF MOTIONS

The order of procedure of motions is set forth in Exhibit "A" attached hereto and fully incorporated by reference.

### SECTION 11. MOTION TO RECONSIDER

A motion to reconsider any action taken by the Council may be made at any time prior to adjournment of the same meeting at which such action was taken. The motion can only be made by a member who voted with the prevailing side and can be seconded by any member.

### SECTION 12. OBTAINING THE FLOOR

Every person desiring to speak shall address the presiding officer, and when recognized by the presiding officer, shall address only the item under consideration. Members of Council shall refrain from side conversations during discussion of items under consideration.

For Regular City Council Meetings, in the debate, each member of Council has the right to speak twice on the same item on the same day, but cannot make a second speech on the same item as long as any member who has not spoken on that question desires the floor. No one can speak longer than ten minutes at a time without permission of a majority of Council. The City Clerk will keep time and will notify the Mayor if a Representative reaches the allotted time. The Rules of Debate shall also apply in Executive Session.

During Work Sessions, Special meetings, or Agenda Review meetings, there will not be a limit to the time allowed for each Representative to have the floor, and the Presiding officer has discretion to end discussion on an item, or to give the floor to another representative.

### SECTION 13. RIGHT OF CITIZENS TO BE HEARD

Public Hearings/Agenda Items:

Any member of the public shall have a reasonable opportunity to be heard at all public hearings of the City Council in regard to any and all matters to be considered at such hearings that are germane and relative to any subject matter of City affairs or business which is within the scope of the authority and legislative functions of the City Council. Provided, however, that the time allowed for each citizen's appearance before City Council will be limited to a fixed number of minutes at the discretion of the presiding officer. Members of the public will usually be granted three (3) minutes to present their position on issues. If a member of the public addresses City Council through a translator into English, he or she will be granted six (6) minutes to present. Time will be kept by the City Clerk. The presiding officer may grant a speaker additional time at his or her discretion.

Call to the Public Comment/Non Agenda Items:

A maximum of sixty (60) minutes will be allotted for a public comment portion of each regular City Council meeting. The City Council will designate time to allow members of the public to have a reasonable opportunity to provide comment on items not already posted on the agenda, except that no person shall engage in political advertising contrary to state law. Persons wishing to provide comment during the public comment portion of the City Council agenda must sign up prior to 9:00

HQ2023-City Clerk-392 | TRAN#508367 | RTA Resolution Amending the Rules of Order for City Council Meetings a.m. on the day of the City Council meeting either online or by using the sign-in sheet for the public outside of Council Chambers on the day of the Council meeting up until 9:00 a.m. Any person signing up to provide comment during the public comment portion of the agenda must provide their name, address, phone number, and a short description of the topic(s) of their comment. Members of the public are required to speak on the topic identified upon the sign-in sheet. If the speaker is a lobbyist, he or she must indicate that fact on the audience participation sheet and prior to commencing his/her comments in compliance with the City's Lobbying Ordinance. Members of the public may not grant their time to another nor may they purport to speak for another who is not present at the meeting. If someone would like a document or letter to become a part of the record, they may do so by providing the City Clerk with copies of the document or letter no later than 9:00 a.m. on the morning of the meeting, which will be distributed to the Council. It shall not be necessary to read the letter into the record. Interpretation services are only to be provided by the certified interpreter provided by the City.

A document camera and projection system ("Overhead Projector") is available for use for public comment on posted items and call to the public. Members of the public shall submit any document they wish to present on the Overhead Projector to the City Clerk no later than close of business on the previous City business day before the meeting date. Any document that contains insulting, profane, threatening or abusive language, nudity, or campaign material will be rejected. City Staff will assist members of the public in using the Overhead Projector during the meeting. In order to ensure cyber security, members of the public are prohibited from sending or utilizing presentations in any electronic format, including but not limited to email, and from using a Universal Serial Bus (USB) compact disk (CD) or digital versatile disk (DVD) for public comment and call to the public. A member of the public who wishes to make an electronic presentation may bring printed documents to the City Clerk's office no later than close of business on the previous City business day before the meeting date to be scanned for presentation during the meeting.

To facilitate the receiving of comment from as many citizens as possible who are interested in bringing topics forward to the City Council for comment, a person may sign up to obtain one-time slot to speak or otherwise make a presentation on one or more specified topics during the public comment portion of a City Council meeting. This provision does not restrict any member of the public from signing up to speak on items posted on the regular agenda or to ask questions regarding items posted on the consent agenda.

The time allotted for the public comment portion of the agenda shall be uniformly divided among those who have signed up to obtain a time slot and participate and except as provided below, no speaker will have more than three (3) minutes to speak or otherwise make a presentation, regardless of the number of topics a speaker wishes to address within his or her time slot. At the beginning of the public comment portion of the agenda, the City Clerk will make one announcement as to the amount of time that each person has to provide comment. The City Clerk will call each person signed up to make comment to the podium in the order that they signed up to speak and will keep time. Each topic brought forward will be for comment from the speaker and may not be deliberated by the members of Council nor rebutted or debated by members of the public. Any member of the City Council may propose that the topic commented on be posted by staff on a future Council meeting agenda for the Council's discussion and action.

The presiding officer at his or her discretion may grant a speaker one (1) additional minute to wrap up his or her comments regardless of whether the allotted sixty (60) minutes will otherwise be taken up by the others making comment.

Members of the public wishing to ask a question regarding an item posted on the consent agenda or to speak regarding an item posted on the regular agenda must sign up prior to 9:00 a.m. on the day of the City Council meeting. The City Clerk shall make available the sign-in sheet for the public outside of Council Chambers on the day of the Council meeting up until 9:00 a.m. or online prior to 9:00 a.m. Persons may sign up to address multiple items, however this does not mean it is permissible to "mark all" or to sign up for every item "just in case" they wish to speak when the discussion on an item takes place. If a member of the public wishes to speak regarding an item, but did not sign up by 9:00 am, he or she may notify the City Clerk up until such time that the public comment portion of the item has concluded.

Members of the public who do not desire to speak but want to register support or opposition to an item on the agenda may do so by indicating their position on the audience participation form. The City Clerk will notify the Council of the number of position statements received and the tally when the agenda item is announced.

At the time that the consent agenda is taken up for consideration, the City Clerk shall advise the Mayor Pro Tempore whether persons in the audience have signed up to ask a question regarding an item posted on the consent agenda. The Mayor Pro Tempore shall have the floor and may ask the City Clerk to call those individuals up to the podium to hear their questions. At that time, the City Clerk will announce the agenda item number and call the person to the podium. The Mayor Pro Tempore may request the City Manager to respond to the questions raised by the members of the public. In his or her discretion, the Mayor Pro Tempore may move the consent agenda item to the regular agenda for continued discussion and action by the City Council.

Members of Council may move to overrule the determinations by the Mayor Pro Tempore under this section by a simple majority vote of the Council members present and voting.

No person may speak a second time except by permission of the presiding officer, and further, no person shall be heard a second time until all persons desiring to speak once have been given the opportunity to do so.

Personal attacks are not permitted. Members of the public should address their questions to the Council, not to the staff. Council may in turn ask staff to provide input.

Members of the public may be asked to leave or be removed from Council Chambers if it is determined that they are disruptive to the meeting. Such determination will be made by the presiding officer. Members of Council may move to overrule such determination by the presiding officer subject to a simple majority vote of Council, present and voting.

### SECTION 14. CALLING AND ORDER OF AGENDA ITEMS

Executive Session will be scheduled at the end of the meeting or other such time as determined by the Council. The Invocation and Pledge of Allegiance will take place no sooner than 9:00 a.m. Thereafter, the proceedings will take place as specified on the Attached Exhibit "B".

Items accepting or acknowledging donations to the City will be taken prior to consideration of the consent agenda. Items removed from the consent agenda by the Mayor Pro Tempore or at the request of other Council members will be considered at the time when items for the related department are being considered or as otherwise requested by the Mayor Pro Tempore. The introduction of ordinances will be considered first on the regular agenda, followed by the procurement items posted on the regular agenda by the Financial Services and/or Engineering and Construction Management departments, and any reports or updates from the City's Committees, Boards and Commissions.

Notwithstanding the above provisions, the City Manager shall direct the placement of all matters relating to the City Council's adoption of the annual City budget and associated matters relating to the start of each new fiscal year and the adoption of the tax levy on one or more agendas so as to meet all required statutory and charter deadlines.

At the time that each agenda item is to be considered by the City Council, the City Clerk will announce all agenda items by number and a brief statement as to the nature of the item when appropriate. In the case of a revision, the City Clerk or staff shall read the item into the record, as appropriate.

### **SECTION 15. PARLIAMENTARIAN**

The City Clerk and the Assistant City Clerk are confirmed to serve as Parliamentarian and Alternate Parliamentarian, respectively.

### SECTION 16. USE OF ELECTRONIC DEVICES

Electronic devices within Council chambers shall be used in accordance with all established City practices and procedures and as directed by Information Technology Department staff providing support services during a meeting. City staff, other than the dignitary protection officers, and members of the public shall turn off the signals of all pagers, cellular telephones and other devices capable of making an audible signal and shall not make or take any telephone calls while in Council chambers once a Council meeting has been called to order.

Members of the City Council may only use electronic devices for the matters pertinent to the meeting taking place. No use of personal cellular devices, nor personal communication, should take place on the dais, nor while participating virtually, while the meeting is in session. The use of communication devices of any kind, including but not limited to: hand-held portable communication devices, cellphones, computers, tablets, laptops, watches, etc. is expressly prohibited during City Council meetings and shall not be allowed in the room during closed sessions unless they are being used to aid in executive session presentations.

If the City Council member needs to take a telephone call, respond to a text message, etc. during a meeting, he or she must excuse themselves from the dais or room where the closed session is taking

HQ2023-City Clerk-392 | TRAN#508367 | RTA Resolution Amending the Rules of Order for City Council Meetings

Page 6 of 9

place to engage in that communication.

The use of the desktop computers during City Council shall be limited to voting, viewing presentations, research to aid the council member and communication via email to staff. During meetings, City Council members shall not text, tweet, blog, post on Facebook, Instagram or use any other social media platform.

### SECTION 17. TIME AND LOCATION OF MEETINGS AND VIRTUAL ATTENDANCE

The Mayor and Council may by action of Council approved by a majority of Council, reschedule the time and place of any City Council meeting in accordance with the requirements of the Texas Open Meetings Act.

Members of Council may attend City Council meetings by video conference in accordance with the Texas Open Meetings Act 551.127, as may be amended. Such requires that a quorum of City Council be present at the physical meeting location posted on the agenda.

Members of Council may request virtual attendance no earlier than three months in advance. Any member wishing to attend by video conference must notify the City Clerk no later than noon on the Wednesday prior to the relevant meeting, and the City Clerk shall post notice of which member(s) will appear by video conference on the City Council Agenda. In the case of personal emergency, a member of Council may request to appear virtually after the Wednesday deadline by notifying the City Clerk no later than 5 p.m. on the business day prior to the meeting, and in this instance the videoconference attendance will be included on the list of revisions to the agenda. Videoconference attendance is granted on a first-come first-serve basis. At no time shall more than two members of Council appear by videoconference. Members of Council shall not request to attend by videoconference more than one regular meeting week in a row without prior approval of Council.

Each participant's face in the videoconference call, while speaking, must be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the location where a quorum is present, and at any other location of the meeting that is open to the public. Any council member appearing by videoconference call will be considered absent during any portion of the meeting the audio or video is lost or disconnected in accordance with Texas Government Code Section 551.127. However, City Council members may not participate in executive sessions by videoconferencing.

(Signatures on the following page)

ADOPTED this 12 day of DECEMBER

, 2023.

CITY OF EL PASO:

Oscar Leeser

Mayor

ATTEST:

APPROVED AS TO FORM:

Laura D. Prine City Clerk Russell T. Abeln

Russell Abeln

Senior Assistant City Attorney

### EXHIBIT "A" ROBERTS RULES CHEAT SHEET

То:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until"	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until"	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by"	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that"	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

То:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table"	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to"	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider"	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

HQ2023-City Clerk-392 | TRAN#508367 | RTA Resolution Amending the Rules of Order for City Council Meetings

Page 9 of 9

### **EXHIBIT "B"**

The El Paso City Council Agenda items will be posted in the following order for all meetings of the El Paso City Council at which items of the listed categories will be discussed. If there are no items regarding a listed category, that category will be skipped.

- 1. Roll Call
- 2. Invocation and Pledge of Allegiance
- 3. Ceremonial items: Proclamations and Recognitions \*
- 4. Consent Agenda
- 5. Council Member Requested Items
- 6. Operational Focus Updates
- 7. Regular Agenda
- 8. Executive Session

### Call to the Public/Public Comment/Non-Agenda Items:

- Will take place at 12:00 noon during every regularly scheduled Tuesday City Council Meeting.
- · Call to the Public is for items not posted on the agenda for the City Council meeting.
- If necessary, Council will interrupt the Meeting or delay consideration of Executive Session items posted on its City Council agenda, to hear Call to the Public at 12noon.

Public Comment/Agenda Items is allowed on any posted item at any meeting of the El Paso City Council in accordance with Section 13 of these Rules of Order.

\* Ceremonial items will consist of the reading of a proclamation, an introduction to the Mayor and Council and a photograph. Members of the public and individuals and organizations receiving proclamations and recognitions are not expected to address council.

### El Paso, TX

### Legislation Text

File #: 25-546, 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.

#### **All Districts**

Animal Services Department, Terry Kebschull, (915) 212-8742

#### AGENDA LANGUAGE:

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

Animal Shelter Advisory Committee annual update.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
2nd CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:				
COMMUNITY AND STAKEHOLDER OUTREACH:				
PRIOR COUNCIL ACTION:				
AMOUNT AND SOURCE OF FUNDING:				
REPORTING OF CONTRIBUTION OR DONATION TO CITY (	COUNCIL:			
NAME	AMOUNT (\$)			
<u> </u>	<u>.                                    </u>			
**************************************				
REQUIRED AUTHORIZATION				
DEPARTMENT HEAD:				

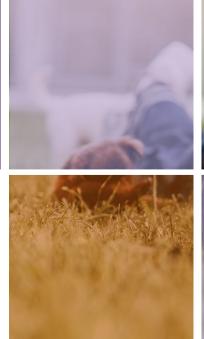
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**Animal Shelter Advisory Committee** 

# Annual Report

Calendar Year 2024

City of El Paso, TX









## ASAC 2022-2025 Strategic Plan

### Mission

The Animal Shelter Advisory
Committee will advise, support, and advocate for the wellbeing of all animals in the El Paso community.

### Vision

El Paso will be the leader in animal welfare.

## Strategic Goals

- Support the City of El Paso's initiative to reach and sustain a 90% or greater live-release rate by 2025.
- Engage ASAC members on best practices in Animal Health, Welfare, and Technology by providing community and shelter support for all animals.
- Promote education and community engagement in Animal Health and Welfare.
- Research and advise on effective ordinances and policies to improve overall health, welfare, and safety for animals.
- Advance population stability practices in the community.

- Work in concert and engage with animal welfare organizations, El Paso Animal Services, EPVMA, and regional governmental entities to develop and recommend proactive and progressive disease control measures.
- Foster the development and expand collaboration of partners to meet the mission.

• Emergency Response with a Disaster

- Preparedness Plan and the transition return to normal operations.
- Engage with City Council on priorities and concerns of the ASAC.

## Committee Membership in 2024

Member	Appointed By	Joined	Left	Meetings Attended	Possible Meetings
Chris Canales (Chair)	Mayor (City Council Position)	Active at year start	Active at year end	10	10
Ileene Mendoza	District 1	Active at year start	Active at year end	10	10
Ruby A. Montana	District 2	Active at year start	Active at year end	10	10
Sandra DiFrancesco	District 3	Active at year start	Active at year end	10	10
Ron Comeau	District 4	Active at year start	May 2024	4	5
Terry M. Breaux	District 4	June 2024	Active at year end	6	6
Alejandra Valdez	District 5	April 2024	Active at year end	7	7
Barbara Candelaria (Vice Chair)	District 6	Active at year start	Active at year end	10	10
Mary Bardouche	District 7	October 2024	Active at year end	3	3
Elvira Stephanie Frias	District 8	Active at year start	Active at year end	9	10
Dr. Patricia Riley	Mayor (Veterinarian Position)	Active at year start	May 2024	5	5
Dr. Raquel Ellis	Mayor (Veterinarian Position)	November 2024	Active at year end	2	2





### 2024 By The Numbers

### 11 Meetings Held





35
Total
Agenda Items
Discussed

New Members Welcomed

**Total Meeting Duration** 

17 hours & 11 minutes





### What Was Discussed?

### **Westside Adoption Center Renovation and Expansion**

The committee frequently discussed the ongoing renovations and planned expansions at the Westside Adoption Center. Topics included the timeline for construction, improvements to kennel space, the addition of a veterinary suite, and its potential role as a second full-service Animal Services location. Members also discussed ongoing funding and operational considerations for the expanded facility.

### **Return to Owner (RTO) Strategies**

The committee focused on increasing RTO rates by improving shelter practices and community awareness. Strategies included better public access to microchip scanners, utilizing social media for lost pet alerts, and engaging with rescue groups to assist in reunification efforts. The impact of behavior assessments on RTO rates was also reviewed.

### **Mobile Microchip Scanner Subcommittee Progress**

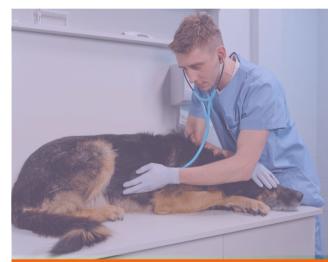
A dedicated subcommittee worked throughout the year to improve lost pet reunification by increasing access to mobile microchip scanners. Discussions covered logistics such as where scanners should be placed, partnerships with local businesses, and the feasibility of an online map showing scanner locations. The committee also explored potential funding sources to support expansion efforts.

### **Overcrowding and Euthanasia Rates**

The shelter's capacity challenges and euthanasia rates were a major focus. Members discussed intake trends, the impact of limited foster/adoption options, and ways to reduce euthanasia rates through increased community engagement. Concerns about large dogs staying in the shelter for extended periods were especially prevalent.

### **Animal Services Budget and Funding Sources**

The committee discussed how City funding and external grants could support key programs, including veterinary staffing, pet adoption incentives, and infrastructure improvements. There were discussions on how to allocate resources effectively, as well as the impact of budget constraints on shelter operations.





### **Frequently Raised Concerns**

### **Stray Animal Welfare**

The welfare of stray animals, particularly their access to shelter, food, and medical care, was a frequent concern. The committee explored ways to improve community education about responsible pet ownership and stray management, as well as partnerships with rescue organizations.

### **Spay/Neuter Programs and Veterinary Availability**

The lack of affordable spay/neuter services and the shortage of veterinarians in El Paso were persistent challenges. Members discussed ways to expand access to these services, including partnerships with local clinics and mobile spay/neuter units.

### **Public Education and Outreach**

Increasing community awareness about responsible pet ownership, adoption, and lost pet reunification was a major focus. The committee considered various outreach strategies, including educational events, social media campaigns, and school partnerships.

### City Ordinance Clarifications (e.g., Title 7, Animal Trapping)

Members frequently raised questions about City ordinances related to animal control, including regulations on trapping, breeding, and public safety concerns. Discussions centered on potential ordinance updates, enforcement challenges, and improving clarity for residents navigating animal-related laws.

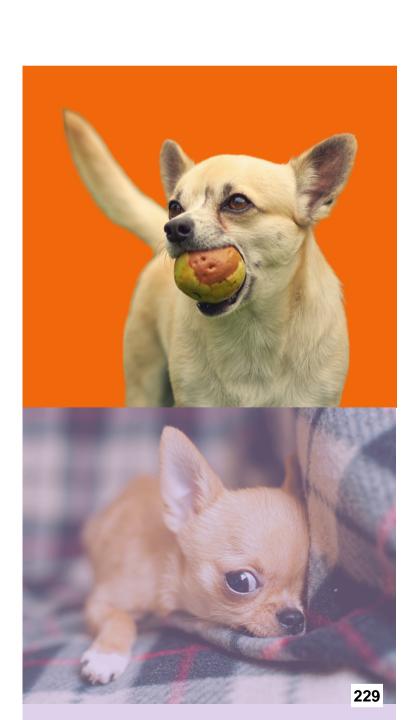


# The ASAC's Recommendations to the City Council

The Animal Shelter Advisory Committee (ASAC) serves as an advisory body to the City Council, providing guidance on policies and initiatives that impact the welfare of animals in El Paso. Our primary responsibility is to review and recommend improvements to the City's animal services, shelter operations, and public policies that affect both pets and the broader community.

Throughout 2024, the ASAC has engaged in in-depth discussions on key issues, including shelter overcrowding, pet reunification efforts, spay/neuter initiatives, and community education on responsible pet ownership. The recommendations outlined in this report reflect the most pressing needs identified during our meetings and are intended to support the City's goal of achieving and sustaining a 90% or greater live-release rate by 2025.

These recommendations are based on extensive discussions with Animal Services leadership, community stakeholders, and data-driven assessments of shelter trends. By implementing these strategies, the City can improve animal welfare, enhance public engagement, and build a more effective and sustainable animal services system.



### **Recommendation #1:**

# Continue Progress on the Westside Adoption Center Conversion

Given the ongoing renovations and discussions about turning the Westside Adoption Center into a full-service shelter, the committee recommends proceeding through Phase II of construction at the fastest possible pace, constructing veterinary facilities, and ensuring operational sustainability at the new location.

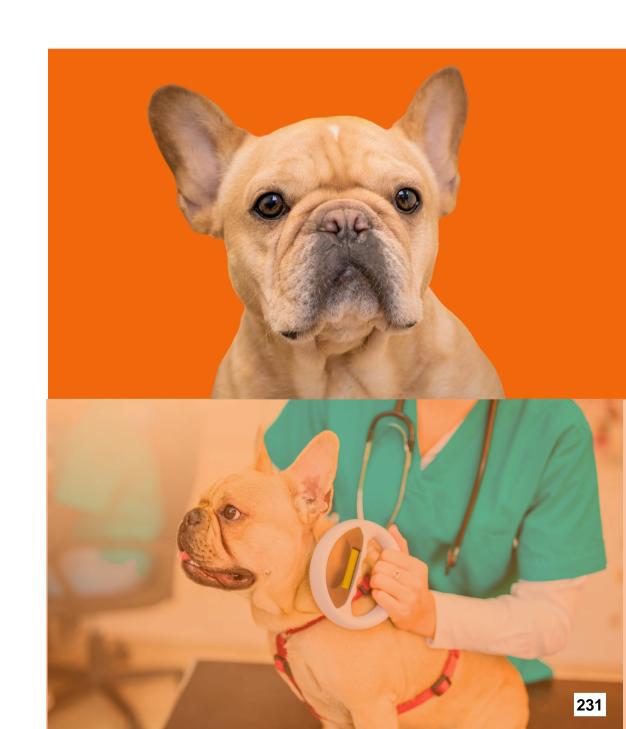


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### Recommendation #2:

# Expand the Mobile Microchip Scanner Program

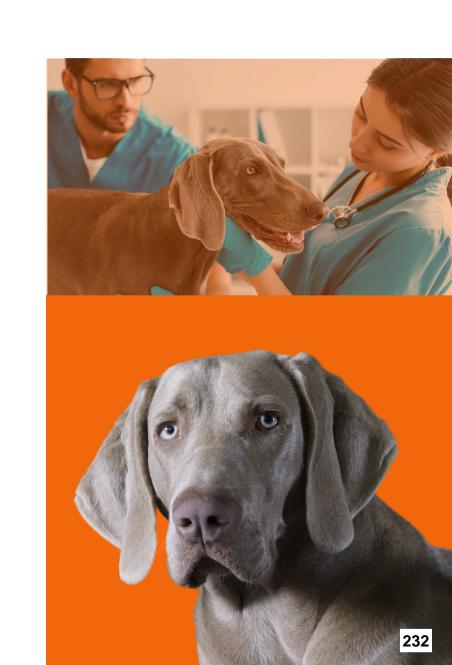
To improve Return to Owner (RTO) rates, the committee recommends funding for additional mobile microchip scanners at key locations, potentially including veterinary clinics, pet supply pantries, and community centers. This could also involve an expanded online directory or app for residents to locate nearby scanners.



### Recommendation #3:

# Enhance Public Education and Outreach on Pet Ownership and Ordinances

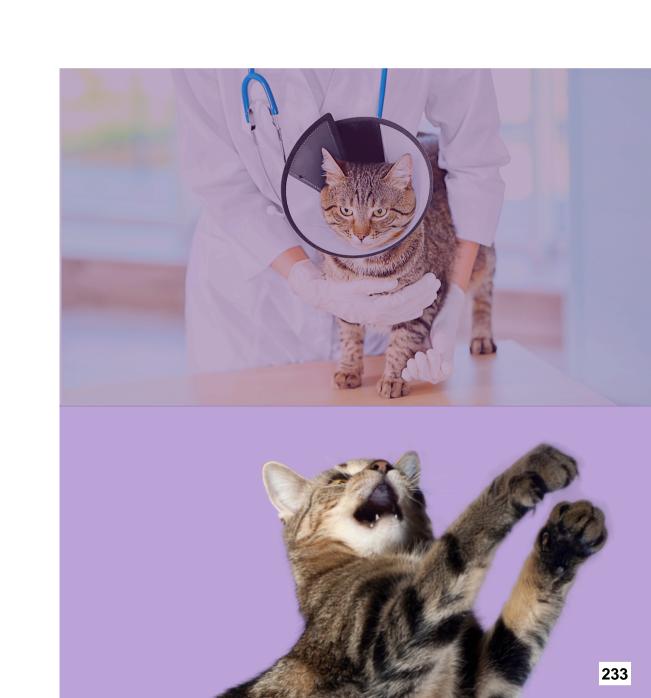
After frequent discussions on stray animal welfare, adoption concerns, and City ordinances (Title 7 of the Municipal Code), the committee proposes a citywide outreach campaign on responsible ownership. This could include educational workshops, multilingual resources, and partnerships with schools to improve public understanding of pet ownership responsibilities.



### Recommendation #4:

# Develop and Fund a Comprehensive Spay/Neuter Program

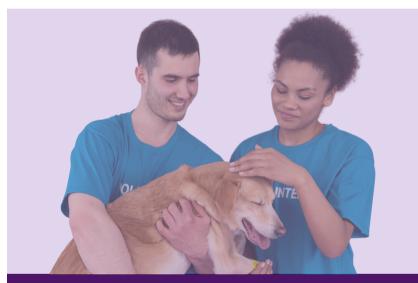
Given concerns about overcrowding, at-risk animals, and euthanasia, the committee recommends allocating City resources to expand low-cost spay/neuter services. This could include expanded mobile clinics and Spay-a-Thon programming, financial incentives for pet owners, and partnerships with local veterinarians to address staffing shortages.



### Recommendation #5:

# Implement a Structured Adoption Follow-Up Program

In response to concerns about post-adoption welfare and tracking, the committee recommends a structured follow-up system, either using a digital platform like Petszel (which is currently being tested) or by Animal Services staff checking in directly with adopters. This could ensure that pets are not returned or abandoned and help identify adopters in need of additional support.





### Recommendation #6:

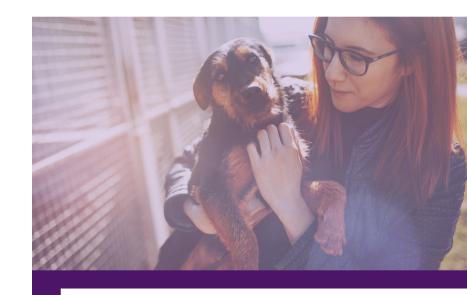
# Support and Strengthen Trap-Neuter-Return Programs for Cats

To better manage El Paso's stray cat population, the committee recommends increasing funding and resources for Trap-Neuter-Return (TNR) initiatives. This could include expanding low-cost spay/neuter services, improving access to humane trapping equipment, and strengthening partnerships with local animal welfare groups. Additionally, a public education campaign could help residents understand the benefits of TNR in reducing feral cat populations and euthanasia rates while ensuring humane treatment of community cats.



## Special Thanks

- Terry Kebschull Director of Animal Services
- Michael Wachsmann Animal Services Assistant Director
- Dr. Antony Chacon Animal Services Chief Veterinarian
- Adan Parra Animal Services Staff
- Maria Arciniega Animal Services Staff
- Michele Anderson Animal Services Staff
- Gina Ramirez Animal Services Staff
- Veronica Frescas Animal Services Staff
- Julieanne Newbold Animal Services Staff
- Wesley Walker Animal Services Staff
- Kristen Gurrola Animal Services Staff
- Josette Flores City Attorney's Office
- Carlos Armendariz City Attorney's Office



# Questions?

### El Paso, TX

### Legislation Text

File #: 25-535, 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 Planning and Inspections, Philip F. Etiwe, (915) 212-1553

#### AGENDA LANGUAGE:

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

An Ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions), Chapter 20.08 (Appendix A), Table of Permissible Uses, Chapter 20.10 (Supplemental Use Regulations), and (Appendix C) Table of Parking Requirements and Standards of the El Paso City Code to support the goals and priorities of downtown redevelopment, add definitions, disallow incompatible uses within the C-5 (Commercial) Zoning District, and allow uses supportive of high-density development. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

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



**DEPARTMENT:** Economic and International Development

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE: 5/28/25** 

**CONTACT PERSON NAME:** Karina Brasgalla **PHONE NUMBER:** (915) 212-0094

**DISTRICT(S) AFFECTED:** District 8

**STRATEGIC GOAL:** 

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

### SUBGOAL:

1.6 Provide business-friendly permitting and inspection processes

### SUBJECT:

An Ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions), Chapter 20.08 (Appendix A), Table of Permissible Uses, Chapter 20.10 (Supplemental Use Regulations), and (Appendix C) Table of Parking Requirements and Standards of the El Paso City Code to support the goals and priorities of downtown redevelopment, add definitions, disallow incompatible uses within the C-5 (Commercial) Zoning District, and allow uses supportive of high-density development. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

BACKGROUND / DISCUSSION:				
COMMUNITY AND STAKEHOLDER OUTREACH:				
PRIOR COUNCIL ACTION:				
AMOUNT AND SOURCE OF FUNDING:				
REPORTING OF CONTRIBUTION OR DONATION TO CITY OF	COUNCIL:			
NAME	AMOUNT (\$)			
	\'\'			
*******REQUIRED AUT	THORIZATION************************************			
DEPARTMENT HEAD:				

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

ORDINANCE NO.
---------------

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (GENERAL PROVISIONS AND DEFINITIONS), CHAPTER 20.08 (APPENDIX A), TABLE OF PERMISSIBLE USES, CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS), AND (APPENDIX C) TABLE OF PARKING REQUIREMENTS AND STANDARDS OF THE EL PASO CITY CODE TO SUPPORT THE GOALS AND PRIORITIES OF DOWNTOWN REDEVELOPMENT, ADD DEFINITIONS, DISALLOW INCOMPATIBLE USES WITHIN THE C-5 (COMMERCIAL) ZONING DISTRICT, AND ALLOW USES SUPPORTIVE OF HIGH-DENSITY DEVELOPMENT. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

**WHEREAS**, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and,

**WHEREAS,** on June 23, 2023, the El Paso City Council adopted the Uptown, Downtown, and Surrounding Neighborhoods Master Plan; and

**WHEREAS,** in the adopting resolution, the El Paso City Council directed the City Manager to begin the implementation of the Plan; and

WHEREAS, the proposed amendments address definitions, supplemental use regulations, permitted uses, and parking requirements for properties located within the C-5 (Commercial) zoning district; and

WHEREAS, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

WHEREAS, the El Paso City Council has determined that this amendment is in the best interest of the public and will promote the public health, safety and welfare of the City;

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

**SECTION 1:** That Title 20, Zoning, Chapter 20.02, General Provisions and Definitions, of the El Paso City Code be amended as follows:

Add the following definitions:

20.02.273 "Corner store" means a retail, general service, arts design and creation, or eating and drinking establishment. It can include general retail, a food store, or an establishment with an art focus. Cooking on-site is not allowed for corner grocery stores.

20.02.1091 "Movie theater drive-in (outdoor)" means a place of public entertainment for the purpose of exhibition of motion picture or live performance of cultural programming. Drive-in Theater, motion picture means a theater that may or may not provide seating inside and its principal character is to provide

parking spaces for motor vehicles.

**SECTION 2:** That Title 20, Zoning, Chapter 20.08. Permissible Uses, Section 20.08.030 C. Appendix A—Table of Permissible uses, of the El Paso City Code be amended as follows:

### Amend the following sections:

- 2.15 Self storage warehousing shall only be permitted by right in the following districts: all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; all of the Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; Manufacturing Districts M-1, M-2, and M-3; by Detail Site Plan in the following Special Purpose Districts S-D, P-C, P-I; by Master Zoning Plan in Special Purpose Districts G-MU, I-MU, R-MU; and prohibited in all other districts.
- 3.03 Child care facility, type 3 shall only be permitted by special permit in the following districts: all of the Residential Districts R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; all of the Commercial Districts C-OP, C-1, C-2, C-3, C-4, C-5; and in the following Special Purpose Districts S-D, U-P, P-C; by Master Zoning Plan in Special Purpose District G-MU; prohibited in all other districts.
- 5.28 Recycling collection facility (large) shall only be permitted by right in the following districts: Commercial District C-4; and all Manufacturing Districts Q, M-1, M-2, and M-3; by Master Zoning Plan in Special Purpose Districts G-MU and I-MU; and prohibited in all other districts.
- 5.29 Recycling collection facility (small) shall only be permitted as an accessory use in the following districts: Commercial Districts C-OP, C-1, C-2, C-3, C-4; all Manufacturing Districts Q, M-1, M-2, M-3; Special Purpose Districts S-D, U-P, P-C, P-I, R-MU, G-MU, I-MU; prohibited in all other districts.
- 7.03 Drilling gas well shall only be permitted by special permit in the following districts: all of the Residential Districts R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in the Commercial Districts C-OP, C-1, C-2, C-3, C-4; Manufacturing Districts M-1, M-2, and M-3; and in the following Special Purpose Districts R-F, S-D, and P-C; prohibited in all other districts.
- 7.04 Drilling oil well shall only be permitted by special permit in the following districts: all of the Residential Districts R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, all of the Apartment Districts A-1, A-2, A-3, A-4, A-O A-3/O, A-M; in the Commercial Districts C-OP, C-1, C-2, C-3, C-4; Manufacturing Districts M-1, M-2, and M-3; and in the following Special Purpose Districts R-F, S-D, and P-C; prohibited in all other districts.
- 7.08 Shaft mining shall only be permitted by special permit in the following districts: all of the Manufacturing Districts Q, M-1, M-2, and M-3.
- 10.11 Laundromat, laundry (>5,000 square feet) shall only be permitted by special permit in the following districts: Apartment Districts A-3, A-4, A-O, A-3/O; Commercial Districts C-OP; and Special Use District SRR; by right in the following districts: Commercial Districts C-1, C-2, C-3, C-4; by Detail Site Plan in the

following districts: Special Purpose Districts S-D, U-P, P-C; by Master Zoning Plan in Special Purpose Districts R-MU and G-MU; and prohibited in all other districts.

11.41 Shooting range, archery or gun (outdoor) shall only be permitted by right in the following districts: Commercial Districts C-2, C-3, C-4, Manufacturing Districts M-1, M-2, M-3, by Master Zoning Plan in Special Purpose District I-MU; and prohibited in all other districts.

14.091 Corner Store shall only be permitted by right in the following districts: Apartment Districts A-O and A-O-3; Commercial Districts C-OP, C-1, C-2, C-3, C-4, and C-5; Special Purpose Districts U-P and SRR; by Detail Site Plan in the following Special Purpose Districts S-D, P-RI, P-RII, P-C, P-I; by Master Zoning Plan in Special Purpose Districts R-MU, G-MU, I-MU; and prohibited in all other districts.

14.43 Warehouse club shall only be permitted by right in the following districts: in the Commercial Districts C-3, C-4; Manufacturing Districts M-1; and prohibited in all other districts.

**SECTION 3:** That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, of the El Paso City Code be amended as follows:

### Delete:

20.10.100 Bakeries (Reserve Section)

20.10.170 Custom Shops (Reserve Section)

20.10.190 Dry Cleaning - line 1

20.10.300 Laundromats (20.10.300)

20.10.380 Multi-family Dwellings (Reserve Section)

20.10.390 - Neighborhood commercial uses (SRR District) (Reserve Section)

Add the following Section:

20.10.185 Drive-thru Facilities

A principal use shall not be permitted to have a drive-thru facility under the following conditions:

A. The property is located within the C-5 (Commercial) zoning district.

Amend the following Sections:

20.10.610 Self-storage Warehousing

In A-1, A-2 and A-3 (Apartment), A-M (Apartment-Manufactured home), A-O (Apartment/Office), A/3-O (Apartment/Office High Density), RMU (Residential Mixed Use), GMU (General Mixed Use), C-1 and C-2 (Commercial) Districts the following conditions apply:

A. A minimum site area of two acres shall be required, unless adjacent to and abutting a minimum of four acres zoned C-1, C-2, C-3 or C-4, then the minimum site area shall be one acre with an average lot width of not less than two hundred feet and an average lot depth of not less than two

3

hundred feet.

- B. Individual storage spaces shall not exceed four hundred square feet in area and fourteen feet in height, except in the case of storage spaces for RVs and motor homes, which shall not exceed twenty feet in width and sixty feet in length.
- C. A six foot high screening wall shall be required along all property lines abutting residential or apartment uses or districts.

Additionally, the following conditions shall apply in the C-5 (Commercial) Districts:

- A. A self-storage warehouse shall not occupy the first floor of a building. Permitted activities for the first floor shall be limited to the retail portion of the operation where customer transactions occur and/or in combination with another permitted use in the zoning district.
- B. The portion of the building containing the self-storage warehouse shall be limited to no more than 80% of the total gross floor area.
- C. Self-storage warehouses shall only be permitted in existing structures. If no structure exists, then self-storage warehouses shall conform with the design requirements of Section 20.10.280.C Infill Development.

**SECTION 4:** That Title 20, Appendix C, Table of Parking Requirements and Standards, shall be amended as follows:

### Add the following sections:

Sec	etion	Use	Minimum	Maximum	Bicycle	Heavy Truck Trailer	Gravel Screen Parking Required	Notes
14.0	095	Corner Store	1/500 sf	1/350 sf	NOTE 3	None	Allowed	2C
			GFA	GFA				

**SECTION 5:** Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

	ADOPTED THIS	day of	2025.
		CITY OF EL	PASO
ATTEST:		Renard U. Jo	hnson, Mayor
Laura Prine City C	llerk		
APPROVED AS	ΓO FORM:	APPROVED	AS TO CONTENT:
Russell Abe	ln	Philip Philip Etiwe,	- Eiwe
Russell Ablen			
Assistant City Atto	orney	Planning and	Inspections

### El Paso, TX

### Legislation Text

File #: 25-494, 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**

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.

An Ordinance granting a non-exclusive franchise to Rio Grande Waste Services, Inc. to operate and maintain a solid waste collection and hauler service within the City of El Paso subject to the franchise terms and conditions; the penalty as provided in section 9.04.630 of the El Paso City Code.

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



**DEPARTMENT**: Environmental Services Department

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE: 5/13/25** 

**CONTACT PERSON NAME: Nicholas Ybarra PHONE NUMBER: 915-212-6000** 

DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** 

Goal 3 - Promote the Visual Image of El Paso

SUBGOAL:

### **SUBJECT:**

An ordinance granting a non-exculsive franchise to Rio Grande Waste Services, Inc. to operate and maintain a solid waste collection and hauler service within the City of El Paso subject to the franchise terms and conditions; the penalty as provided in section 9.04.630 of the El Paso City code.

agreement allows franchise-ho		e on the City's rights-of-way as part of a business. This esses and residences not served by the Environmental exes.		
COMMUNITY AND STAKEHO	LDER OUTREACH:			
No outreach performed				
PRIOR COUNCIL ACTION:				
Other franchise holders had the	eir agreements and ordinances a	approved in 2022 with the same initial expiration date.		
AMOUNT AND SOURCE OF F	UNDING:			
N/A				
REPORTING OF CONTRIBUT	ION OR DONATION TO CITY (	COUNCIL:		
N/A				
NAME AMOUNT (\$)				
**	******REQUIRED AUT	THORIZATION*************		
DEPARTMENT HEAD:	Nicholas N. Ybarra,	Digitally signed by Nicholas N. Ybarra, P.E. Date: 2025.04.14 10:55:58 -06'00'		

**BACKGROUND / DISCUSSION:** 

|--|

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO RIO GRANDE WASTE SERVICES, INC. TO OPERATE AND MAINTAIN A SOLID WASTE COLLECTION AND HAULER SERVICE WITHIN THE CITY OF EL PASO SUBJECT TO THE FRANCHISE TERMS AND CONDITIONS; THE PENALTY AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE

WHEREAS, pursuant to Section 3.18 of the El Paso City Charter the right of control, ownership and use of streets and alleys is declared lo be inalienable except as provided by ordinance passed by the Council; and,

WHEREAS, the City of El Paso is authorized by Section 7.13 of the El Paso City Charter to levy and collect franchise fees in accordance with the laws of the State of Texas; and,

WHEREAS, in addition to the authority granted by the City Charter, the attached franchise agreement is a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to, Texas Local Government Code Chapters 51 and 52, and the Texas Health and Safety Code Chapter 363; and,

WHEREAS, the City of El Paso requires in City Code Section 9.04, that all haulers of municipal solid waste arc required to enter into a franchise agreement with the City; and

WHEREAS, RIO GRANDE WASTE SERVICES, INC. is engaged in the business of collection and transportation of solid waste within the City and has requested a franchise to use the City's rights-of-way; and,

WHEREAS, RIO GRANDE WASTE SERVICES, INC. has agreed to the terms of the Solid Waste Franchise Agreement with the City of El Paso, granting RIO GRANDE WASTE SERVICES, INC. a non-exclusive franchise to operate and maintain a solid waste collection service using the City's rights-of-way; and,

WHEREAS, the City Council of the City of El Paso is of the opinion that the granting of the franchise on the terms and conditions set forth in this Ordinance arc in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City.

### NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

- 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.
- 2. The City Manager is authorized to sign a non-exclusive Solid Waste Franchise Agreement by and between the City of El Paso and RIO GRANDE WASTE SERVICES, INC. for the franchisee to operate

and maintain a Solid Waste Collection Service, in, over, along and across the Public Rights-of-Way in the Authorized Area, to end on December 31, 2026, as set forth and defined in the document labeled Exhibit "A", attached and incorporated by reference for all purposes.

- 3. All ordinances or parts of ordinances in force when the provisions of this ordinance become effective that are inconsistent or in conflict with the terms and provisions contained in this ordinance are hereby repealed only to the extent of any such conflict.
- 4. The City Manager or authorized agent is authorized to extend this agreement for an additional five years at the end of the date of the contract.

5. This ordinance shall take effect on	
PASSED AND APPROVED this day of	, 2025.
	CITY OF EL PASO:
	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:  Monafleyl'	APPROVED AS TO CONTENT:  Mulalas H. Ylama
Mona M. Heydarian Assistant City Attorney	Nicholas Ybarra, P.E., Director Environmental Services Department

(Acceptance and Acknowledgment follow on next page)

### ACCEPTANCE AND ACKNOWLEDGMENT

ACCEPT	ANCE
The above instrument, with all conditions 2025.	thereof, is hereby accepted this $\frac{14}{2}$ day of
	RIO GRANDE WASTE SERVICES, INC.  By: Michael O'Connor, Vice-President Its: Owner
ACKNOWLEDGEMENT	
THE STATE OF TEXAS ) COUNTY OF EL PASO ) This instrument was acknowledged before me on this	14th day of april, 2025, by owner of
RIO GRANDE WASTE SERVICES, INC.	
ADRIANA SUSTAITA	
NOTARY PUBLIC ID# 11525897 In and for the State of Texas My Commission Expires 02-22-2027	Notary Public, State of Texas Notary's Printed or Typed Name:  Adriang Sustaita
My Commission Expires:	
02.32-2027	

### **EXHIBIT "A"**

### SOLID WASTE FRANCHISE AGREEMENT

BY AND BETWEEN

CITY OF EL PASO, TEXAS

**AND** 

RIO GRANDE WASTE SERVICES, INC.

#### TABLE OF CONTENTS

SECTION I. Preamble

SECTION II. Definitions

SECTION III. Granting of Franchise

SECTION IV. Service Requirements

SECTION V. Indemnity and Insurance

SECTION VI. Fees, Payments and Compensation.

SECTION VII. Term, Termination and Performance Evaluation

SECTION VIII. Transfers of Ownership and Control

SECTION IX. Default

SECTION X. Remedies

SECTION XI. Recordkeeping and audit

SECTION XII. Miscellaneous

STATE OF TEXAS	) SOLID WASTE EDANGHISE ACDEEMENT
COUNTY OF EL PASO	) SOLID WASTE FRANCHISE AGREEMENT )
	ranchise Agreement ("Agreement") is entered into thisday of ad between the CITY OF EL PASO, a Texas home rule municipality,
	ne "CITY", and RIO GRANDE WASTE SERVICES, INC.

#### RECITALS

**WHEREAS,** pursuant to Section 3.18 of the El Paso City Charter the right of control, ownership and use of streets and alleys is declared to be inalienable except as provided by Agreement passed by the Council; and,

**WHEREAS**, the City of El Paso is authorized by Section 7.13 of the El Paso City Charter to levy and collect franchise fees in accordance with the laws of the state of Texas; and,

**WHEREAS,** in addition to the authority granted by the City Charter, this franchise agreement is a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to including but not limited to, Texas Local Government Code Chapters 51 and 52, and the Texas Health and Safety Code Chapter 363; and,

WHEREAS, the City desires to exercise the authority provided to it by ordinance, charter and state law to grant a franchise for the collection, transportation, hauling and disposal of Solid Waste as further defined herein, within the corporate limits of the City and under the terms of this Agreement as set out below; and,

WHEREAS, Franchisee desires to obtain a franchise to provide for the collection, transportation, hauling and disposal of Solid Waste from the City of El Paso, and agrees to comply with the terms and conditions of this Agreement; and,

WHEREAS, the City Council of the City of El Paso is of the opinion that the granting of the franchise on the terms and conditions set forth in this Agreement are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City.

**NOW, THEREFORE,** in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

#### WITNESSETH:

#### SECTION I. PREAMBLE

That the declarations contained in the preamble to this Agreement are material and incorporated herein as a part of this Agreement as though they were fully set forth in this Agreement in their entirety.

#### **SECTION II. DEFINITIONS**

For the purpose of this Agreement the following terms, phrases, words and their derivations shall have the meaning given in this Agreement. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word "shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. The word "day" means a calendar day and not a business day. Words defined elsewhere in this Agreement shall be accorded that meaning throughout this Agreement. Words not defined shall be given their common and ordinary meaning.

- a. <u>Affiliate</u> and <u>Affiliated</u> means any entity controlling, controlled by or under common control with the Franchisee.
  - b. **Agreement** shall mean this document.
- c. <u>Authorized Area</u> means the entire area within the corporate limits of the City of El Paso, including any territory annexed into the City limits after the Effective Date of this Agreement.
- d. <u>City</u> means the City of El Paso, a home rule municipal corporation, a political subdivision of the State of Texas.
- e. <u>City Charter</u> means the City's organic law, equivalent to a constitution, which defines the City's existence and prescribes the powers, duties, and organization of the City's governmental structure
- f. <u>City Code</u> shall mean the ordinances of the City codified into the EL PASO CITY CODE, as amended from time to time.
- g. <u>City Manager</u> shall mean the City Manager or the City Manager's designated representative.
- h. <u>Container</u> shall mean any receptacle for waste as defined by Title 9.04 to include Dumpsters, Containers, Carts, Roll-Offs and Compactors.

- i. <u>Control</u> (and its variants) shall mean actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of the Franchisee; (ii) an agreement of the holders of voting stock or rights of the Franchisee which effectively vests or assigns policy decision-making in any person or entity other than the Franchisee; (iii) a sale, assignment or transfer of any shares or interest in the Franchisee which results in a change in the Control of the Franchisee.
- j. <u>Council</u> shall mean the governing body of the City of El Paso. This section does not authorize delegation of any decision or function that is required by the City Charter or State law to be made by the Council. Unless otherwise stated in this Agreement or prohibited by the City Charter or State law, the Council may delegate to the City Manager or the Director the exercise of any and all of the powers conferred upon the City by its Charter or by general law relating to the administration and enforcement of this Agreement and to the Franchisee's exercise of the rights and privileges conferred in this Agreement.
- k. <u>Director</u> means the Director of the Environmental Services Department of the City, or any successor department, or any Director as designated by the City Manager, or the Director's designated representative.
  - 1. Effective Date means \_\_\_\_\_\_\_, 2025.
  - m. <u>Franchise</u> means the grant of the non-exclusive permission and privilege to use Public Rights-of-Way under this Agreement, and all of the incidental rights and obligations as described by this Agreement.
  - n. **Franchisee** shall mean RIO GRANDE WASTE SERVICES, INC. hereinafter referred to as

"Franchisee", the grantee of rights under this Agreement; or the successor, transferee, or assignee of this Agreement, including the officers, employees, agents, contractors, and subcontractors.

- o. <u>Junk Removal Service</u> shall mean the collection and transportation of solid waste generated from a Property Clean-up Event by a Self-Transporter or Permitted Hauler, as defined within Chapter 9.04 of the El Paso City Code, when the waste is placed directly into a vehicle or trailer attached to a vehicle, or when a container placed at a property is removed within seven days.
- p. <u>Property Clean-up Event</u> shall mean the removal of Solid Waste from the interior of a building or premises of a property for the purpose of abating a nuisance, resolving a violation of the El Paso City Code, or removing unsanitary or unsightly debris or waste, when the duration of the event does not exceed seven days.
- q. <u>Public Rights-of-Way</u> shall mean all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated and accepted by the City as a public right-of-way. "Public Rights-of-Way" shall not include property of the City which is not a

dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated or accepted by the City as a public right-of-way.

- r. <u>Solid Waste Collection Service</u> shall mean the collection and transportation of Solid Waste as that term is defined herein within the Authorized Area, from a dumpster, roll-off container, or other container larger than two cubic yards in volume, or from a container less than two cubic yards in volume when providing service to more than four customers, for processing or disposal at an Authorized Municipal Solid Waste Facility as defined in Chapter 9.04 of the El Paso City Code or as may be subsequently amended from time to time.
- s. <u>Solid Waste</u> shall mean that term as defined in Title 30 of the Texas Administrative Code § 330.3, or as may subsequently be amended from time to time, excluding Excluded Waste as defined in section 9.04.020 of the City Code, as may subsequently be amended from time to time. Solid Waste does not include any municipal solid waste and program recyclable materials generated at residential properties in which the City is the exclusive hauler as set forth in chapter 9.04 (Solid Waste Management) of the City Code.

#### SECTION III. GRANTING OF FRANCHISE

Subject to all the terms and conditions contained in this Agreement, the Constitution of the United States of America or of the State of Texas, the City Charter, the City Code, other City ordinances as from time to time may be in effect, and applicable federal or state law, the City hereby grants the Franchisee non-exclusive permission and privilege solely for the purpose of operating and maintaining a Solid Waste Collection Service in, over, along and across the Public Rights-of-Way in the Authorized Area. This grant is subject to the following additional conditions:

#### a. Non-Exclusive.

Nothing herein contained shall be construed as granting an exclusive use or right to the Franchisee to the Public Rights-of-Way, and the City may grant an additional franchise, lease or special privilege to any other applicant in its discretion for the same Public Rights-of-Way described herein. The Franchisee accepts the grant set forth above and agrees to operate and maintain the Solid Waste Collection Service in the Authorized Area in accordance with the terms and provisions of this Agreement.

#### b. <u>Authorized Municipal Solid Waste Facility.</u>

Franchisee shall deposit all Solid Waste only at an Authorized Municipal Solid Waste Facility in accordance with the City Code, as may be amended from time to time.

#### c. <u>Other Services</u>.

By granting this Agreement, the City is not authorizing any non-Solid Waste Collection Service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by Franchisee which are not Solid Waste Collection Services. The Franchisee shall immediately notify the City if it provides any non-Solid Waste Collection Services within the Authorized Area.

#### d. No Priority.

This Agreement does not establish any priority for the use of the Public Rights-of-Way by the Franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the Public Rights-of-Way. The Franchisee shall respect the rights and property of the City and other authorized users of the Public Rights-of-Way. In the event of any dispute as to the priority of use of the Public Rights-of-Way, the first priority shall be to the public generally, the second priority to City, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the City Manager in the exercise of the City's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

#### e. City's Use of Public Rights-of-Way.

The Franchisee acknowledges that by this Agreement it obtains no rights to use or further use of the Public Rights-of-Way other than those expressly granted in this Agreement. The City reserves the right to use the surface or subsurface or airspace above the Public Rights-of-Way covered by this Agreement 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 Public Rights-of-Way. Further the City expressly reserves the right to install, repair, or reconstruct the Public Rights-of-Way used or occupied by Franchisee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, including but not limited to, drainage and utility facilities and structures.

The Franchisee acknowledges and accepts at its own risk, that the City may make use in the future of the Public Rights-of-Way as described above or as otherwise permitted by law, in which the Solid Waste Collection Service is located in a manner inconsistent with the Franchisee's use of such Public Rights-of-Way for the Solid Waste Collection Service, and in that event the Franchisee shall not be entitled to compensation or further remedy from the City unless compensation is available to all users of the Public Rights-of-Way which are affected in a similar manner.

#### f. Emergencies.

The City may temporarily suspend the operation of the Solid Waste Collection Service of Franchisee or close or otherwise restrict the use of Public Rights-of-Way in the event of a public emergency or calamity as determined in the City's sole discretion. In such event neither the City nor any agent, contractor, or employee of the City shall be liable to the Franchisee or its customers or third parties for any damages caused them or the Solid Waste Collection System. Where possible, prior notice shall be given to the Franchisee.

#### g. <u>Compliance with Law and Standards of Operation</u>.

The parties shall be subject to and comply with the Constitutions of the United States of America and the State of Texas, all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

#### h. Other Approvals and Authorizations.

This Agreement does not relieve the Franchisee of, and the Franchisee shall comply with, any obligation to obtain permits, licenses and other approvals from the City or other units of government, which are required for the operation and maintenance of the Solid Waste Collection Service.

#### i. City's Right of Eminent Domain Reserved.

Nothing in this Agreement shall limit any right the City may have to acquire by eminent domain any property of the Franchisee.

#### i. <u>Taxes, Fees and Other Assessments.</u>

Nothing in this Agreement shall be construed to limit the authority of the City to impose a tax, fee, or other assessment of any kind on any person, entity or individual. The Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its Solid Waste Collection Service.

#### SECTION IV. SERVICE REQUIREMENTS

- a. It is expressly understood and agreed that the Franchisee may collect and deliver for disposal all Solid Waste accumulated on premises within the Authorized Area where the individuals or companies contract with the Franchisee for those services, expressly excluding services for which the City is the exclusive hauler as defined in Chapter 9.04 of the City Code. The Franchisee shall, at its own expense, furnish personnel and equipment to collect Solid Waste and shall establish and maintain the contracted Solid Waste Collection Service in an efficient and businesslike manner, maintain a valid, current Hauler Permit issued by the City of El Paso, and shall comply with all requirements of the City Code, including but not limited to Chapter 9.04 of the City Code.
- b. The Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the Public Rights-of-Way and other facilities that are damaged as a result of the negligence, willful misconduct, or intentional acts of the Franchisee during the Franchisee's operations pursuant to this Agreement.
- c. The Franchisee will comply with all rules, regulations, laws and agreements pertaining to the disposal of Solid Waste as directed by responsible governmental agencies having jurisdiction.

#### d. Waste Containers

#### 1. Graffiti

Franchisee shall require in all contracts (entered into after the Effective Date) with each of its customers of their Solid Waste Collection Services to maintain the Container, as defined in Chapter 9.04 of the City Code or as amended from time to time, free from graffiti. Franchisee's Containers may display the name, address and/or phone number of

the Franchisee, identification numbering or lettering assigned by the Franchisee, and any warnings, notices or instructions posted by Franchisee. If Franchisee's customers do not remove graffiti from the Franchisee's Containers, then Franchisee shall remove the graffiti and may bill its customer for the cost or replace the Container at the customer's expense.

If, after five days notice from the Director, the Franchisee or its customer has not removed the graffiti or replaced the Containers, then the City may cover or remove the graffiti or the Container.

#### 2. Over-Capacity.

Franchisee shall require in all contracts (entered into after the Effective Date) with each of its customers of their Solid Waste Collection Services to maintain the area around the Container clean and free of rubbish, litter, Solid Waste, garbage, recyclables, or other unsightly material, regardless of the cause of the placement of the rubbish, litter, Solid Waste, garbage or recyclables around the Container. Franchisee shall monitor its customer's use of their Containers and ensure that the customer is not overfilling the Container beyond the acceptable capacity of the Container.

If the City observes that the lid of a Container is not securely closed as a result of overfilling the Container, or rubbish, Solid Waste, garbage, recyclables or unsightly material of any kind has accumulated or is being stored outside the Container, or is visible above the top level of the Container, then the City may: (1) notify the Franchisee or the customer of the violation and require immediate removal of the rubbish, Solid Waste, garbage, recyclables or unsightly materials; or (2) may remove the rubbish, Solid Waste, garbage, recyclables or unsightly materials and bill the Franchisee for its actual expense in cleaning the site around the Container.

If the City observes and records three or more instances of a violation of this section or violations of the City's ordinances by the Franchisee's customer, then it shall notify the Franchisee and the Franchisee shall require the customer to contract for additional Solid Waste services, additional Containers or a larger Container sufficient to satisfy its Solid Waste and recyclables needs, or take other steps to ensure compliance with the City's ordinances. Compliance with the provisions of this section by a Franchisee customer shall not waive the City's right to seek all remedies available under the law or this Agreement whether against the Franchisee or the Franchisee's customer.

3. Franchisee shall affix a label to each Container supplied to its customers that reads "NO SCAVENGING/KEEP LIDS CLOSED." For roll-off Containers which are not equipped with lids, only "NO SCAVENGING" shall be required on the label. Label may be in the form of a decal or paint; letters shall be capitalized and either black or white in color, whichever more contrasts the paint color of the Container. The label may consist of either one or two lines, and should be clearly visible from a distance of 20 feet.

#### SECTION V. INDEMNITY AND INSURANCE

#### a. <u>INDEMNIFICATION OF CITY.</u>

- 1. THE FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS, ATTORNEYS, CONTRACTORS AND SUBCONTRACTORS (HEREINAFTER REFERRED TO COLLECTIVELY AS "INDEMNITEES"), FROM AND AGAINST:
  - ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, OR FOR HARM SUFFERED OR ALLEGED TO HAVE BEEN SUFFERED BY ANY PERSON OR PERSONS (INCLUDING THIRD PARTIES, WHETHER INDIVIDUALS OR ENTITIES), THAT MAY ARISE OUT OF OR BE OCCASIONED BY (i) FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE AGREEMENT, (ii) BY ANY ACT OR OMISSION CONSTITUTING NEGLIGENCE, GROSS NEGLIGENCE OR OTHER FAULT OF FRANCHISEE, ITS OFFICERS, DIRECTORS, PARTNERS, OR OTHER PRINCIPALS, AGENTS, EMPLOYEES. CONTRACTORS, OR SUBCONTRACTORS, OR FOR WHICH THE FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS (ALL COLLECTIVELY "FRANCHISEE PERSONS"), OR (iii) FOR WHICH THE FRANCHISEE OR FRANCHISEE PERSONS MAY BE STRICTLY LIABLE, IN THE **MAINTENANCE** OPERATION OR OF THE **SOLID** WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; AND
  - (B) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, FEES, PENALTIES OR OTHER ASSESSMENTS, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES THAT MAY BE IMPOSED UPON, ASSERTED AGAINST, OR INCURRED OR SUFFERED BY ANY INDEMNITEES ARISING FROM OR RELATED TO ANY VIOLATION BY FRANCHISEE OR ANY FRANCHISEE PERSON OF ANY LOCAL, STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE, OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY THE FRANCHISEE OR ANY FRANCHISEE PERSON, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE, REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER

WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION, INCLUDING ANY AND ALL COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT AGAINST THE CITY OR ANY OTHER INDEMNITEE RELATED TO ANY SUCH CLAIM.

- 2. FRANCHISEE'S OBLIGATION TO INDEMNIFY INCLUDES INDEMNIFICATION FOR ANY ATTORNEY'S FEES, COSTS OF COURT OR EXPENSES OF ANY THIRD PARTY ASSESSED AGAINST THE CITY OR ANY OTHER INDEMNITEE; AND ANY ATTORNEY'S FEES, COSTS AND EXPENSES OF DEFENSE OR SETTLEMENT OR ATTEMPTED SETTLEMENT (INCLUDING BUT NOT LIMITED TO INFORMAL SETTLEMENT DISCUSSIONS, MEDIATION, ARBITRATION, OR OTHER ALTERNATIVE DISPUTE RESOLUTION METHODS) BY THE CITY OR ANY OTHER INDEMNITEES.
- 3. FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO ALL CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH FOR WHICH ONE OR MORE INDEMNITEES MAY BE CONTRIBUTORILY LIABLE, PROVIDED, HOWEVER, THAT ANY INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS PROVIDED UNDER TEXAS LAW; AND PROVIDED, FURTHER, THAT THIS APPLICATION OF PROPORTIONATE RESPONSIBILITY IS NOT A WAIVER OF ANY GOVERNMENTAL IMMUNITY FOR SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS LAW, AND FURTHER DOES NOT CONSTITUTE A WAIVER OF ANY OTHER DEFENSES AVAILABLE TO EITHER THE FRANCHISEE OR THE CITY UNDER TEXAS LAW.
- 4. FRANCHISEE'S OBLIGATION TO INDEMNIFY SHALL NOT APPLY TO ANY JUDGMENT OF LIABILITY AGAINST THE CITY RESULTING SOLELY FROM THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY.
- 5. THIS SUBSECTION V.a. DOES NOT, AND SHALL NOT, BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO THE CITY OR ANY INDEMNITEE UNDER TEXAS OR FEDERAL LAW, INCLUDING ANY INDIVIDUAL ABSOLUTE OR QUALIFIED IMMUNITY. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF THE CITY AND THE OTHER INDEMNITEES AND THE FRANCHISEE, AND ARE NOT INTENDED TO, AND SHALL NOT BE CONSTRUED TO, CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

#### b. FRANCHISEE'S ASSUMPTION OF RISK.

- 1. FRANCHISEE UNDERTAKES AND ASSUMES ALL RISK OF DANGEROUS CONDITIONS, IF ANY, ON OR ABOUT ANY CITY-OWNED OR CONTROLLED PROPERTY, INCLUDING THE PUBLIC RIGHTS-OF-WAY.
- 2. FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY AND INDEMNITEES FROM AND AGAINST ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE TO ANY PERSON ARISING OUT OF THE FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR THE FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, AGREEMENT OR REGULATION.
- c. <u>Survival</u>. THE INDEMNIFICATION OBLIGATIONS DESCRIBED IN THIS SECTION V. SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY ACTION, CLAIM, LAWSUIT OR OTHER PROCEEDING, OR JUDGMENT ARISING FROM EVENTS OCCURING DURING THE TERM OF THIS AGREEMENT.

#### d. Defense of City and other Indemnitees.

In the event any action or proceeding shall be brought against any Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, the Franchisee shall, upon notice from any of the Indemnitees, and at the Franchisee's sole cost and expense (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants), resist and defend the same with legal counsel selected by the Franchisee and consented to by the City, such consent not to be unreasonably withheld. The Franchisee shall not admit liability in any such matter on behalf of the Indemnitees without the City's and other Indemnitees' written consent. Further, the Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified herein without the prior written consent of the Franchisee.

#### e. <u>Expenses of Defense; Participation by Indemnitees.</u>

The Indemnitees shall give the Franchisee prompt notice of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section V. Nothing herein shall prevent the Indemnitees from participating in the defense of any litigation by their own counsel at their own expense. The Franchisee shall pay all expenses incurred by the Indemnitees in participating in their defense, provided that the participation has been requested or required by the Franchisee in conducting the defense of the action, suit, or other proceeding. These covered expenses include reasonable attorney's fees and expenses, out- of-pocket expenses reasonably and necessarily incurred, the reasonable value of any services rendered by the City's counsel and the actual expenses of the Indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed or incurred by the Indemnitees in connection with such suits, actions or proceedings. Covered expenses shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by the Franchisee.

#### f. <u>Insurance Required.</u>

Not later than the Effective Date, the Franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Attachment "1", attached to and made a part of this Agreement. The insurance shall be written by a company(ies) approved by the State of Texas and acceptable to the City. The insurance shall be evidenced by delivery to the City of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. The City shall be named a beneficiary and co-insured of such policy(ies). Upon request, the City shall be entitled to review copies of the policies and all endorsements at a site determined mutually by the City and the Franchisee.

# THIS AGREEMENT SHALL NOT TAKE EFFECT UNTIL SUCH CERTIFICATE HAS BEEN DELIVERED TO THE CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT. If

satisfactory evidence of the required insurance is not submitted within thirty (30) days after the date the City Council approves this Agreement, then this Agreement shall be considered null and void and shall have no force or effect. The Director may prevent the Franchisee from operating a Solid Waste Collection Service under this Franchise until satisfactory evidence of insurance coverage required under this subsection is presented to the Director. Evidence of current continuous insurance coverage shall be updated by the Franchisee and delivered in writing to the Director on at least an annual basis, no later than the anniversary date of this Agreement; and the Director shall have the right to request evidence of current insurance at any time. If the Franchisee fails to maintain insurance as required by this subsection, then the Franchisee shall forfeit any rights to contribution as defined in subsection V.a.3 above, and Franchisee shall be solely liable *in toto* for any judgment, award, claim or demand arising from the Franchisee's operation of a Solid Waste Collection Service, whether the City or any other Indemnitee is or may be contributorily liable under applicable law or not.

#### g. Adjustments to Insurance Requirements.

The Director reserves the right to review the insurance requirements stated herein during the term of this Agreement and to recommend to the City Council reasonable adjustments in the insurance requirements prior to any anniversary renewal of the insurance when deemed necessary or prudent by the City. Any adjustments recommended and approved by the City Council may be based upon changes in statutory law, applicable court decisions, the claims history of the industry as well as of the Franchisee, or a commercially reasonable determination by the City that existing coverage is inadequate for the risks associated with the services to be provided hereunder. When any insurance coverage limits are changed, the Franchisee shall pay any resulting increase in cost due to the changes. If Franchisee does not agree to an increase in coverage recommended by the City and approved by Council, the City may opt to pay the difference in premium that would be required for such increased coverage; but if the City declines to do so, the City shall have the right to terminate this Agreement as of the end of the current insurance term, or at the next contract year anniversary, whichever is sooner.

#### h. Liability of Franchisee.

Approval, disapproval, or failure to act by the City regarding any insurance supplied or not supplied by the Franchisee shall not relieve the Franchisee of full responsibility or liability

for indemnity, damages and accidents as set forth in the Agreement. The bankruptcy, insolvency, receivership or denial of liability by any insurer of Franchisee shall not excuse the Franchisee from the responsibility for indemnity, liability of, or damages payable by the Franchisee as provided in this Agreement.

#### SECTION VI. FEES, PAYMENTS AND COMPENSATION.

#### a. Consideration.

Council finds and determines that Franchisee has incurred, or will incur, significant costs to upgrade its facilities as costs associated with performance under this Franchise Agreement. Council finds that such expenditures as well as the promises contained in this Franchise Agreement are satisfactory consideration to support this Agreement.

#### b. <u>Additional Consideration.</u>

Upon notice from the City, Franchisee shall provide Solid Waste removal, collection, and transport, services to the City following natural disasters or Acts of God. The term "Acts of God" as used herein, shall include, but not be limited to, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, and any other inabilities of either party, whether similar to those enumerated or otherwise, and not within the reasonable control of the party claiming such inability. Franchisee understands that it is not guaranteed to receive compensation for these services. Council and the Franchisee agree that this obligation to provide emergency services without a guarantee of compensation constitutes part of the consideration offered by the Franchisee to support this Franchise Agreement.

c. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for sums due or owed under this Agreement or of any other obligation of the Franchisee.

#### SECTION VII. TERM, TERMINATION AND PERFORMANCE EVALUATION

#### a. <u>Term and Extensions.</u>

This Agreement shall be effective as of the Effective Date, and, unless it is terminated earlier pursuant to its terms, shall continue in effect until December 31, 2026, with the possibility for one five-year extension as mutually agreed to by the City and the Franchisee. Franchisee shall give ninety (90) days written notice to the City prior to the expiration of the term to request an extension. The City in its sole discretion may decide to approve or decline the extension, or request an amendment of this Agreement prior to such extension.

#### b. <u>Termination.</u>

#### 1. Right to Terminate

This Agreement may be terminated by either party, for cause or convenience, by providing ninety (90) days' written notice to the non-terminating party. Notwithstanding the foregoing, the City may terminate this Agreement if the City determines in its sole discretion termination is necessary to secure the efficiency of public service at a reasonable rate, to assure the Public Rights-of-Way are maintained

in good order throughout the term of this Agreement, or termination is in the public interest when Franchisee is utilizing the Public Rights-of-Way in a manner the City deems is inconsistent with the public use of the City's Public Rights-of-Way without providing prior notice to the Franchisee. If the City chooses to act pursuant to this authority it shall notify the Franchisee of its decision within three days of the termination of this Agreement.

#### 2. Rights Upon Termination.

Subject to applicable law, or as specifically provided for otherwise in this Agreement, this Agreement and all rights, permissions, and privileges of the parties defined in this Agreement shall automatically cease upon the termination of this Agreement, unless such rights are extended by mutual agreement of the parties, except that such termination shall not affect any rights or liabilities accrued prior to such termination.

In the event the Franchisee continues use of the Public Rights-of-Way after the expiration or termination of this Agreement the City may utilize any means available in law or in equity to prevent violations of the EL PASO CITY CODE or this Agreement. Franchisee shall be responsible for all attorney's fees and court costs incurred as a result of any action taken by the City pursuant to this paragraph.

#### c. Performance Evaluation.

In order to: (i) assure that the Franchisee is complying with the terms of this Agreement, as it may be from time to time amended, and (ii) promote a sharing of information between the City and the Franchisee, the City may schedule a performance evaluation during the term of the Agreement in accordance with the following process:

- 1. At least sixty (60) days prior to each performance evaluation, the City shall notify the Franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by the Franchisee pursuant to subsection c.2.(ii) below. Unless specifically waived by the Council, attendance of the Franchisee's duly authorized representative at these meetings shall be mandatory.
- 2. Within thirty (30) days from receipt of such notification, the Franchisee shall file a report with the City that is certified by a representative of the Franchisee knowledgeable of the operations of the Franchisee within the Authorized Area, in reasonable detail, specifically addressing, a minimum, the following areas:
  - (i) documentation that all of Franchisee's vehicles used in accordance with this agreement have been properly inspected for compliance with safety and air emission standards in the vehicles' state of registration, and documentation related to local government requirements for the permitting of vehicles for the hauling of Solid Waste;
  - (ii) any other topic deemed material or relevant by the City for its enforcement of this Agreement.

- 3. All reports to be prepared under this subsection and submitted by the Franchisee shall be based upon information collected from the Effective Date, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than twenty-four (24) months before the time of the performance evaluation.
- 4. Following receipt of the report, but not less than twenty (20) days prior to the performance evaluation, the City may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. The Franchisee shall make reasonable effort to provide such additional information to the City prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, the Franchisee shall notify the City in writing explaining the reasons for any delay.
- 5. The Council shall hear any interested persons during such performance evaluation. The Franchisee shall be entitled to all the rights of due process consistent with the City proceedings, including but not limited to, the right to present evidence and the right to be represented by counsel.

#### SECTION VIII. TRANSFERS OF OWNERSHIP AND CONTROL

#### a. Franchisee Ownership, Management and Operation.

- 1. Only the Franchisee and its Affiliates identified herein, shall operate, manage, and maintain the Solid Waste Collection Service. The Franchisee shall not otherwise directly or indirectly transfer or assign, in whole or in part, this Agreement or the operation, management, or maintenance of the Solid Waste Collection Service without the prior written consent of Council, and such prior written consent shall not be unreasonably withheld provided that the Assignee: (i) assumes all of Franchisee's obligations and liabilities under this Agreement occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this Agreement; (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of the Franchisee; and (iv) has the capacity to enter into contracts with the City and/or is not barred from entering into contracts with the City. The Franchisee and its Affiliates shall request approval from Council in writing and shall provide the Council with the Assignee's qualifications at least one hundred and twenty (120) days before the proposed transfer is to occur.
- 2. The Council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The Director shall be advised in writing of a transfer solely for security purposes at least sixty (60) days before such transfer occurs. If the Franchisee cannot provide at least sixty (60) days notice before a transfer solely for

security purposes, then Franchisee must notify the Director in writing of such a transfer at the earliest possible date after becoming aware of such transfer.

3. The Franchisee may not transfer or assign this Agreement to an Affiliate not identified herein, without the prior written consent of Council, and such prior written consent shall not be unreasonably withheld provided that the Affiliate: (i) assumes all of Franchisee's obligations and liabilities under this Agreement occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this Agreement; (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of the Franchisee; and (iv) has the capacity to enter into contracts with the City and/or is not barred from entering into contracts with the City. The Franchisee shall request approval from Council in writing and shall provide the Council with the Affiliate's qualifications at least one hundred and twenty (120) days before the proposed transfer is to occur.

#### b. Schedule of Ownership.

The Franchisee represents and warrants that its current ownership is as set forth on Attachment "2", attached to and made a part of this Agreement, and that it has full legal and equitable title to the Solid Waste Collection Service as of the Effective Date of this Agreement.

#### SECTION IX. DEFAULT

#### a. Events of Default.

The occurrence of any one or more of the following events at any time during the term of this Agreement shall constitute an Event of Default by the Franchisee under this Agreement:

- 1. The failure or refusal by the Franchisee to pay consideration when due as prescribed by this Agreement.
- 2. The Franchisee's material violation of or failure to comply with any provision or condition of chapter 9.04 of the City Code relating to Solid Waste collection service or any other applicable provision or condition of the City Code.
  - 3. The suspension or revocation of the Franchisee's Hauler Permit.
- 4. The Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this Agreement, or the Franchisee's failure or refusal to perform any obligation contained in this Agreement.
- The Franchisee's failure or refusal to pay or cause to be paid any of the City's governmentally-imposed taxes of any kind whatsoever, including but not limited to real property taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, Franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.
- The entry of any judgment against the Franchisee by which another party becomes entitled to possession of any of the Franchisee's Solid Waste Collection Service's assets, and for which transfer of these assets requires prior consent of the

Council, and such judgment is not stayed pending rehearing or appeal following entry of the judgment for a period of forty-five (45) or more days.

- 7 The dissolution of the Franchisee.
- 8. The Franchisee's filing of a voluntary petition in bankruptcy; the filing of an involuntary petition in bankruptcy against the Franchisee; an adjudication finding the Franchisee insolvent; the Franchisee's obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of the Franchisee, or any of Franchisee's property or this Agreement or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay Franchisee's debts as they become due such that the Franchisee is unable to meet its obligations under this Agreement.
- 9. The Franchisee engages in any fraudulent or deceitful conduct with the City or its customers.
- 10. The Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this Agreement.
- 11. Any director, officer, employee, or agent of the Franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this Agreement.
- 12. The Franchisee's failure or refusal to comply with a violation of any applicable local, state, or federal law or regulation.

#### b. Default Procedures.

Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to the City or a third party, the Franchisee shall have thirty (30) days from written notice of the occurrence of the Event of Default from the Director to cure the Default before the City may exercise any of the default remedies provided for in Section X. Upon the occurrence of an Event of Default by the Franchisee which cannot be cured by the immediate payment of money to the City or a third party, the Franchisee shall have thirty (30) days from the date of written notice from the City to the Franchisee of the occurrence of the Event of Default to cure the Event of Default before the City may exercise any of its rights or remedies provided for in Section X, unless the Director, the City Manager, or the Council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an Event of Default is not cured within the time period allowed for curing the Event of Default, as provided above, the Event of Default becomes, without additional notice, an Uncured Event of Default, which shall entitle the City to exercise the remedies provided for in Section X.

#### SECTION X. REMEDIES

#### a. Default Remedies.

Upon the occurrence of any Uncured Event of Default as described in Section IX., the Director shall report the occurrence of default to the City Manager and the Council. The Council shall be entitled in its sole discretion to exercise any or all of the following remedies, which shall be cumulative:

- 1. Exercise its rights to liquidated damages as described in subsection c. of this Section X.
  - 2. Commence an action at law against the Franchisee for monetary damages.
- 3. Commence an action in equity seeking injunctive relief or the specific performance of any of the provisions of this Agreement which, as a matter of equity, are specifically enforceable, or other equitable relief.
  - 4. Revoke the Franchise granted under this Agreement.

#### b. <u>Revocation Procedure.</u>

Upon the occurrence of an Uncured Event of Default, the Council shall have the right to revoke the Agreement. Upon revocation, the rights, permissions, and privileges comprising the Franchise granted under this Agreement shall be automatically terminated and deemed null and void and shall have no further force or effect, and the provisions that are contractual in nature which are also included as a part of this Agreement are hereby automatically terminated, other than provisions that expressly are continued after termination or which impose obligations or rights of a kind that are intended and appropriate to be continued beyond termination, such as but not limited to Franchisee's obligations to defend and indemnify.

Upon revocation, the City shall retain any portion of the consideration and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, the Director shall notify the Franchisee in writing at least ten (10) days in advance of the Council hearing at which the issue of revocation shall be considered or decided. The Franchisee shall have the right to appear before the Council in person or by legal counsel and raise any objections or defenses the Franchisee may have that are relevant to the proposed revocation. The Council reserves the right, in its sole discretion, to seek liquidated damages or to pursue other remedies as provided in this Section X, or allowed in law or equity in addition to revocation.

#### c. Liquidated Damages.

In addition to the other remedies provided for in this Section X., other remedies provided in this Agreement and remedies available at law or in equity, in the event the Council determines that the Franchisee has committed, continued, or permitted a material failure or refusal of compliance or other Uncured Event of Default that has not been cured as provided in this Agreement, the Franchisee shall pay Two Hundred Dollars (\$200.00) per day for each day or part of a day that the material failure or refusal or other Uncured Event of Default is committed, continued, or permitted. This subsection X.c. does not apply to the failure or refusal by the Franchisee to pay the Franchise Fee or other consideration when it becomes due (Event of

Default, subsection IX.a.1.) or the failure or the refusal to pay or cause to be paid any of the City's governmentally imposed taxes (Event of Default, subsection IX.a.4).

#### d. Remedies Cumulative.

Subject to applicable law, the rights and remedies of the City set forth in this Section X. shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the Council determines that a violation by the Franchisee was the Franchisee's fault and within its control to have prevented or avoided, the Council may pursue any or all of the remedies provided in Section X. or otherwise at law or in equity. The remedies of the City created under this Agreement shall be cumulative of other remedies under the Agreement, at law or in equity to the maximum extent permitted by law. The exercise by the City of any one or more remedies under this Agreement shall not preclude the exercise by the City, at the same or different times, of any other remedies for the same material Uncured Event of Default.

#### e. Curable Violations.

The Franchisee shall not be found in violation of this Agreement or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of the Franchisee; provided, that the Franchisee has made reasonably diligent efforts to have prevented or avoided the violation, or the violation occurs as a result of circumstances beyond Franchisee's control or its ability to have prevented or avoided, and, if curable, is promptly cured. The Franchisee shall not be excused by mere economic hardship, or election of actions based on, or for the purpose of realizing economic benefit or advantage; nor by the negligence or misfeasance or malfeasance of its directors, officers, principals, employees, agents, representatives, contractors or subcontractors.

#### SECTION XI. RECORDKEEPING AND AUDIT

#### a. Complete and Accurate Books Required.

The Franchisee shall keep complete and accurate books of account and records of its Solid Waste Collection Service business and operations in the Authorized Area under and in connection with this Agreement in accordance with generally accepted accounting principles and generally accepted government auditing standards.

#### b. City Review of Documentation.

The City may fully review the Franchisee's books, accounts, documents, and other records of the Franchisee or the Franchisee's Affiliates within the scope of this Agreement during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this Agreement. All books, accounts, documents, and other records shall be made available at a location in the Authorized Area, or the Franchisee shall pay the City's expenses in traveling to any other location necessary to review the books, accounts, documents, or other records. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records. The reviewable items shall include, but shall not be limited to, records required to be kept by the Franchisee pursuant to law. To the extent permitted by law, the City agrees to treat any information disclosed by the Franchisee under this

Section as confidential, if the Franchisee provides prior written notice that the information is confidential

#### c. Reports.

If the Franchisee is a publicly traded company, the Franchisee shall file with the City by the end of each calendar year a copy of its certified financial statements filed with the Security and Exchange Commission, prepared and audited by an independent certified public accounting firm acceptable to the City, whose work papers will be made available to the City for inspection upon request.

#### d. Additional Reports.

The Franchisee shall, when required by the Council, the City Manager, or the Director, report to the City any reasonably requested information relating to the Franchisee or the Affiliates or necessary for the administration of this Agreement. The Director shall have the right to establish formats for all reports, determine the time for reports and the frequency with which any reports are to be made, and require that any reports be made under oath.

#### SECTION XII. MISCELLANEOUS

#### a. <u>Entire Agreement.</u>

This Agreement (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between the City and the Franchisee, superseding all oral or written previous negotiations or agreements between the City and the Franchisee relating to matters set forth in this Agreement. This Agreement can only be modified by an Agreement amendment approved by Council.

#### b. <u>Notices</u>.

Any notice, payment, statement, or demand required or permitted to be given under this Agreement by either party to the other may be effected by any of the means described in subsection XII.d. of this Agreement. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If to the City:

City of El Paso Attention: City Manager P.O. Box 1890 El Paso, Texas 79950-1890

#### With copies to:

City of El Paso, Environmental Services Department

Attention: Director 7968 San Paulo

El Paso, Texas 79907

And:

City Attorney P.O. Box 1890

El Paso, Texas 79950-1890

If to the Franchisee: Rio Grande Waste Services, Inc. 7120 Copper Queen Drive El Paso, Texas 79915

Either the City or the Franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this subsection XII.b. Any notice given by either the City or the Franchisee must be signed by an authorized representative.

#### c. Notice of Claim.

This Agreement is subject to the provisions of Section 1.5 of the El Paso City Charter, as amended, relating to requirements for filing a notice of a claim against the City. Section 1.5 of the El Paso City Charter, as amended, is expressly incorporated by reference and made a part of this Agreement as if written word for word in this Agreement. Franchisee shall comply with the requirements of Section 1.5 as a precondition of any claim against the City relating to or arising out of this Agreement.

#### d. Delivery of Notices.

Notices required to be given under this Agreement may be transmitted in any of the following four ways:

- 1. By personal delivery, in which case they are deemed given when delivered.
- 2. By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.
- 3. By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three (3) calendar days after having been deposited in the U.S. Mail.
- 4. By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement

transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

#### e. <u>City/Franchisee Meetings.</u>

The Franchisee shall meet with the Director, the City Manager or the Council at reasonable times to discuss any aspect of this Agreement or the services or facilities of the Franchisee. At all meetings Franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at City's offices unless otherwise agreed.

#### f. Legal Construction.

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

#### g. No Inducement.

The Franchisee, by accepting this Agreement, acknowledges that it has not been induced to accept this Agreement by any promise, oral or written, by or on behalf of the City or by any third person regarding any term or condition not expressed in this Agreement. The Franchisee further pledges that no promise or inducement, oral or written, has been made to any City employee or official regarding the grant, receipt or award of this Agreement.

#### h. Franchisee Acknowledgement.

The Franchisee further acknowledges by acceptance of this Agreement that it has carefully read the terms and conditions of this Agreement and accepts the obligations imposed by the terms and conditions herein.

#### i. No Waiver by City.

No failure by the City to insist upon the strict performance of any covenant, provision, term or condition of this Agreement, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, provision, term or condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

#### j. Governmental Licenses.

The Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the Solid Waste Collection Service in accordance with this Agreement.

#### k. Severability.

This Agreement is intended to be performed in accordance with, and only to the extent permitted by the EL PASO CITY CODE, and any other applicable laws and regulations. If any provision of this Agreement, or the application thereof to any person, entity, or circumstance, for any reason and to any extent, is invalid or unenforceable, such provision shall be modified to the

minimum extent necessary to make such provision valid and enforceable and neither the remainder hereof nor the application of such provision to other persons, entities, or circumstances or other instruments shall be affected thereby, but rather, the same shall be enforced to the greatest extent permitted by law. To the extent that any party's performance under this contract becomes impossible or illegal as a result of future and unknown regulations not contemplated by the parties, and the parties are not able to modify the terms of this Agreement as contemplated above, then the parties shall be excused from further performance under those portions of this Agreement, and such offending portions shall be severed and excluded from this Agreement.

#### 1. City Retained Powers.

In addition to all rights provided in this Agreement, the City reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, City Code, and City Agreements which City is allowed to exercise.

#### m. <u>Material Misinformation</u>.

The provision of information by the Franchisee or any of its Affiliates to the City in connection with any matters under this Agreement which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this Agreement and shall be subject to the remedies provided in Section

10. Each day that the Franchisee or an Affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this Agreement.

#### n. Time is of the Essence.

Whenever this Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, such time shall be deemed of the essence and any failure of the Franchisee to perform within time allotted shall always be sufficient grounds for the City to invoke an appropriate remedy, including possible revocation of the Agreement.

#### o. Force Majeure.

The time within which Franchisee shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days due to a force majeure. The term "force majeure" shall mean delays due to Acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of Franchisee. Notwithstanding anything contained anywhere else in this Agreement, Franchisee shall not be excused from performance of any of its obligations under this Agreement by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

#### p. Recognition of Rights.

The Franchisee agrees that by adopting this Agreement, neither the City nor the Franchisee have waived any rights, claims, or defenses they may have with respect to the City's rights to impose the requirements contained in this Agreement in whole or in part upon the Franchisee.

#### q. Police Powers.

- 1. In accepting this Agreement, the Franchisee acknowledges that its rights under this Agreement are subject to the police power of the City to adopt and enforce general Agreements necessary to the health, safety, and welfare of the public. Except as otherwise agreed to by the parties or exempted by a City ordinance, Franchisee shall comply with all applicable general laws and Agreements enacted by the City pursuant to such powers. Any conflict between the provisions of this Agreement and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.
- 2. The Franchisee recognizes the right of the City to make reasonable amendments to this Agreement as convenient and necessary to promote the public's interest.
- 3. The Franchisee also recognizes City's right to impose such other regulations of general applicability as shall be determined by the City to be conducive to the safety, welfare, and accommodation of the public.

#### r. <u>No Presumption of Renewal</u>

This Agreement and the grant contained herein do not imply, grant, or infer any renewal rights in favor of the Franchisee or its Affiliates.

#### s. Recognition of City Charter.

The Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this Agreement are subject to the applicable provisions of the El Paso City Charter. Any request by the Franchisee for an amendment to this Agreement shall be subject to review by the City Attorney for compliance with the applicable provisions of the City Charter.

- t. This Agreement and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- u. This Agreement may be amended, revised or modified only by a written instrument, executed by the parties hereto.
- v. The headings, captions and arrangements contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof. If the context required, words used in the singular shall be read as including the plural and vice versa, and pronouns of any gender shall include all genders. The words "herein", "hereof", "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision, paragraph, subparagraph, section or article.
- w. This Agreement is executed for the sole benefit of parties hereto and is not for the benefit of any third party. No other party will have rights under this Agreement.
- x. <u>Authorization.</u> Each party hereto acknowledges and represents that this Agreement has been duly authorized by its respective entity.

- y. This Agreement may be executed in counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.
- z. <u>Ambiguities Not to Be Construed against Party Who Drafted Contract.</u> The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this Contract.
- aa. <u>Order of Precedence</u>. In case of conflict between the terms of this Agreement and the terms contained in any document attached as an attachment or otherwise incorporated by reference, the order of precedence is as follows: Charter of the City of El Paso, EL PASO CITY CODE, and the ordinance granting this Agreement and all exhibits thereto.
- bb. <u>No discrimination</u>. Franchisee, as part of the consideration hereof, does hereby covenant and agree as follows:
  - 1. That no person on the grounds of race, creed, color, sex or national origin, shall be excluded from participation in, denied the benefits of this contract, or be otherwise subjected to discrimination in the execution of this contract.
  - 2. That in the furnishing of services, no person on the grounds of race, creed, color, sex or national origin, shall be excluded from participation in or denied the benefits of said services, or otherwise be subjected to discrimination.
  - 3. If applicable, Franchisee shall furnish services in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A. Part 21, Non-discrimination in federally- assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. If applicable, Franchisee shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.
  - 4. In the event of breach of any of the above non-discrimination covenants, City shall have the right to terminate this Agreement.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be duly executed as of the day and year first above written.

#### <u>List of Attachments</u>:

Attachment "1" – Insurance Requirements Attachment "2" – Schedule of Ownership

COUNTY OF EL PASO	) SOLID WASTE FRANCHISE AGREEMENT )
Signature page for the City of Texas and RIO GRANDE W	El Paso, Solid Waste Franchise Agreement between City of El Paso, ASTE SERVICES, INC.
	THE CITY OF EL PASO:
	Dionne Mack City Manager
APPROVED AS TO FORM	: APPROVED AS TO CONTENT:
Monafley (*) Mona M. Heydarian Assistant City Attorney	Micholas H. Ylarma  Nicholas Ybarra, P.E., Director  Department of Environmental Services

#### STATE OF TEXAS SOLID WASTE FRANCHISE AGREEMENT **COUNTY OF EL PASO**

Signature page for the City of El Paso, Solid Waste Franchise Agreement between City of El Paso, Texas and RIO GRANDE WASTE SERVICES, INC.

RIO GRANDE WASTE SERVICES, INC. BY

Name Michael O'Connor, Vice-President

#### ACKNOWLEDGMENT

STATE OF TEXAS **COUNTY OF EL PASO** 

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared Name, as Owner of RIO GRANDE WASTE SERVICES, INC., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of Name, and that he/she executed the same as the act of RIO GRANDE WASTE SERVICES, INC. for the purposes and consideration therein expressed, and in the capacity therein stated.

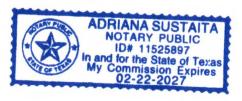
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the day of

2025.

Notary Public

State of Tex 45

SEAL



#### **ATTACHMENT "1"**

#### INSURANCE REQUIREMENTS

#### 1. COMPREHENSIVE GENERAL LIABILITY INSURANCE:

For the duration of this Agreement and any extension hereof, Franchisee shall carry in a solvent company authorized to do business in Texas, comprehensive general liability insurance in the following amounts:

\$1,000,000.00 - Per Occurrence

\$1,000,000.00 - General Aggregate

\$1,000,000.00 - Products/Completed Operations-Occurrence & Aggregate

With respect to the above-required insurance, the City of El Paso and its officers and employees shall be named as additional insured as their interests may appear. The City shall be provided with sixty (60) calendar days advance notice, in writing, of any cancellation or material change. The City shall be provided with certificates of insurance evidencing the above required insurance prior to the commencement of this contract and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) calendar days prior to the expiration or cancellation of any such policies.

#### 2. WORKERS' COMPENSATION

For the duration of this Agreement and any extension hereof, Franchisee shall carry Workers' Compensation and Employers' Liability Insurance in the amount required by Texas law:

\$500,000.00

#### 3. AUTOMOBILE LIABILITY INSURANCE

Minimum \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section on Item 2 of the declarations page.

#### **ATTACHMENT "2"**

#### **SCHEDULE OF OWNERSHIP**

Franchisee Name:
Legal Entity:

RIO GRANDE WASTE SERVICES, INC.

## **Identity of Owners:**

(Identify each partner, member, shareholder, or other owner. For each owner identified identify the individual ownership interest, to include total number of shares owned.)

Name (100%)		
Michael O'Connor 22.5%		
Cheryl Caponigro 22.5%		
Larry Henk 22.5%		
Kevin Bass 22.5%		
Royal Jones 10.0%		

## El Paso, TX

### Legislation Text

File #: 25-495, 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, Blanca Perez, (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 a portion of Tract 8, Milagro Acres, City of El Paso, El Paso County, Texas from R-4 (Residential) to C-1 (Commercial). 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: 9649 Dyer St.

Applicant: Erica Becerra and Jesus Becerra, PZRZ24-00036

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
2nd CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
OUD IFOT	
SUBJECT:	

BACKGROUND / DISCUSSION:	
COMMUNITY AND CTAKENOLDED OUTDEACH	
COMMUNITY AND STAKEHOLDER OUTREACH:	
PRIOR COUNCIL ACTION:	
AMOUNT AND SOURCE OF FUNDING:	
REPORTING OF CONTRIBUTION OR DONATION TO CIT	Y COUNCIL:
NAME	AMOUNT (\$)
IVANE	AMOUNT (4)
**************************************	UTHORIZATION************************************
DEPARTMENT HEAD: Philip Ctive	
DEDARTMENT HEAD.	

ORDIN	NANCE NO		
AN ORDINANCE CHANGING	THE ZONING OF A	PORTION OF TRACT 8, MILAG	RO
ACRES, CITY OF EL PASO, I	EL PASO COUNTY, T	TEXAS FROM R-4 (RESIDENTIA	AL)
TO C-1 (COMMERCIAL). TH	IE PENALTY IS AS PI	ROVIDED FOR IN CHAPTER 20	0.24
OF THE EL PASO CITY COD	<b>E.</b>		

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, the zoning of a Portion of Tract **8, Milagro Acres**, 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-4** (**Residential**) 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.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

ADOPTED this day of	, 2025.
	THE CITY OF EL PASO
ATTEST:	Renard U. Johnson, Mayor
Laura D. Prine, City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Lens Lintrick	Philip Tiwe
Jesus A. Quintanilla Assistant City Attorney	Philip Tiwe  Philip F. Etiwe, Director  Planning & Inspections Department

285

#### EXHIBIT "A"

## Barragan & Associates Inc.

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax (915) 591-5706

#### **DESCRIPTION**

**Description** of a portion of Tract 8, Milagro Acres, City of El Paso, El Paso County, Texas, according to the Plat thereof of record in Volume 9, Page 47, Plat Records of El Paso County, Texas, and being a portion out of property described in Instrument No. 20220029100, Real Property Records of El Paso County, Texas, and being more particularly described as follows:

COMMENCING, at a found 60d nail at the intersection of Eloice Road and Yvette Avenue; THENCE, S 60° 37' 00" E, along the centerline of Yvette Avenue, a distance of 850.00 feet to a point on the westerly right-of-way line of Dyer Street, (U.S. Highway 54); THENCE, S 29° 23' 00" W, along said westerly right-of-way line of Dyer Street, a distance of 290.00 feet to a found "x" chiseled mark, for the southeasterly corner of Milagro Hills Addition Unit Four Replat "D", according to the Plat thereof of record in Volume 78 page 9, Plat Records of El Paso County, Texas, and the northeasterly corner of said property described in Instrument No. 20220029100, and also being the POINT OF BEGINNING of this description;

**THENCE**, S 29° 23' 00" W, along said westerly right-of-way line of Dyer Street, a distance of 33.95 feet to a found nail with shiner for corner;

**THENCE**, S 88° 49' 00" W, leaving said right-of-way line of Dyer Street a distance of 300.00 feet to a found old ½" iron for corner of this parcel, on the easterly line of Lot 10, Block 31, Milagro Hills Addition Unit 7, filed for record in Volume 23, Page 12, Plat Records of El Paso County, Texas, from which a found nail bears NE-3.4 feet;

**THENCE**, N 29° 23' 00" E, along the easterly line of said Milagro Hills Unit 7, a distance of 186.50 feet to a set nail for corner;

**THENCE**, S 60° 37′ 00″ E, along the southerly line of Milagro Hills Addition Unit Four Replat "D", filed for record in Instrument No. 20030014827, Plat Records of El Paso County, Texas, a distance of 258.31 feet to the **POINT OF BEGINNING** of this description and containing in all 0.65 acres more or less.

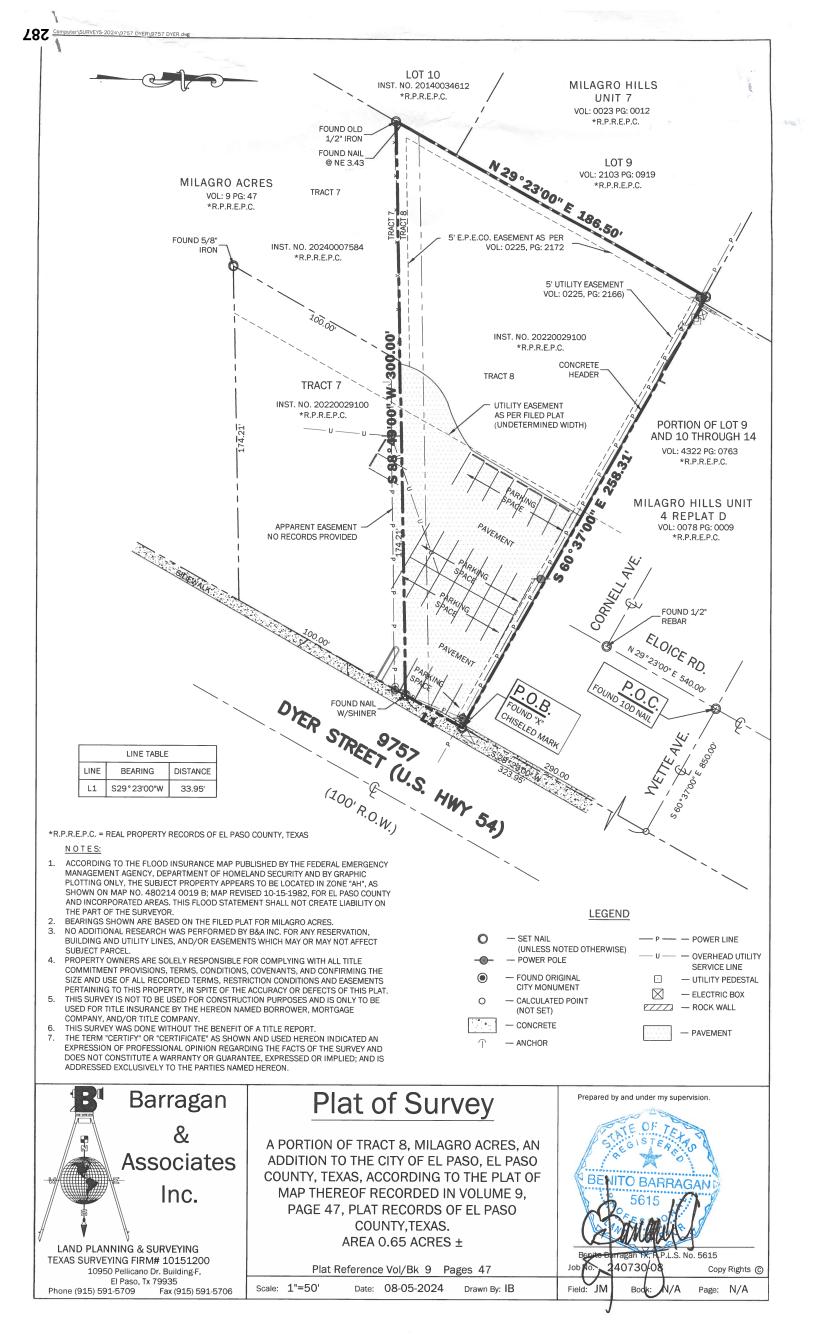
#### NOTES:

- 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 based on the filed plat for Milagro Acres.
- 3. This description is not intended to be a subdivision process which may be required by the local or state code, and it is the client's/owner's responsibility to comply with this code if required.
- 4. This survey was done without the benefit of a title report.
- 5. A Plat of Survey of even date accompanies this description.

Benito Barragan TX R.P.L.S 5615, Barragan and Associates Inc.

Texas Surveying Firm # 10151200

August 05, 2024 Job No. 240730-08



## 9649 Dyer

City Plan Commission — January 30, 2025

CASE NUMBER: PZRZ24-00036

CASE MANAGER: Blanca Perez, (915) 212-1561, PerezBM@elpasotexas.gov

**PROPERTY OWNER:** Jesus Becerra **REPRESENTATIVE:** Erica Becerra

**LOCATION:** 9649 Dyer St. (District 4)

**PROPERTY AREA:** 0.67 acres

**REQUEST:** Rezone from R-4 (Residential) to C-1 (Commercial)

**RELATED APPLICATIONS:** None

**PUBLIC INPUT:** Received (1) e-mail in opposition as of January 23, 2024

**SUMMARY OF REQUEST:** The applicant is requesting to rezone the subject property from R-4 (Residential) to C-1 (Commercial) to allow for a proposed business office.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the rezoning request. The proposed zoning district is compatible with commercial zone district in the surrounding area and is consistent with *Plan El Paso*, the City's adopted Comprehensive Plan, and the G-3 Post War for the future land use designation.

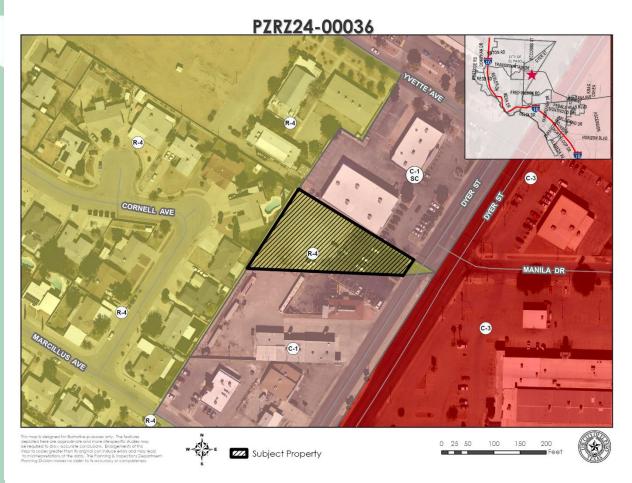


Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone the subject property form R-4 (Residential) to C-1 (Commercial) to allow for a proposed business office. The conceptual site plan shows a proposed business office. Main access to the property is provided from Dyer Street. The site plan is not being reviewed for compliance at this time and full compliance with El Paso City Code will be required at time of building.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed office space in the C-1 (Commercial) district is compatible with surrounding zoning: a church in the R-4 (Residential) district to the north, a restaurant in the C-1 (Commercial) district to the south, and automobile parts store in the C-3 (Commercial) district to the east, and single-family homes in the R-4 (Residential) district to the west. The proposed development is compatible with the established character of the area surrounding the subject property. The nearest school is Dolphin Terrace Elementary, which is located 0.9 miles away, and the nearest park is Dolphin Park, which is 1.1 miles from the subject property.

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?		
Future Land Use Map: Proposed zone change is compatible with the Future Land Use designation for the property:  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	Yes. The subject property and the proposed development meet the intent of the G-3, Post-War Future Land Use designation of <i>Plan El Paso</i> . The proposed zoning is compatible with the future land use designation.		
missing civic and commercial uses.			
Compatibility with Surroundings: The proposed zoning district is compatible with those surrounding the site:  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.	Yes. The proposed C-1 (Commercial) zoning district will provide for the integration of light commercial uses with adjacent R-4 (Residential), C-1 and C-3 (Commercial) zoning districts in the surrounding area.		
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.  THE PROPOSED ZONING DISTRICT'S EFFECT ON THI	Yes. The subject property has access to Dyer Street., which is designated as a major arterial under the City's Major Thoroughfare Plan. The classification of this road is appropriate as it connects to other commercial establishments.  E PROPERTY AND SURROUNDING PROPERTY, AFTER		
EVALUATING THE FOLLOWING FACTORS:			
Historic District or Special Designations & Study Area	None. The subject property is not located within any		
<b>Plans:</b> Any historic district or other special designations that may be applicable. Any adopted small areas plan, including land-use maps in those plans.	historic districts or study area plan boundaries.		

<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	The proposed development is not anticipated to pose any adverse effects on the community.	
<b>Natural Environment:</b> Anticipated effects on the natural environment.	None. The proposed rezoning does not involve green field or environmentally sensitive land or arroyo disturbance.	
<b>Stability:</b> Whether the area is stable or in transition.	The area has been stable with no rezoning within the last 10 years.	
<b>Socioeconomic &amp; Physical Conditions</b> : Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	The rezoning form R-4 (Residential) to C-1 (Commercial) aligns better with the adjacent properties, which are predominantly commercial, making the current R-4 zoning designation no longer appropriate. This request effectively addresses a remnant lot by assigning a zoning designation that is more compatible with the surrounding uses and enhances consistency within the area.	

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** Access is proposed from Dyer Street which is classified as a major arterial on the City of El Paso Major Thoroughfare Plan (MTP) and is appropriate for commercial development. Sidewalks are currently present along Dyer Street. There are three (3) bus stops located within walkable distance (0.15 miles) of the subject property. The closest bus stop is along Dyer Street, which is located 0.06 miles from the subject property.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** No adverse comments were received from reviewing departments.

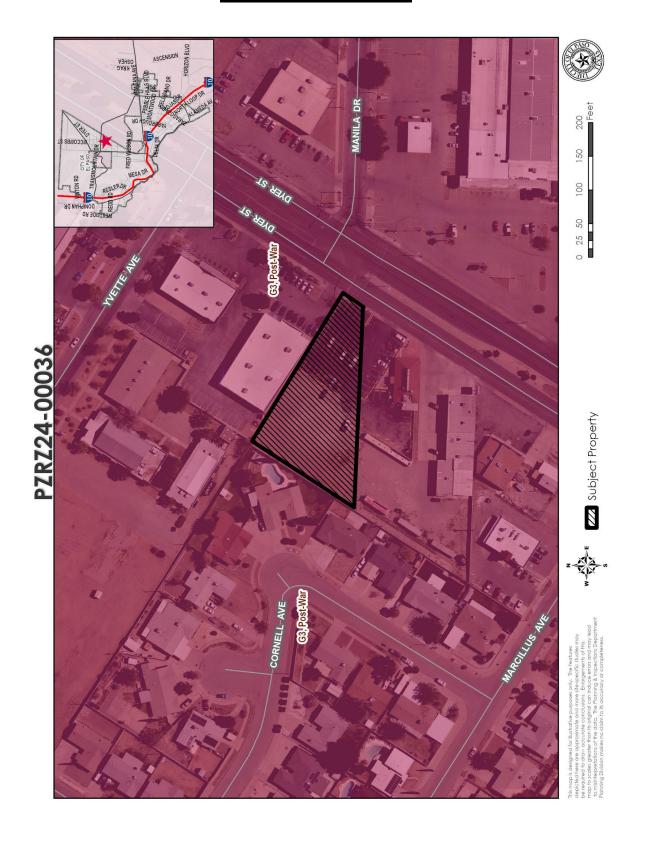
**PUBLIC COMMENT:** The subject property does not lie within any neighborhood associations. Public notices were mailed to property owners within 300 feet on January 17, 2025. As of January 23, 2025, the Planning Division has received (1) e-mail in opposition to the request from the public.

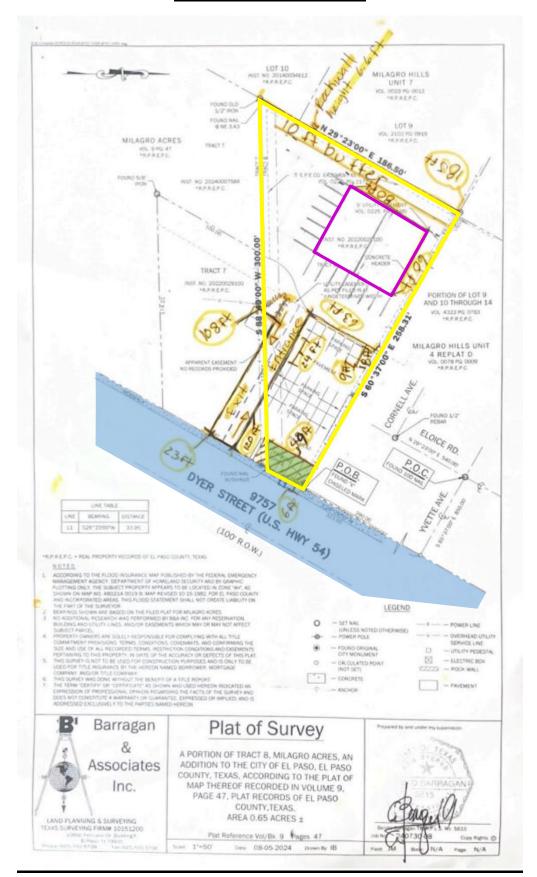
**CITY PLAN COMMISSION OPTIONS:** The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

- 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. Conceptual Site Plan
- 3. Department Comments
- 4. Neighborhood Notification Boundary Map
- 5. Opposition Letter





### <u>Planning and Inspections Department - Planning Division</u>

Staff recommends **APPROVAL** of the rezoning request. The proposed zoning district is compatible with commercial zone district in the surrounding area and is consistent with *Plan El Paso*, the City's adopted Comprehensive Plan, and the G-3 Post War for the future land use designation.

### Planning and Inspections Department – Plan Review & Landscaping Division

No objections to rezoning.

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

Approved.

- 1. Coordinate with TXDOT on Dyer. (Driveways if required) for their review and approval at the time of grading permit.
- 2. Proposed parking lot area, please see "Cluster Parking" Detail 3-42, Appendix "A" Design Standard for Construction from Street Design Manual.
- 3. A 6ft rock-wall from high side is required along residential (5329 and 5333 Cornell Ave.) and commercial area at the time of grading permit.
- 4. Verify access agreement in the lot 9757 Dyer, in order to share access between properties to Dyer St.

### Fire Department

No adverse comments.

### **Police Department**

No comments provided.

### **Environment Services**

No comments provided.

### **Streets and Maintenance Department**

### **Traffic & Transportation Engineering**

No objections. No TIA is required.

### **Street Lights Department**

For the development of a subdivision a complete set of plans shall be submitted to Street Lights Department for review showing the minimum requirements for street illumination proposals\*\*. The submission shall contain but shall not necessarily be limited to plans indicating the location on the premises of all lighting fixtures, both proposed and existing on the site\*\*\*. The description of all lighting fixtures, both proposed and existing. Photometric data. Plans shall show street illumination design and details. El Paso city code is applicable to this process, Street Design Manual (SDM)\* and any other applicable standards or requirements of the city.

Street Lights Department requires that a project that involves a roadway is to be evaluated for lighting requirements based on the City of El Paso Street Design Manual (SDM) and the Design Standards for Construction (DSC) according to City of El Paso Codes (cited below). While developing a project or construction area the existing street illumination system shall be protected and preserved. Complete survey for street illumination system shall be shown on plans. Any change on existing street illumination systems shall be coordinated with Street Lights Department.

City of El Paso Codes to be followed:

\*Title 19 - 19.16.010 - Streetlighting.

- \*\*18.18.190 Submission contents.
- \*\*\* 19.02.040 Criteria for approval.

### Sun Metro

No effects to Sun Metro transit operations or services.

### **El Paso Water**

EPWater does not object to this request.

#### **EPWU-PSB Comments**

There is an existing 12-inch diameter water main extending along Dyer St. This main is available for service.

Previous water pressure reading from fire hydrant #03548, located at the intersection of Manila Dr. and Dyer St. has yielded a static pressure of 105 (psi), a residual pressure of 100 (psi), and a discharge of 1299 (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.

#### Sanitary Sewer

There is an existing 8-inch diameter sanitary sewer main extending along Dyer St. This main is available for service.

From the above described 8-inch sanitary Sewer main, there is an existing 8-inch diameter sanitary sewer main stub out approximately 500 feet north of Marcillus Avenue that extends in the direction of the property of 9649 Dyer St. This main is available for service.

#### General

Each lot shall have a water and sewer connection fronting the limits of the lot.

Dyer Street is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Dyer Street right-of-way requires written permission from TxDOT.

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:

Show existing & proposed drainage flow patterns on the concept plan and identify the discharge location for all storm water runoff.

As per Municipal Code: new developments and redevelopments are required to maintain the pre-development hydrologic response in their post-development state as nearly as practicable to reduce flooding. The code also encourages the use of nonstructural storm water management such as the preservation of greenspace, water harvesting, and other conservation efforts, to the maximum extent practicable, per Chapter 19.19, Section 19.19.010, and Subparagraph A-2 & A-5.

Dyer St. is a state highway; TXDOT roads are not designed to take in outside flow.

#### **El Paso County 911 District**

The 911 District request that the address for parcel be changed to something in the 9700 range per the location of the parcel and the existing addresses around it. Please see the attached that shows where the 9600 block and the 9700 blocks of Dyer are.





### **Texas Department of Transportation**

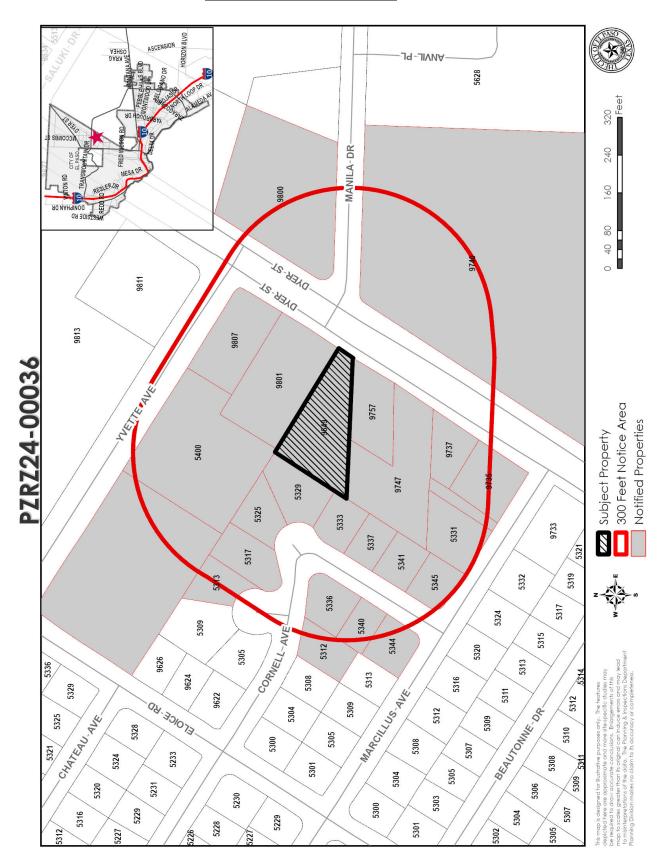
Submit construction plans to TXDOT for approval.

### El Paso County Water Improvement District #1

No comments provided.

### **Texas Gas Service**

Texas Gas Service does not have any objections.



### Perez, Blanca M.

From: Rick Hemphill <rhemphill@elp.rr.com>
Sent: Tuesday, January 21, 2025 6:37 PM

To: Perez, Blanca M.

Subject: Case PZRZ24-00036 9649 DYER

Follow Up Flag: Follow up Flag Status: Flagged

[You don't often get email from rhemphill@elp.rr.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification ]

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.

Hello,

Please do not allow this change in zoning. The owner bought this property knowing it was zoned for Residential zoning for a reason. Besides there is already to much traffic in this area and safety of drivers and pedestrians is at risk if this is approved.

Thank you, Rick Hemphill 5345 Cornell Ave, El Paso TX, 79924

### 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 complète 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	NHA Jesus Bleerra				
Business Name	Jesas cafe Restaurant				
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.

$\sim$	

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:	8-9-24	

### El Paso, TX

### **Legislation Text**

File #: 25-505, 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, Gilbert Guerrero, (915) 212-0065

#### 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 deprogram the proposed "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding"; and that the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to reprogram the 2012 Quality of Life Bond funding from the deprogrammed trails for the use on the "Mountain to River Trail", "Montana to I-10 EP Electric Corridor", and "Tierra del Este at Rich Beem Trail". In addition, that the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to transfer funding from the 2012 Quality of Life Bond investment interest proceeds for use on the "Tierra del Este at Rich Beem Trail"

**RECEIVED** 

By City Clerk's Office at 10:05 am, Apr 17, 2025 Y OF EL PASO, TEXAS AGENDA ITFM

### **DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:	
COMMUNITY AND STAKEHOLDER OUTREACH:	
COMMONITY AND STAREHOLDER COTREACH.	
PRIOR COUNCIL ACTION:	
TRIOR GOUNGIE ACTION.	
AMOUNT AND SOURCE OF FUNDING:	
AMOUNT AND SOURCE OF TONDING.	
REPORTING OF CONTRIBUTION OR DONATION TO CITY	COUNCIL:
	1
NAME	AMOUNT (\$)
**************************************	THORIZATION************************************
DEPARTMENT HEAD: Gilbert Guerr	ero
<u> </u>	

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

### RESOLUTION

**WHEREAS**, the 2012 Quality of Life Bond program included \$6 million dollars for paved trails in Northeast, East, and West El Paso; and

WHEREAS, "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding" had been identified as proposed trails to be constructed; and

**WHEREAS**, City staff recommends the proposed the "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding" be deprogrammed from the 2012 Quality of Life paved trail program; and

WHEREAS, City staff recommends funding, in the amount of \$1,771,916.86 as identified on Exhibit "A", intended for construction of the "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding" be reprogrammed for use on the "Mountain to River Trail", "Montana to I-10 EP Electric Corridor", and "Tierra del Este at Rich Beem Trail", attached hereto; and

**WHEREAS**, City staff further recommend a budget transfer, in the amount of \$433,993.50 from 2012 Quality of Life Bond investment interest proceeds as identified on Exhibit "A", for use on the "Tierra del Este at Rich Beem Trail".

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

THAT the City Manager, or designee, be authorized to deprogram the proposed "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding"; and that the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to reprogram the funding from the deprogrammed trails, in the amount of \$1,771,916.86, for the use on the "Mountain to River Trail", "Montana to I-10 EP Electric Corridor", and "Tierra del Este at Rich Beem Trail".

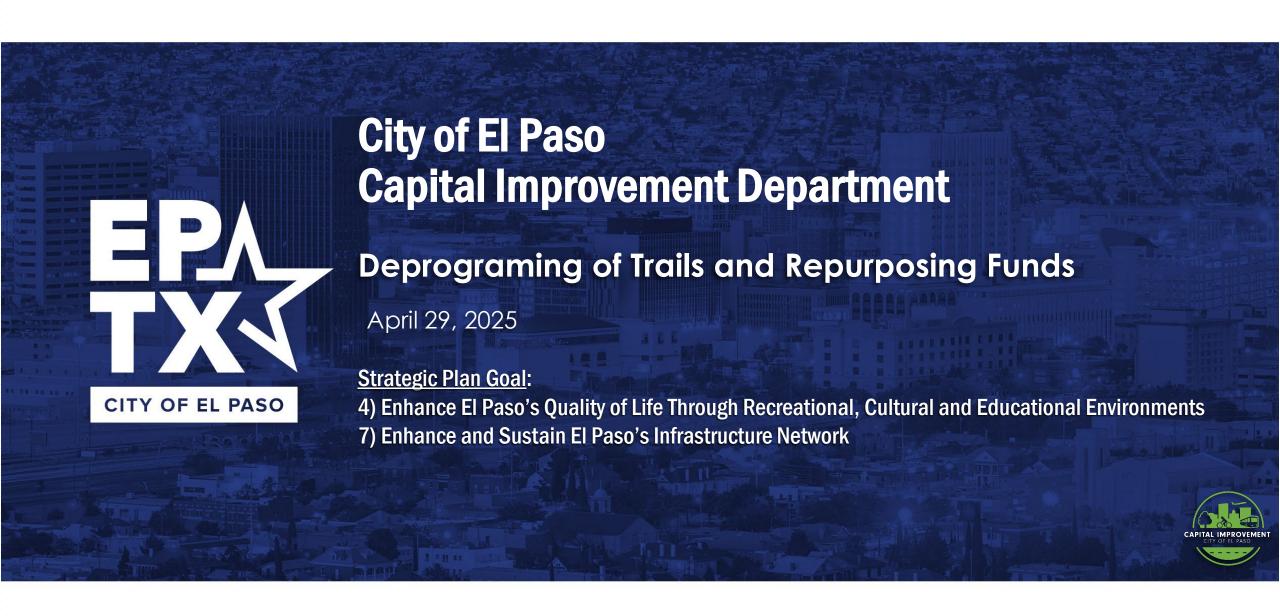
THAT the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to transfer funding from the 2012 Quality of Life Bond investment interest proceeds in the amount of \$433,993.50, for use on the "Tierra del Este at Rich Beem Trail".

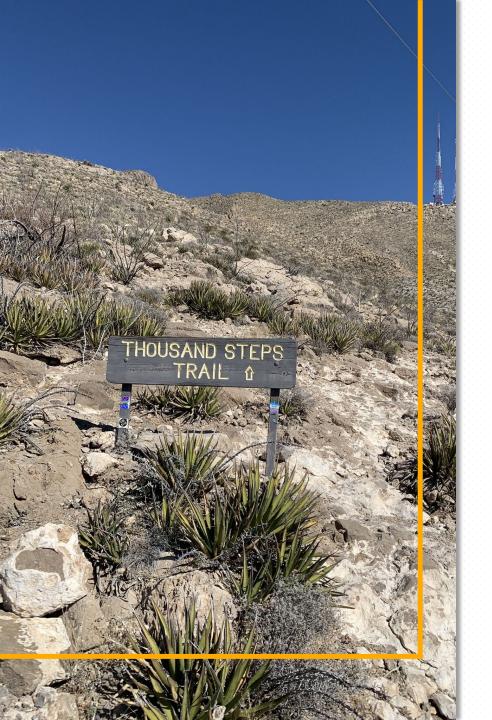
(Signatures begin on the following page)

1

<b>APPROVED</b> on this	day of	2025.
		CITY OF EL PASO:
		Renard U. Johnson Mayor
ATTEST:		
Laura D. Prine City Clerk		
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:
Roberta Brito Senior Assistant City Attorney		Gilbert Guerrero Gilbert Guerrero, Interim Director Capital Improvement Department

Exhibit A			
Project	Variance	Recommendation Action	
Tierra del Este Paved Trail	\$465,847.97	Deprogram Westside Community Trail,	
Montana to I10 Paved Trail	\$504,249.96	Trailheads City Wayfinding, Donald to Dyer	
Mountain to River Paved Trail	\$801,818.93	EP Elec Corridor, and Skyline to Loma Real	
	\$1,771,916.86	Trail	
Recommended Transfer	•	\$1,771,916.86	
Tierra del Este Paved Trail	\$433,993.50	Transfer from QOL Prop #1 Investment Interest Proceeds	
Recommended Transfer		\$433,993.50	
	Total	\$2,205,910.36	







# Agenda

- Project Background
- Active Projects
  - Paved Trails Overview
- Recommended Council Action

# **Project Background**



- November 06, 2012 city council approved the Quality of Life Bond to include Paved Trails and Trail Heads
- January 22, 2024 deprogramming of trails discussed at the Bond Overview Advisory Committee (BOAC)
- April 15, 2025 Council approved the Tierra del Este at Rich Beem Trail Construction Award



# **Quality** of Life

- PAVED TRAILS

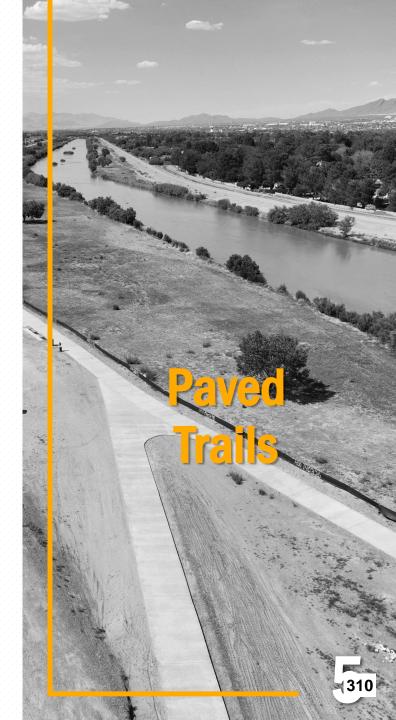


# 2 Projects - Bidding Phase

Project	District	Budget	Construction Completion
Montana to I-10 Paved Trail	7	\$1,714,575.38	Spring 2027
Mountain to River Trails System	1	\$861,777	Spring 2026

# **1** Project - Construction Phase

Project	District	Budget	Construction Completion
Tierra Del Este Paved Trail	1	\$288,885	Spring 2026



# **Paved Trails Overview**



Paved Trail	Status	Paved Trail	Status
Ascarate to Riverside	Complete	Montana to I 10 Segment A, B, C	Bidding
Rio Grande Trail North	Complete	Montana to I-10 Segment D	TBD
Valley Creek to Rio Grande N.	Complete	Mountain to River Trail System Ph I & III	Bidding
Donald to Dyer	To be Deprogrammed	Mountain to River Trail System Ph II (Land Acquisition)	EP Water Utility Coordination
Skyline to Loma Real Segment A, B, C, D	To be Deprogrammed	(Tierra Este) Rainbow Vista to John Hayes	Construction
Westside Community Park	To be Deprogrammed		

All projects were approved by council, adding or deprogramming projects requires City Council approval



# **Recommended Transfer**

Recommended Deprogrammed Projects	s Budget
Donald to Dyer	\$283,307.24
Skyline to Loma Real Segments A B C D	\$1,137,571.69
Wayfinding	\$277,555.93
Westside Community Park	\$73,482
Ţ	otal 1,771,916.86



Recommended Transfer	Recommended Transfer	Recommended Action				
Tierra de Este Paved Trail	\$465,847.97	Donrogram Donald to Dvor				
Montana to I 10 Paved Trail	\$504,249.96	Deprogram Donald to Dyer, Skyline to Loma Real,				
Mountain to River Paved Trail	\$801,818.93	Wayfinding and Westside				
Sub Total:	1,771,916.86	Community Park				
Tierra Este Paved Trail	\$433,993.50	Transfer from QOL Prop 1				
Grand Total:	\$2,205,910.36	Investment Interest				



# **Recommended Council Action**

That the City Manager, or designee, be authorized to deprogram the proposed "Westside Community Trail", "Donald to Dyer EP Electric Corridor", "Skyline to Loma Real Trail" and "Trailheads City Wayfinding"; and be authorized to make necessary budget transfers and execute any and all necessary documents to reprogram the funding from the deprogrammed trails, in the amount of \$1,771,916.86, for the use on the "Mountain to River Trail", "Montana to I-10 EP Electric Corridor", and "Tierra del Este at Rich Beem Trail". And that the City Manager, or designee, be authorized to make necessary budget transfers and execute any and all necessary documents to transfer funding from the 2012 Quality of Life Bond investment interest proceeds in the amount of \$433,993.50, for use on the "Tierra del Este at Rich Beem Trail".





## MISSION



Deliver exceptional services to support a high quality of life and place for our community.

### VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, Respect, Excellence, Accountability, People

# MISIÓN



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

### VISIÓN



Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



VALORES

Integridad, Respeto, Excelencia, Responsabilidad, Personas



### El Paso, TX

300 N. Campbell El Paso, TX

### Legislation Text

File #: 25-502, 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**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-0043 Capital Improvement Department, Gilbert Guerrero, (915) 212-1860

### AGENDA LANGUAGE:

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

Populate the table to maintain proper formatting. Copy and paste the agenda language in the designated area below. You may include more language after the table. Just made sure all posting language is populated between "TITLE" and "END".

The linkage to the Strategic Plan is subsection: 4.1 Deliver bond projects impacting quality of life across the city in a timely, efficient manner.

### **Award Summary:**

Discussion and action on the award of Solicitation 2025-0086 Mountain to River Trail Phase I to Martinez Bros, Contractors LLC for a total estimated amount of \$1,146,031.87. The project will consist of the construction of a trailhead parking lot, wayfinding signs, a BNSF concrete crossing, and related site work, including sidewalks, mechanically stabilized earth walls, striping, drainage and traffic control.

Department: Capital Improvement

Award to: Martinez Bros, Contractors LLC

City & State: El Paso, TX Item(s): Base Bid I

Contract Term: 212 Working Days
Base Bid I: \$1,146,031.87
Total Estimated Award: \$1,146,031.87

Account(s): 190-4800-29010-580270-PCP13PRKE01B

Funding Source(s): 2012 Quality of Life Bond

District(s):

This was a Competitive Sealed Proposal Procurement, unit price contract.

The Purchasing & Strategic Sourcing Department and Capital Improvement Department recommend award as

### File #: 25-502, Version: 1

indicated to Martinez Bros, Contractors LLC the highest ranked offeror(s) 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.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

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



**DEPARTMENT:** Capital Improvement

Purchasing & Strategic Sourcing

AGENDA DATE: April 29, 2025
PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME: Gilbert Guerrero, Interim Director of

Capital Improvement PHONE NUMBER: (915) 212- 1860

Claudia A. Garcia, Director of

Purchasing & Strategic Sourcing

PHONE NUMBER: (915) 212-0043

**DISTRICT(S) AFFECTED:** 1

STRATEGIC GOAL: No. 4 - Enhance El Paso's Quality of Life through Recreational, Cultural, and

**Educational Environments** 

**SUBGOAL:** 4.1 Deliver bond projects impacting quality of life across the city in a timely, efficient manner

### SUBJECT:

Discussion and action on the award of solicitation 2025-0086 Mountain to River Trail Phase I to Martinez Bros. Contractors, LLC, for a total estimated amount of \$1,146,031.87.

### **BACKGROUND / DISCUSSION:**

The project consists of the Construction of a trailhead parking lot, wayfinding signs and a new BNSF-owned concrete railroad crossing, including mobilization, earthwork, concrete sidewalks and ramps, MSE walls with traffic rails, striping, signage, pavement markings, stormwater measures, traffic control, and in coordination with BNSF Railway.

### COMMUNITY AND STAKEHOLDER OUTREACH:

A pre-bid meeting was held on October 9, 2024. Seven suppliers were in attendance.

### **SELECTION SUMMARY:**

Solicitation was advertised on October 1, 2024 and October 8, 2024. The solicitation was posted on City website on October 1, 2024. There were a total fifty (36) viewers online; six (5) bids were received; all from local suppliers.

### **CONTRACT VARIANCE:**

N/A

### **PROTEST**

No protest received for this requirement.

### PRIOR COUNCIL ACTION:

N/A

### **AMOUNT AND SOURCE OF FUNDING:**

Amount: \$1,146,031.87

Funding Source: 2012 Quality of Life Bond

Account: 190-4800-29010-580270-PCP13PRKE01B

### REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:

Report any contributions or donations to City Council of an accumulated total of \$500 or more. Report the name of the elected official and the amount.

NAME	AMOUNT (\$)
Form was provided to the applicant	

**DEPARTMENT** HEAD:

*Gilbert Guerrero* 4/9/2025
Gibert Guerrero, Interim Director of Capital Improvement

Claudia A. Garcia, Director of Purchasing & Strategic Sourcing

### Project Form Competitive Sealed Proposal

Please place the following item on the Regular Agenda for the City Council of April 29, 2025.

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

The linkage to the Strategic Plan is subsection: 4.1 Deliver bond projects impacting quality of life across the city in a timely, efficient manner

### **Award Summary:**

Discussion and action on the award of solicitation 2025-0086 Mountain to River Trail Phase I to Martinez Bros, Contractors LLC for a total estimated amount of \$1,146,031.87. The project will consist of the construction of a trailhead parking lot, wayfinding signs, a BNSF and related site work, including sidewalks, MSE walls, striping, drainage and traffic control.

Department: Capital Improvement

Award to: Martinez Bros, Contractors LLC

City & State: El Paso, TX Item(s): Base Bid I

Contract Term: 212 Working Days
Base Bid I: \$1,146,031.87
Total Estimated Award: \$1,146,031.87

Account(s): 190-4800-29010-580270-PCP13PRKE01B

Funding Source(s): 2012 Quality of Life Bond

District(s):

This was a Competitive Sealed Proposal Procurement, unit price contract

The Purchasing & Strategic Sourcing Department and Capital Improvement Department recommend award as indicated to Martinez Bros, Contractors LLC the highest ranked offeror(s) 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.

Work under this unit price contract is only an estimated value and will be ordered, performed, invoiced, and paid by measured quantity. The actual cost of this contract may be higher or lower than the total estimated value and will be the sum total of unit prices at the end of the contract term.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

### **COMPETITIVE SEALED PROPOSAL (CSP) EVALUATION**

Mountain to River Trail Phase I Solicitation No. 2025-0086

Evaluation Factors	Maximum Points	Martinez Bros. Contractors, LLC	Karlsruher, Inc. CSA Constructors	Black Stallion Contractors, Inc.	Allen Concrete, LLC	Keystone GC, LLC
Factor A - Offeror's Proposed Price	75	70.71	75.00	70.62	54.39	
Factor B - Offeror's Proposed Construction Duration and Schedule	15	13.31	6.38	7.79	6.12	Non-responsive
Factor C: Offeror's Experience	10	8.41	4.77	3.92	3.18	proposal
Total Points	100	92.43	86.15	82.33	63.69	
	Ranking	1	2	3	4	

APPROVED:	lvette Hernandez	12/26/24	APPROVED: Strick Cofa	12/11/2024
	City Engineer	Date	Purchasing & Strategic Sourcing Director	Date



### **CITY OF EL PASO**

### PRICE TABULATION

El Paso, TX



Title: Mountain to River Trail Phase I

Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

**DEPARTMENT: Capital Improvement** Allen Concrete, LLC Black Stallion Contractors, Inc.

El Paso, TX

Karlsruher, Inc. CSA Constructors El Paso, TX

				Offero	r 1 of 5	Offero	r 2 of 5	Offeror 3 of 5		
Base Proposal: Unit P	rice Schedule							•		
NO.	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)	Total	Price (ONLY 2 DECIMALS)	Total	Price (ONLY 2 DECIMALS)	Total	
1	90	LF	Remove existing curb, haul and disposal	\$ 10.00	\$ 900.00	3.00	\$ 2,070.00	\$ 13.84	\$ 1,245.60	
2	1	LS	Obliterate existing turning movement pavement markings	\$ 1,600.00	\$ 1,600.00	0 \$ 1,725.00	\$ 1,725.00	\$ 1,785.36	\$ 1,785.36	
3	2,800	CY	Earthwork - clearing excavation and backfill and compaction & import	\$ 31.20	\$ 87,360.00	23.00	\$ 64,400.00	\$ 20.76	\$ 58,128.00	
4	650	LF	F & I - Curb and Gutter with subgrade prep Type II TxDOT	\$ 23.11	\$ 15,021.50	28.75	\$ 18,687.50	\$ 30.45	\$ 19,792.50	
5	20	LF	F & I - Header curb to C & G transition curb with subgrade prep	\$ 70.00	\$ 1,400.00	23.00	\$ 460.00	\$ 34.60	\$ 692.00	
6	1,150	SY	F & I pavement, base course, subgrade prep and compaction	\$ 42.00	\$ 48,300.00	34.50	\$ 39,675.00	\$ 47.75	\$ 54,912.50	
7	1	LS	F & Place Pavemet Markings (stop bar, parking striping, turning movement arrows, crosswalk) Thermoplastic	\$ 9,500.00	\$ 9,500.00	9,775.00	\$ 9,775.00	\$ 10,710.08	\$ 10,710.08	
8	3	EA	F & I -signage (handicap parking, stop here at light)	\$ 1,185.00	\$ 3,555.00	2,012.50	\$ 6,037.50	\$ 899.60	\$ 2,698.80	
9	660	SF	F & I traffic rail on top of MSE wall	\$ 47.00	\$ 31,020.00	0 \$ 80.50	\$ 53,130.00	\$ 76.12	\$ 50,239.20	
10	1	EA	F & I - TxDot roadway inlet for Mse wall	\$ 9,300.00	\$ 9,300.00	3,800.00	\$ 13,800.00	\$ 5,536.00	\$ 5,536.00	
11	1,600	SF	F & I MSE Walls	\$ 165.00	\$ 264,000.00	126.50	\$ 202,400.00	\$ 168.85	\$ 270,160.00	
12	250	SY	F & I concrete apron for 6" concrete driveway entrance 6 In thick w/ steel	\$ 57.00	\$ 14,250.00	92.00	\$ 23,000.00	\$ 76.12	\$ 19,030.00	
13	60	SF	Place Concrete ADA Ramp from parking lot to paved trail w/SG prep and dome tile	\$ 50.00	\$ 3,000.00	57.50	\$ 3,450.00	\$ 27.68	\$ 1,660.80	
14	1	LS	Furnish and Install 25 feet of metal beam guardrail, posts, concrete footing dead end sign	\$ 6,100.00	\$ 6,100.00	5,750.00	\$ 5,750.00	\$ 4,844.00	\$ 4,844.00	
15	2	EA	Remove and replace existing street signs	\$ 1,585.00	\$ 3,170.00	3 1,035.00	\$ 2,070.00	\$ 1,176.00	\$ 2,352.00	
16	36	LF	F & I 18 inch RCP	\$ 108.00	\$ 3,888.00	\$ 460.00	\$ 16,560.00	\$ 380.00	\$ 13,680.00	





### **CITY OF EL PASO**

### **PRICE TABULATION**



Title: Mountain to River Trail Phase I

Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

DEPARTMENT: Capital Improvement

Allen Concrete, LLC
El Paso, TX
Black Stallion Contractors, Inc.
El Paso, TX

Karlsruher, Inc. CSA Constructors El Paso, TX

				Office	r 1 of 5		r 2 of 5	Offeror 3 of 5		
Base Proposal: Unit Pr	rice Schedule			Ollero	1 1 01 3	Offero	1 2 01 3	Ollero	3 01 3	
NO.	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)	Total	Price (ONLY 2 DECIMALS)	Total	Price (ONLY 2 DECIMALS)	Total	
17	1	CY	F & I loose stone rock rip rap	\$ 1,660.00	\$ 1,660.00	\$ 2,070.00	\$ 2,070.00	\$ 207.00	207.00	
18	160	SF	F & I Stamped concrete	\$ 28.50	\$ 4,560.00	\$ 17.25	\$ 2,760.00	\$ 34.60	5,536.00	
19	5	EA	Remove and replace Signal Heads fixtures on mast arm	\$ 1,100.00	\$ 5,500.00	\$ 3,105.00	\$ 15,525.00	\$ 4,428.00	22,140.00	
20	4	EA	F & I Wayfinding Sign A & B double sided medium - 2 signs per double post include foundation	\$ 2,100.00	\$ 8,400.00	\$ 3,795.00	\$ 15,180.00	\$ 3,460.00	) \$ 13,840.00	
21	1	EA	Concrete meter pole w/ ground box at Resler	\$ 7,000.00	\$ 7,000.00	\$ 17,250.00	\$ 17,250.00	\$ 21,659.00	21,659.00	
22	4,311	SF	F & I Rock Mulch, 3 inch depth with weed fabric underlayment	\$ 1.54	\$ 6,638.94	\$ 1.50	\$ 6,466.50	\$ 2.41	1 \$ 10,389.51	
23	1	LS	F & I Steel Edging	\$ 600.00	\$ 600.00	\$ 977.50	\$ 977.50	\$ 360.00	360.00	
24	1	EA	F & I 2'x2' Boulders	\$ 360.00	\$ 360.00	\$ 345.00	\$ 345.00	\$ 406.00	406.00	
25	1	EA	F & I 3'x3' Boulders	\$ 438.00	\$ 438.00	\$ 419.75	\$ 419.75	\$ 540.00	540.00	
26	1	EA	F & I 4'x4' Boulders	\$ 480.00	\$ 480.00	\$ 460.00	\$ 460.00	\$ 1,100.00	1,100.00	
27	100	SF	F & I Concrete pavement for bench and table	\$ 27.50	\$ 2,750.00	\$ 8.05	\$ 805.00	\$ 16.61	1 \$ 1,661.00	
28	1	EA	F & I Single pedestal Shade Table 3 seats	\$ 12,820.50	\$ 12,820.50	\$ 8,050.00	\$ 8,050.00	\$ 10,745.00	) \$ 10,745.00	
29	1	EA	F & I Trash receptacle	\$ 5,835.00	\$ 5,835.00	\$ 2,875.00	\$ 2,875.00	\$ 2,585.00	2,585.00	
30	1	EA	F & I Pet Waste Station	\$ 1,472.63	\$ 1,472.63	\$ 1,150.00	\$ 1,150.00	\$ 1,314.00	) \$ 1,314.00	
31	1	EA	F & I Bike Repair Station	\$ 6,010.00	\$ 6,010.00	\$ 3,795.00	\$ 3,795.00	\$ 4,560.00	\$ 4,560.00	
32	2	EA	F & I Park Rules Sign and snake warning sign	\$ 1,185.00	\$ 2,370.00	\$ 1,725.00	\$ 3,450.00	\$ 1,176.00	) \$ 2,352.00	



### **CITY OF EL PASO**

### PRICE TABULATION



Title: Mountain to River Trail Phase I Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

DEPARTMENT: Capital Improvement

				Allen Concrete, LLC El Paso, TX			Black Stallion C El Pa		Karlsruher, Inc. CSA Constructors El Paso, TX			
				Offeror 1 of 5			Offero	5	Offeror 3 of 5			
ase Proposal: Unit Pri	ice Schedule		T									
NO.	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)		Total	Price (ONLY 2 DECIMALS)		Total	Price (ONLY 2 DECIMALS)		Total
33	9	EA	F & I Trees 2" caliper	\$ 840.00	\$	7,560.00	\$ 805.00	\$	7,245.00	\$ 1,186.00	\$	10,674.00
34	36	EA	F & I 5 gal Shrubs	\$ 46.10	\$	1,659.60	\$ 44.28	\$	1,594.08	\$ 72.12	\$	2,596.39
35	50	EA	F & I 1 Gal. Shrubs/groundcover	\$ 30.00	\$	1,500.00	\$ 28.75	\$	1,437.50	\$ 20.76	\$	1,038.00
36	1	LS	F & I Irrigation from Resler to Paseo Del Norte and Trailhead inlcuding all valves, thrust blocks, anchors, meter, sleeves, emitters, and all appurtenances.	\$ 311,715.00	\$	311,715.00	\$ 333,500.00	\$	333,500.00	\$ 166,080.00	\$	166,080.00
37	1	EA	F & I 1- 1/2 inch reclaimed water meter	\$ 48,200.00	\$	48,200.00	\$ 9,775.00	\$	9,775.00	\$ 25,604.00	\$	25,604.00
38	1	EA	Booster Pump, ground box, electrical work, slab heater	\$ 43,800.00	\$	43,800.00	\$ 40,250.00	\$	40,250.00	\$ 46,087.20	\$	46,087.20
39	500	SY	Concrete Sidewalk -5 foot concrete sidewalk 4 inches thick	\$ 50.50	\$	25,250.00	\$ 57.50	\$	28,750.00	\$ 59.41	\$	29,705.00
40	270	LF	F & I Slotted curb abutting sidewalk	\$ 18.60	\$	5,022.00	\$ 34.50	\$	9,315.00	\$ 34.60	\$	9,342.00
41	100	SF	F & I Asphalt as necessary for approaches	\$ 16.00	\$	1,600.00	\$ 40.25	\$	4,025.00	\$ 27.68	\$	2,768.00
42	8	EA	Bicycle Symbol Pavement Markers Shared lane on Borderland Drive	\$ 400.00	\$	3,200.00	\$ 402.50	\$	3,220.00	\$ 449.80	\$	3,598.40
43	1	LS	Furnish - Railroad insurance, flagger, observer, permit fees	\$ 270,000.00	\$	270,000.00	\$ 8,050.00	\$	8,050.00	\$ 20,690.00	\$	20,690.00
44	8	МО	F & I = SWPP Measures complete in place for entire length of project	\$ 3,125.00	\$	25,000.00	\$ 2,875.00	\$	23,000.00	\$ 2,768.00	\$	22,144.00
45	8	МО	F & I - Barricades and Traffic Control Measures complete in place for entire length of project	\$ 12,750.00	\$	102,000.00	\$ 9,200.00	\$	73,600.00	\$ 10,380.00	\$	83,040.00
			Sum Total Base Proposal (Items 1-45)  Mobilization Not to Exceed 5%		\$	1,415,766.17		\$	1,088,330.33		\$	1,040,228.34
			Sum Total Base Proposal Plus Mobilization		\$	66,541.01 1,482,307.18		\$	53,328.19 1,141,658.52		\$	34,771.66 1,075,000.00
Bid Bond			V	ES	,,	V	<u> </u>	,,	V		,,	
Amendments Acknowledged				ES			YES YES YES YES					
olicitation Invites: 763	Local Suppliers In	vited: 415 Proposals	Received: 5 Local Proposals Received: 5									
			on only and does not constitute actual award/e	xecution of contract.								

Approved By: \_/s/\_\_\_\_ Date: 1/19/2024



#### **CITY OF EL PASO**

#### PRICE TABULATION



Title: Mountain to River Trail Phase I Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

DEPARTMENT: Capital Improvement

					ne Go Paso, ror 4	TX		Contractors, LLC so, TX r 5 of 5	. Capital improvement
Base Proposal: Unit	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)		Total	Price (ONLY 2 DECIMALS)	Total	
1	90	LF	Remove existing curb, haul and disposal	\$ 12.	47 \$	1,122.30	\$ 6.00	\$ 540.00	
2	1	LS	Obliterate existing turning movement pavement markings	\$ 1,880.	60 \$	1,880.60	\$ 2,064.00	\$ 2,064.00	
3	2,800	CY	Earthwork - clearing excavation and backfill and compaction & import	\$ 48.	75 \$	136,500.00	\$ 38.40	\$ 107,520.00	
4	650	LF	F & I - Curb and Gutter with subgrade prep Type II TxDOT	\$ 31.	78 \$	20,657.00	\$ 36.00	\$ 23,400.00	
5	20	LF	F & I - Header curb to C & G transition curb with subgrade prep	\$ 31.	78 \$	635.60	\$ 48.00	\$ 960.00	
6	1,150	SY	F & I pavement, base course, subgrade prep and compaction	\$ 37.	06 \$	42,619.00	\$ 45.60	\$ 52,440.00	
7	1	LS	F & Place Pavemet Markings (stop bar, parking striping, turning movement arrows, crosswalk) Thermoplastic	\$ 10,280.	58 \$	10,280.58	\$ 12,381.60	\$ 12,381.60	
8	3	EA	F & I -signage (handicap parking, stop here at light)	\$ 1,529.	55 \$	4,588.65	\$ 1,200.00	\$ 3,600.00	
9	660	SF	F & I traffic rail on top of MSE wall	\$ 78.	67 \$	51,922.20	\$ 108.00	\$ 71,280.00	
10	1	EA	F & I - TxDot roadway inlet for Mse wall	\$ 11,670.	33 \$	11,670.33	\$ 24,000.00	\$ 24,000.00	
11	1,600	SF	F & I MSE Walls	\$ 175.	72 \$	281,152.00	\$ 120.00	\$ 192,000.00	
12	250	SY	F & I concrete apron for 6" concrete driveway entrance 6 In thick w/ steel	\$ 114.	89 \$	28,722.50	\$ 97.20	\$ 24,300.00	
13	60	SF	Place Concrete ADA Ramp from parking lot to paved trail w/SG prep and dome tile	\$ 19.	28 \$	1,156.80	\$ 43.20	\$ 2,592.00	
14	1	LS	Furnish and Install 25 feet of metal beam guardrail, posts, concrete footing dead end sign	\$ 3,342.	45 \$	3,342.45	\$ 2,700.00	\$ 2,700.00	
15	2	EA	Remove and replace existing street signs	\$ 1,009.	09 \$	2,018.18	\$ 1,200.00	\$ 2,400.00	
16	36	LF	F & I 18 inch RCP	\$ 541.	95 \$	19,510.20	\$ 180.00	\$ 6,480.00	

Page 4 of 6



#### **CITY OF EL PASO**

#### PRICE TABULATION



Title: Mountain to River Trail Phase I

Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

DEPARTMENT: Capital Improvement

Deadline Date: Octob						ı		DEPARTMENT: Capital Im	provement
					e GC, LLC so, TX		Contractors, LLC so, TX		
				Offero	r 4 of 5	Offero	r 5 of 5		
Base Proposal: Unit I	Price Schedule		T		Т	1	1		
NO.	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)	Total	Price (ONLY 2 DECIMALS)	Total		
17	1	CY	F & I loose stone rock rip rap	\$ 212.99	\$ 212.99	\$ 511.50	\$ 511.50		
18	160	SF	F & I Stamped concrete	\$ 22.80	\$ 3,648.00	\$ 15.60	\$ 2,496.00		
19	5	EA	Remove and replace Signal Heads fixtures on mast arm	\$ 3,134.33	\$ 15,671.65	\$ 3,840.00	\$ 19,200.00		
20	4	EA	F & I Wayfinding Sign A & B double sided medium - 2 signs per double post include foundation	\$ 2,880.57	\$ 11,522.28	\$ 2,400.00	\$ 9,600.00		
21	1	EA	Concrete meter pole w/ ground box at Resler	\$ 17,552.21	\$ 17,552.21	\$ 18,780.00	\$ 18,780.00		
22	4,311	SF	F & I Rock Mulch, 3 inch depth with weed fabric underlayment	\$ 1.92	\$ 8,277.12	\$ 2.14	\$ 9,225.54		
23	1	LS	F & I Steel Edging	\$ 288.36	\$ 288.36	\$ 385.00	\$ 385.00		
24	1	EA	F & I 2'x2' Boulders	\$ 391.17	\$ 391.17	\$ 473.00	\$ 473.00		
25	1	EA	F & I 3'x3' Boulders	\$ 937.79	\$ 937.79	\$ 528.00	\$ 528.00		
26	1	EA	F & I 4'x4' Boulders	\$ 1,078.21	\$ 1,078.21	\$ 566.50	\$ 566.50		
27	100	SF	F & I Concrete pavement for bench and table	\$ 17.24	\$ 1,724.00	\$ 9.60	\$ 960.00		
28	1	EA	F & I Single pedestal Shade Table 3 seats	\$ 8,315.24	\$ 8,315.24	\$ 7,516.80	\$ 7,516.80		
29	1	EA	F & I Trash receptacle	\$ 2,681.77	\$ 2,681.77	\$ 2,400.00	\$ 2,400.00		
30	1	EA	F & I Pet Waste Station	\$ 699.52	\$ 699.52	\$ 1,800.00	\$ 1,800.00		
31	1	EA	F & I Bike Repair Station	\$ 4,704.91	\$ 4,704.91	\$ 3,600.00	\$ 3,600.00		
32	2	EA	F & I Park Rules Sign and snake warning sign	\$ 1,529.55	\$ 3,059.10	\$ 1,200.00	\$ 2,400.00		



Page 5 of 6



#### **CITY OF EL PASO**

#### PRICE TABULATION



Title: Mountain to River Trail Phase I Solicitation Number: 2025-0086

Deadline Date: October 30, 2024

DEPARTMENT: Capital Improvement

Deadline Date: Octob	er 30, 2024										DEPARTME	NT: Capital Improvemen
				ÉI	Pasc	GC, LI o, TX 4 of 5		Martinez Bros. ( El Pas Offero	so, T	x		
Base Proposal: Unit I	Price Schedule			0	0.0.	4 0. 0		Giloro				
NO.	Quantity	Unit of Measure	Description	Price (ONLY 2 DECIMALS)	!		Total	Price (ONLY 2 DECIMALS)		Total		
33	9	EA	F & I Trees 2" caliper	\$ 84	6.27	\$	7,616.43	\$ 706.44	\$	6,357.96		
34	36	EA	F & I 5 gal Shrubs	\$ 9	4.03	\$	3,385.08	\$ 68.90	\$	2,480.40		
35	50	EA	F & I 1 Gal. Shrubs/groundcover	\$ 6	8.96	\$	3,448.00	\$ 21.45	\$	1,072.50		
36	1	LS	F & I Irrigation from Resler to Paseo Del Norte and Trailhead inlcuding all valves, thrust blocks, anchors, meter, sleeves, emitters, and all appurtenances.	\$ 211,76	8.29	\$	211,768.29	\$ 229,449.00	\$	229,449.00		
37	1	EA	F & I 1- 1/2 inch reclaimed water meter	\$ 8,77	6.11	\$	8,776.11	\$ 10,653.50	\$	10,653.50		
38	1	EA	Booster Pump, ground box, electrical work, slab heater	\$ 41,87	4.55	\$	41,874.55	\$ 36,784.00	\$	36,784.00		
39	500	SY	Concrete Sidewalk -5 foot concrete sidewalk 4 inches thick	\$ 7	4.05	\$	37,025.00	\$ 92.40	\$	46,200.00		
40	270	LF	F & I Slotted curb abutting sidewalk	\$ 3	1.53	\$	8,513.10	\$ 30.00	\$	8,100.00		
41	100	SF	F & I Asphalt as necessary for approaches	\$ 1	7.12	\$	1,712.00	\$ 7.20	\$	720.00		
42	8	EA	Bicycle Symbol Pavement Markers Shared lane on Borderland Drive	\$ 47	6.42	\$	3,811.36	\$ 640.00	\$	5,120.00		
43	1	LS	Furnish - Railroad insurance, flagger, observer, permit fees	\$ 13,79	1.02	\$	13,791.02	\$ 42,000.00	\$	42,000.00		
44	8	МО	F & I = SWPP Measures complete in place for entire length of project	\$ 1,83	5.76	\$	14,686.08	\$ 1,392.00	\$	11,136.00		
45	8	МО	F & I - Barricades and Traffic Control Measures complete in place for entire length of project	\$ 1,28	3.67	\$	10,269.36	\$ 9,600.00	\$	76,800.00		
			Sum Total Base Proposal (Items 1-45)			\$ 1	1,065,219.09		\$	1,085,973.30		
			Mobilization Not to Exceed 5%		_	\$	29,026.00		\$	54,298.57		
			Sum Total Base Proposal Plus Mobilization		-		1,094,245.09		\$	1,140,271.87		
		Bid Bond			YES	s		Y	ES			
	A	mendments Acknowled	lged	YES		Y	YES					
Solicitation Invites: 7	63 Local Suppliers In	vited: 415 Proposals	Received: 5 Local Proposals Received: 5									
IOTE: The informati	on contained in this tab	oulation is for information	on only and does not constitute actual award/e	xecution of contra	ct.							
					_	_			_			



2025-0086 Mountain to River Trail Phase I Page 6 of 6

## 2025-0086 Mountain to River Trail Ph I Views List

No.	Participant Name	City	State
	AAA General Contractors, LLC	El Paso	TX
2	Alejandro Motta (Tri-State Electric)	Vinton	TX
3	Allen Concrete, LLC	El Paso	TX
	Amtek USA, Austin	Houston	TX
5	Aztec Contractors Inc	EL PASO	TX
	Bio Remedies (Texas Fannon Enterprises, Inc)	El Paso	TX
7	Black Stallion Contractors, Inc.	El Paso	TX
	Bright Bolt Enterprises, Inc.	EL PASO	TX
9	Caballero Electric Co	El Paso	TX
10	CEA Group (CEA Engineering Group, Inc.)	El Paso	TX
11	City of El Paso Capital Improvement Department	El Paso	TX
	Consolidated Traffic Controls, Inc.	Arlington	TX
	Construction Reporter	Albuquerque	NM
	CONSTRUCTION SOLUTION USA LLC	CARROLLTON	TX
	CSA Constructors (Karlsruher, Inc.)	El Paso	TX
	DLC CONSTRUCTION INC	El Paso	TX
	Filterbuy Incorporated	Talladega	AL
	Hawk Construction	El Paso	TX
	HomeScape (Long Term Capital LLC)	El Paso	TX
	International Eagle Enterprises	El Paso	TX
	Jobe Materials	El Paso	TX
	JSR Construction & Remodeling LLC	Santa Teresa	NM
	Keystone Contractors and Engineers (Keystone GC, LLC.)	El Paso	TX
	Lucha League Wrestling	El Paso	TX
	Manny's Landscape And Irrigation	Las Cruces	NM
	Martinez Bros. Contractors, LLC	El Paso	TX
	MTS CONTRACTOR INC.	El Paso	TX
	OLIVARES ELECTRIC OF EL PASO, LLC	El Pso	TX
	PMI Pavement Marking, LLC (Pavement Marking, LLC)	EL PASO	TX
	RBM Engineering, Inc.	El Paso	TX
	The PlanIt Room	El Paso	TX
	\ 0   1   7	El Paso	TX
	Valor GC	El Paso	TX
	Virtual Builders Exchange	San Antonio	TX
	Wyler Industrial Works, Inc.	El Paso	TX
36	Zeraus Iluminacion	El Paso	TX

#### 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:**

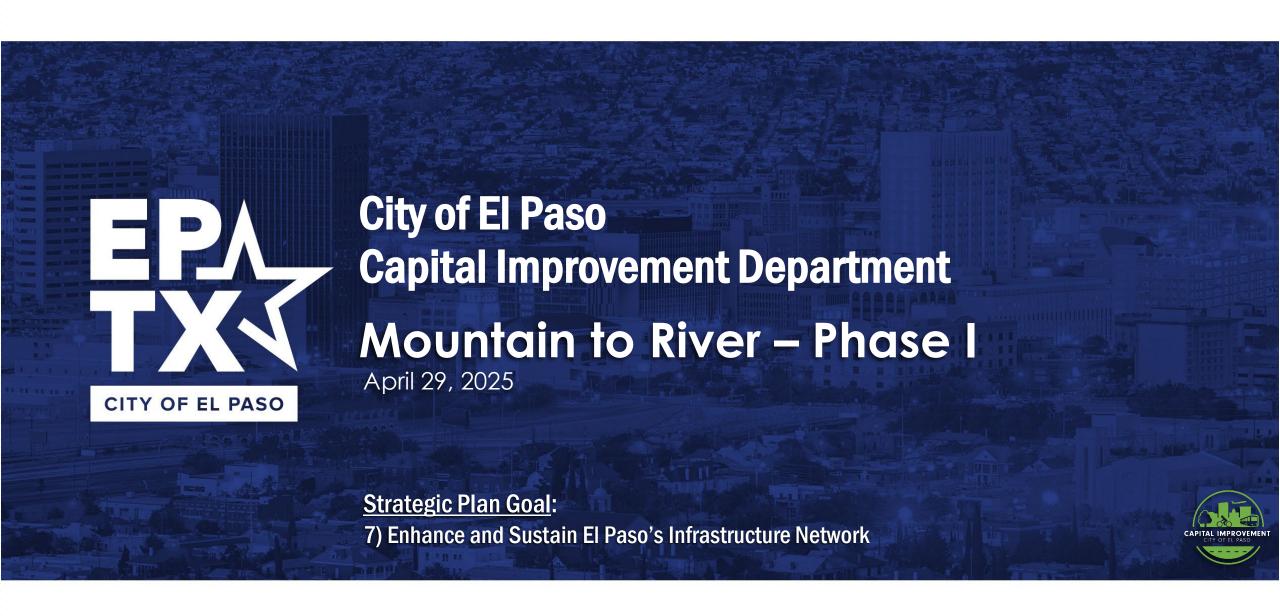
"Contribution" A direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded 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	Heriberto Martinez
Business Name	Martinez Bros. Contractors, LLC
Agenda Item Type	Mountain to River Trail Phase I, Solicitation No. 2025-0086
Relevant Department	City of El Paso Purchasing & Strategic Sourcing Department

City Cour	T made campaign contributions or donations totaling ar cil member(s) during their campaign(s) or term(s) of City of the El Paso Municipal Code.	•
ı	ade campaign contributions or donations totaling an agg ncil member(s) during their campaign(s) or term(s) of Cit	
OFFICE	CURRENT COUNCIL MEMBER NAME	ĄMOUNT (\$)
Mayor	1/0/186 126	
District 1	/W/8 /	8121
District 2		2 60
District 3	1-13	&1011
District 4	1 300000	5/ //
District 5	11/1/5222	////
District 6	TOVA!	5//
District 7		
District 8		
		form is true and accurate to the best of



# **Project Details**

Location:	Paseo del Norte & Woodrow Bean Transmountain Rd. Intersection BNSF Railroad crossing at Borderland Rd. & along the Elizabeth F. Hernandez Trail (parallel to Transmountain Rd.)
District(s):	1
Total Budget:	\$861,777.00
Funding Source:	2012 Quality of Life

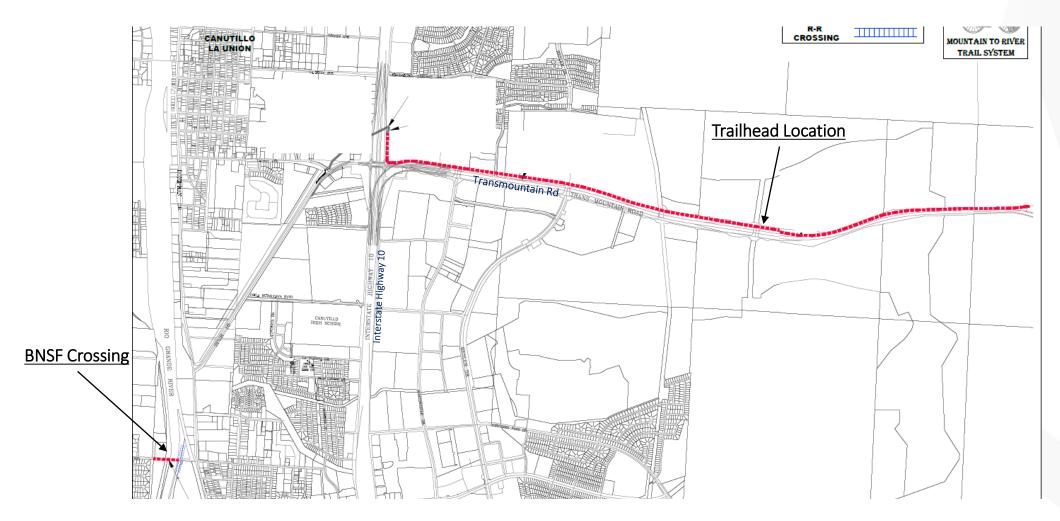


# **Scope of Work**

- Construction of a trailhead parking lot that includes, but is not limited to:
  - Mobilization and demobilization, earthwork, installation of crushed aggregate base course, inlets, concrete pipe, MSE walls, traffic rails for MSE walls, concrete sidewalk, ADA ramps, guardrail w/ dead end sign, irrigation, striping and signage, pavement markings, traffic signal fixture modifications, trail wayfinding signage, barricades, SWPPP measures, and traffic control.
- Construction of a new concrete railroad crossing owned by BNSF railway that includes, but is not limited to:
  - Mobilization and demobilization, earthwork, installation of concrete sidewalks, detectable warning stop bars, standard slotted curb, 20' access ramp, pavement markings, SWPPP measures, traffic control, barricades, and close coordination with BNSF Railway.

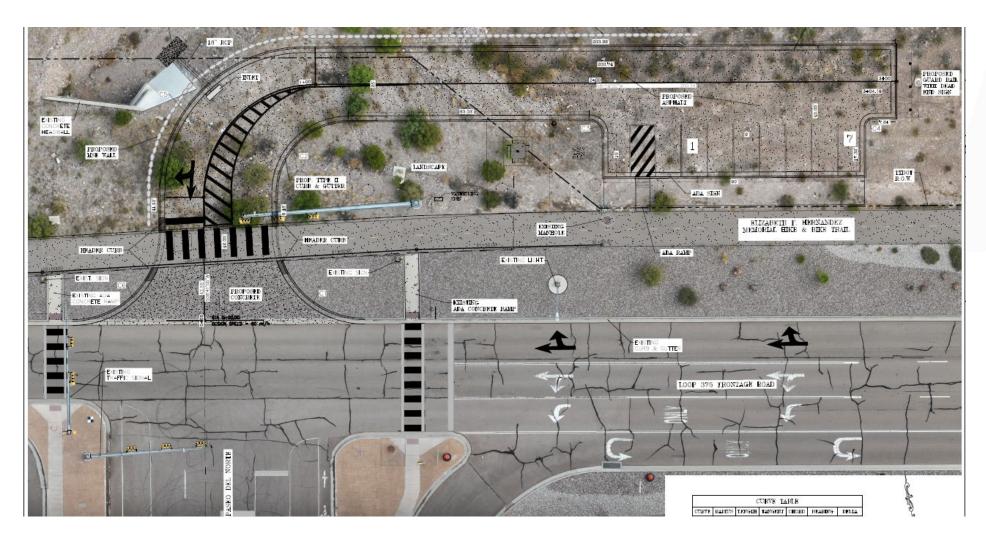


# **Project Location**





# **Trailhead**





Paseo del Norte & Woodrow Bean Transmountain Dr Intersection

# **BSNF** Crossing





BNSF Railroad crossing at Borderland Rd.

# **Procurement Summary**

- Competitive Sealed Proposal (CSP)
  - Solicitation advertised on October 1, 2024
    - 5 firms submitted bids, 5 local vendors
  - Recommendation
    - To award the construction contract to Martinez Bros.
       Contractors, LLC in the amount of \$1,146,031.87
  - Construction Schedule
    - Start: Summer 2025

End: Spring 2026







## MISSION



Deliver exceptional services to support a high quality of life and place for our community.

## VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, Respect, Excellence, Accountability, People

## MISIÓN



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

## VISIÓN



Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



VALORES

Integridad, Respeto, Excelencia, Responsabilidad, Personas

### El Paso, TX

#### Legislation Text

File #: 25-521, 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, Claudia A. Garcia, (915) 212-0043 Information Technology, Carolyn Patrick, (915) 212-1408

#### AGENDA LANGUAGE:

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

Discussion and action on Agreement No. 2001-017R, with Oracle to continue to provide Financial and Human Resources Management system software each fiscal year as governed by City Council's approval of the annual City budget.



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



**DEPARTMENT:** Information Technology

Purchasing & Strategic Sourcing

AGENDA DATE: April 29, 2025

**PUBLIC HEARING DATE:** Not Applicable

CONTACT PERSON NAME: Carolyn Patrick, Deputy Chief PHONE NUMBER: (915)212-1408

Information Officer

Claudia A. Garcia, Director PHONE NUMBER (915)212-0043

DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** No. 5 – Promote Transparent and Consistent Communication amongst all Members

of the Community

**SUBGOAL:** 5.2 – Leverage and expand the use of current and new technology to reduce inefficiencies

and improve communications

#### **SUBJECT:**

Discussion and action on Agreement No. 2001-017R, with Oracle to continue to provide Financial and Human Resources Management System software each fiscal year as governed by City Council's approval of the annual City budget.

#### **BACKGROUND / DISCUSSION:**

On March 6, 2001 the City of El Paso (City) entered into Agreement No. 2001-017R Financial & Human Resources Management System with, PeopleSoft USA, Inc., for an initial term of five (5) year with two (2) five years options to extend.

The executed Agreement No. 2001-017R is considered continuous in perpetuity until such time the City determines that the products and services are no longer required.

In 2005, PeopleSoft USA, Inc, has been acquired by Oracle Corporation and has been renamed as Oracle America, Inc.

During the life of this agreement City combined the use of Texas Department of Information Resources (DIR) Cooperative contracts.

This long-standing relationship reflects the City's continued investment in Oracle solutions, which have consistently provided reliable support for the City's diverse and evolving information technology needs.

#### **COMMUNITY AND STAKEHOLDER OUTREACH:**

Not Applicable

#### **SELECTION SUMMARY:**

Not Applicable

#### **CONTRACT VARIANCE:**

Not Applicable

#### **PROTEST**

No protest received for this requirement.

#### PRIOR COUNCIL ACTION:

On March 6, 2001 the City of El Paso (City) entered into Agreement No. 2001-017R Financial & Human Resources Management System with, PeopleSoft USA, Inc., for an initial term of five (5) year with two (2) five years options to extend.

#### AMOUNT AND SOURCE OF FUNDING:

Amount: N/A

Funding Source: N/A

Account: N/A

#### REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:

Report any contributions or donations to City Council of an accumulated total of \$500 or more. Report the name of the elected official and the amount.

NAME	AMOUNT (\$)
Form was provided to the applicant	NA

#### **DEPARTMENT HEAD:**

Carolyn Patrick, Deputy Chief Information Officer

Claudia A. Garcia – Director of Purchasing & Strategic Sourcing

#### Project Form

Please place the following item on the Regular Agenda for the City Council of April 29, 2025.

Strategic Goal 5 - Promote Transparent and Consistent Communication amongst all Members of the Community

The linkage to the Strategic Plan is subsection: 5.2 Leverage and expand the use of current and new technology to reduce inefficiencies and improve communications

Discussion and action on Agreement No. 2001-017R, with Oracle to continue to provide financial and Human Resources Management System software each fiscal year as governed by City Council's approval of the annual City budget.

#### RESOLUTION

- WHEREAS, on March 6, 2001 the City of El Paso (City) entered into Agreement No. 2001-017R Financial & Human Resources Management System with, PeopleSoft USA, Inc., for an initial term of five (5) years with two (2), five (5) years options.
- **WHEREAS**, the executed Agreement No. 2001-017R is considered continuous in perpetuity until such time the City determines that the products and services are no longer required.
- WHEREAS, Oracle Corporation, a corporation duly incorporated and existing under the laws of the State of Delaware ("Oracle"), acquired PeopleSoft USA, Inc. on January 7, 2005; and in connection with such acquisition, Oracle formed Oracle USA, Inc.;
- **WHEREAS**, Oracle USA, Inc. subsequently merged with Sun Microsystems, Inc., a Delaware corporation, and the surviving entity was renamed Oracle America, Inc.;
- **WHEREAS**, Oracle products and services have been acquired and implemented by the City through Agreement 2001-017R and Texas Department of Information Resources (DIR) Cooperative Contracts since 2001 to date in the approximate amount of \$19,800,000.00;
- **WHEREAS**, the above relationship evidences an on-going investment in the services and products provided by Oracle which have provided reliable solutions for the myriad of information technology needs of the City;
- **WHEREAS,** Oracle's participation in the Texas Department of Information Resources (DIR) Cooperative Contracts has ceased as of October 28, 2024;
- **WHEREAS**, the City's Department of Information Technology acknowledges that continuing its relationship with Oracle will allow the City to best leverage prior years of investment and implementation of software solutions;
- WHEREAS, the City will continue to align its use of Oracle products and services with the annual City budget process, whereby the projected usage of Oracle software solutions is reviewed, updated, and authorized by the City Council of the City of El Paso through approval of the applicable fiscal year budget resolution and its associated schedules; and
- WHEREAS, the City will maintain access to Oracle's current and future services and products to continue to build upon its long-term investment in Oracle technologies;

#### NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The recitals contained in this Resolution regarding Agreement No. 2001-017R, Financial & Human Resources Management System, are hereby found to be true and correct and are incorporated herein by reference.

- 2. That all expenditures stemming from contractual obligations for Fiscal Year 2025 (FY25) with Oracle, which are required to meet the City's IT needs, were approved through FY25 Budget Resolution;
- 3. The City Attorney's Office review and that the Purchasing Director is authorized to execute any related necessary documents during the life of the Agreement;
- 4. That fiscal year expenditures with Oracle will be governed by City Council's approval of the annual City budget, specifically projections and updates by the Department of Information Technology, which shall be incorporated in Schedule E of the City's annual Budget Resolution;

APPROVED this	day of	
		THE CITY OF EL PASO
		Renard U. Johnson, Mayor
ATTEST:		
Laura D. Prine, City Clerk		
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:
Robert Aquinaga Gr Robert Aguinaga Jr. Assistant City Attorney		Carolyn Patrick, Deputy Chief Information Officer Information Technology  Claudia A. Garcia, Director
		Purchasing & Strategic Sourcing Department

#### DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with <u>Title 2, Chapter 2.92, Section 2.92.080</u>

#### 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:**

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**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	Oracle America, Inc.
Business Name	Oracle America, Inc
Agenda Item Type	2001-01R Financial & Human Resources Management System
Relevant Department	Information Technology

OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor	1/0/180/8	
District 1		
District 2		
District 3		201
District 4	1 20000	0.05
District 5		
District 6	A PRY	5
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.

(	Signed by:		17-Dec-2024	9:44	ΑМ	PST
Signature:	turt Solsky	Date:	. <u> </u>			

The signatory listed above is an authorized representative of Oracle America, Inc. ("Oracle") and is signing this form on behalf of Oracle and not in his or her individual capacity. Notwithstanding the foregoing. Oracle's responses are limited to itself and are made to the best of its knowledge as of the date of signature.



# **Background**

- 2001: City Council awarded Agreement No. 2001-017R
   Financial & Human to PeopleSoft USA, Inc.
- 2001: agreement was executed in perpetuity after award
- 2005: Oracle acquired Peoplesoft
- 2010: City combined the use of cooperative DIR contracts for these services
- 2024:
  - City migrated to Oracle cloud services
  - Oracle DIR contract expired
  - City revisited original award basis and agreement
- 2001 Present: Expenditures for this systems are part of yearly Budget Resolution under Schedule E.



## **Recommended Action**

 Discussion and action on Agreement No. 2001-017R, with Oracle to continue to provide Financial and Human Resources Management System software each fiscal year as governed by City Council's approval of the annual City budget.



## MISSION



Deliver exceptional services to support a high quality of life and place for our community.

## VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, Respect, Excellence, Accountability, People



### El Paso, TX

300 N. Campbell El Paso, TX

#### Legislation Text

File #: 25-503, 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, Claudia A. Garcia, (915) 212-0043 Capital Improvement Department, Gilbert Guerrero, (915) 212-1860

#### AGENDA LANGUAGE:

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

Populate the table to maintain proper formatting. Copy and paste the agenda language in the designated area below. You may include more language after the table. Just made sure all posting language is populated between "TITLE" and "END".

The linkage to the Strategic Plan is subsection: 7.2 Improve competitiveness through infrastructure improvements impacting the quality of life.

#### **Award Summary:**

Discussion and action on the award of Solicitation 2025-0087 On-Call Horizontal Construction 2025 to Keystone GC, LLC., and Amstar, Inc for an initial term of two (2) years and three (3), one (1) year options. The length of each contract including the initial term plus options is five (5) years for an estimated total aggregate of \$16,000,000.00. The project consists of the construction contracts to perform maintenance, repair, alteration renovation, remediation, or minor construction for City of El Paso infrastructure and Right of Ways on a task order basis.

Department: Capital Improvement

Award to: Keystone GC, LLC.

City & State: El Paso, TX Initial Term: Two (2) Years

Option Terms: Three (3) - One (1) Year Terms

Award to: Amstar, Inc.
City & State: San Antonio, TX
Initial Term: Two (2) Years

Option Terms: Three (3) - One (1) Year Terms

#### File #: 25-503, Version: 1

Total Aggregate Award: \$16,000,000.00

Account(s): Various
Funding Source(s): Various
District(s): All

This was a Competitive Sealed Proposal, requirements contract.

The Purchasing & Strategic Sourcing and Capital Improvement Departments recommend award as indicated to Keystone GC, LLC., and Amstar, Inc the highest ranked offerors 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.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

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



**DEPARTMENT:** Capital Improvement

Purchasing & Strategic Sourcing

AGENDA DATE: April 29, 2025
PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME: Gilbert Guerrero, Interim Director of

Capital Improvement PHONE NUMBER: (915) 212- 1860

Claudia A. Garcia, Director of

Purchasing & Strategic Sourcing

**PHONE NUMBER:** (915) 212-0043

**DISTRICT(S) AFFECTED:** All

STRATEGIC GOAL: No. 7 - Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** 7.2 Improve competitiveness through infrastructure improvements impacting the quality of life

#### SUBJECT:

Discussion and action on the award of solicitation 2025-0087 On-Call Horizontal Construction 2025 to Amstar Inc. General Contractor and Keystone GC, LLC. Each contract has an initial term of two (2) and three (3), one (1) year options. The length of each contract including the initial term plus options is five (5) years for an estimated total aggregate of 16,000,000.00.

#### BACKGROUND / DISCUSSION:

The project consists of the construction contracts to perform maintenance, repair, alteration renovation, remediation, or minor construction for City of El Paso infrastructure and Right of Ways on a task order basis. Project assignments/tasks under this contract will be issued from various funding sources to complete projects that are simple and/or have fast track requirements/schedules.

#### COMMUNITY AND STAKEHOLDER OUTREACH:

A pre-bid meeting was held on December 4, 2024. Two suppliers were in attendance.

#### **SELECTION SUMMARY:**

Solicitation was advertised on November 26, 2024 and December 3, 2024. The solicitation was posted on City website on November 26, 2024. There were a total thirty-five (35) viewers online; six (3) proposals were received; one (1) from local supplier.

#### CONTRACT VARIANCE:

N/A

#### **PROTEST**

No protest received for this requirement.

#### PRIOR COUNCIL ACTION:

N/A

#### AMOUNT AND SOURCE OF FUNDING:

Amount: \$16,000,000.00

Funding Source: Various Funding

#### REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:

Report any contributions or donations to City Council of an accumulated total of \$500 or more. Report the name of the elected official and the amount.

NAME	AMOUNT (\$)
Form was provided to the applicant	

**************************************	AUTHORIZATION***************
KEQUIKED	AUTHORIZATION

**DEPARTMENT HEAD:** 

Gilbert Guerrero 4/11/2025
Gilbert Guerrero, Interim Director of Capital Improvement

Claudia A. Garcia, Director of Purchasing & Strategic Sourcing

## Project Form Competitive Sealed Proposal

Please place the following item on the Regular Agenda for the City Council Meeting of April 29, 2025

Strategic Goal 7 - Enhance and Sustain El Paso's Infrastructure Network

The linkage to the Strategic Plan is subsection: 7.2 Improve competitiveness through infrastructure improvements impacting the quality of life

#### **Award Summary:**

Discussion and action on the award of solicitation 2025-0087 On-Call Horizontal Construction 2025 to Keystone GC, LLC., and Amstar, Inc for an initial term of Two (2) years and three (3), one (1) year options. The length of each contract including the initial term plus options is five (5) years for an estimated total aggregate of \$16,000,000.00. The project consists of the construction contracts to perform maintenance, repair, alteration renovation, remediation, or minor construction for City of El Paso infrastructure and Right of Ways on a task order basis

Department: Capital Improvement

Award to: Keystone GC, LLC.

City & State: El Paso, TX Initial Term: Two (2) Years

Option Terms: Three (3) – One (1) Year Terms

Award to: Amstar, Inc.
City & State: San Antonio, TX
Initial Term: Two (2) Years

Option Terms: Three (3) – One (1) Year Terms

Total Aggregate Award: \$16,000,000.00

Account(s): Various
Funding Source(s): Various
District(s): All

This was a Competitive Sealed Proposal, requirements contract.

The Purchasing & Strategic Sourcing and Capital Improvement departments recommend award as indicated to Keystone GC, LLC., and Amstar, Inc the highest ranked offerors 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.

As a part of this award, upon the review of the City Attorney, the City Engineer may without further authorization from City Council approve contract changes which are necessary for proper execution of the work and carrying out the intent of the project, which are in accordance with applicable law, do not make changes to the prices and are within the appropriate budget.

## COMPETITIVE SEALED PROPOSAL (CSP) EVALUATION SHEET 2025-0087 On-Call Horizontal Construction 2025

				JSR Construction	
Evaluation Factors	Maximum Points	Amstar Inc.	Keystone GC, LLC	& Remodeling LLC	
Factor A - Offeror's Proposed Coefficient	50	50.00	45.83		
Factor B - Offeror's Experience	10	8.67	0.00	1	
Factor C - Organizational Structure and Business Practices	20	17.67	17.67	Proposal deemed non-responsive,	
Factor D – Quality of Goods and Services	5	4.33	4.00	therefore, not evaluated.	
Factor E – Offeror's safety record and safety performance	5	5.00	5.00	evaluated.	
Factor F - Sample Project	10	9.00	8.67	1	
Total Points		94.67	81.17		
	Ranking	1	2		

APPROVED:

Director of Purchasing & Strategic Sourcing 2/21/25

2/24/2025 Date



# CITY OF EL PASO COEFFICIENT TABULATION



Title: On-Call Horizontal Construction 2025 Solicitation Number: 2025-0087

Deadline Date: January 8, 2025 Department: Capital Improvement

		Amstar, Inc. San Antonio, TX Bidder 1 of 3	Jesus S. Rodriguez dba JSR Construction & Remodeling LLC Santa Teresa, NM Bidder 2 of 3	Keystone GC, LLC El Paso, TX Bidder 3 of 3	
A. Pre-Priced Items (Unit Price Book) (Coefficients must be extended to three decimal places.)					
1.	Coefficient - Standard Working Hours	1.200	1.230	1.313	
2.	Coefficient - Non-Standard Working Hours	1.250	1.250	1.348	
Amendments Acknowledged		YES	YES	YES	

Solicitation Invites: 796 Local Suppliers Invited: 424 Proposals Received: 3 Local Proposals Received: 1

NOTE: The information contained in this tabulation is for information only and does not constitute actual award/execution of contract.

Approved: \_\_\_\_\_/s/\_\_\_\_

Date: \_\_\_1/21/2025

#### 2025-0087 Horizontal On-Call Construction 2025 Views List

No.	Participant Name	City	State
1	915 hauler	el paso	TX
2	Accent Landscape	El paso	TX
3	Amstar Inc. General Contractor	San Antonio	TX
4	Aztec Contractors Inc	EL PASO	TX
5	BELLA IRRIGATION, LLC	El Paso	TX
6	Black Fire & Security Services, LLC	El Paso	TX
7	Black Stallion Contractors, Inc.	El Paso	TX
8	Brock & Bustillos Inc.	El Paso	TX
9	Brownstone Consultants	McAllen	TX
10	Brunson pump service (Brunson Investment LLC)	El Paso	TX
11	CIJ General Contractor	El Paso	TX
12	Conde Inc.	El Paso	TX
	Construction Reporter	Albuquerque	NM
14	CONSTRUCTION SOLUTION USA LLC	CARROLLTON	TX
15	Desert Contracting LLC	El Paso	TX
16	DLC CONSTRUCTION INC	El Paso	TX
17	FBC Commercial Roofing	Wylie	TX
18	Filterbuy Incorporated	Talladega	AL
	Instant Imprints, South Houston (M. Wright Group, LLC)	Houston	TX
	JSR Construction & Remodeling LLC	Santa Teresa	NM
	Keystone Contractors and Engineers (Keystone GC, LLC.)	El Paso	TX
22	Martinez Bros. Contractors, LLC	El Paso	TX
23	Mega Wholesale LLC	ELIZABETH	NJ
	Octavias Group LLC (Paris O. Davidson)	El Paso	TX
25	Paso-Tex Industries LLC	El Paso	TX
26	Pride General Contractors, LLC	El Paso	TX
	REYEZ Concrete (Gonzalo Reyez)	El Paso	TX
28	RMVCF LLC	El Paso	TX
	Sherwin Williams Protective Coatings	El Paso	TX
	The PlanIt Room	El Paso	TX
	Turner & Townsend Heery, LLC	Dallas	TX
	WOFFORD TRUCK PARTS (TE EL PASO,LLC)	EL PASO	TX
	Wyler Industrial Works, Inc.	El Paso	TX
	Zeraus Iluminacion	El Paso	TX
35	ZTEX Construction, Inc.	El Paso	TX

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In compliance with Title 2, Chapter 2.92, Section 2.92.080

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#### Contributor / Donor Information:

Full Name	N/A	
Business Name	Amstar, Inc.	
Agenda Item Type	Contract Award	
Relevant Department	Capital Improvement	

I have made campaign contributions or donations to City Council member(s) during their campaign(s) or OFFICE CURRENT COUNCIL MEMBER NAME  Mayor  District 1  District 2  District 3  District 4  District 5  District 6	
City Council member(s) during their campaign(s) or  OFFICE CURRENT COUNCIL MEMBER NAME  Mayor  District 1  District 2  District 3  District 4  District 5  District 6	term(s) of City office:
Mayor  District 1  District 2  District 3  District 4  District 5  District 6	AMOUNT (\$)
District 2 District 3 District 4 District 5 District 6	
District 2  District 3  District 4  District 5  District 6	
District 3  District 4  District 5  District 6	
District 4  District 5  District 6	
District 6	age / / /
District 6	
	5 / / //
District 7	7 5
District 8	
claration: I hereby affirm that the information provided in t	
wledge. I understand that this disclosure is required by Tit	
ject to verification by the city authorities. Further, I unders subsequent contributions or donations prior to the re	

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign

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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.

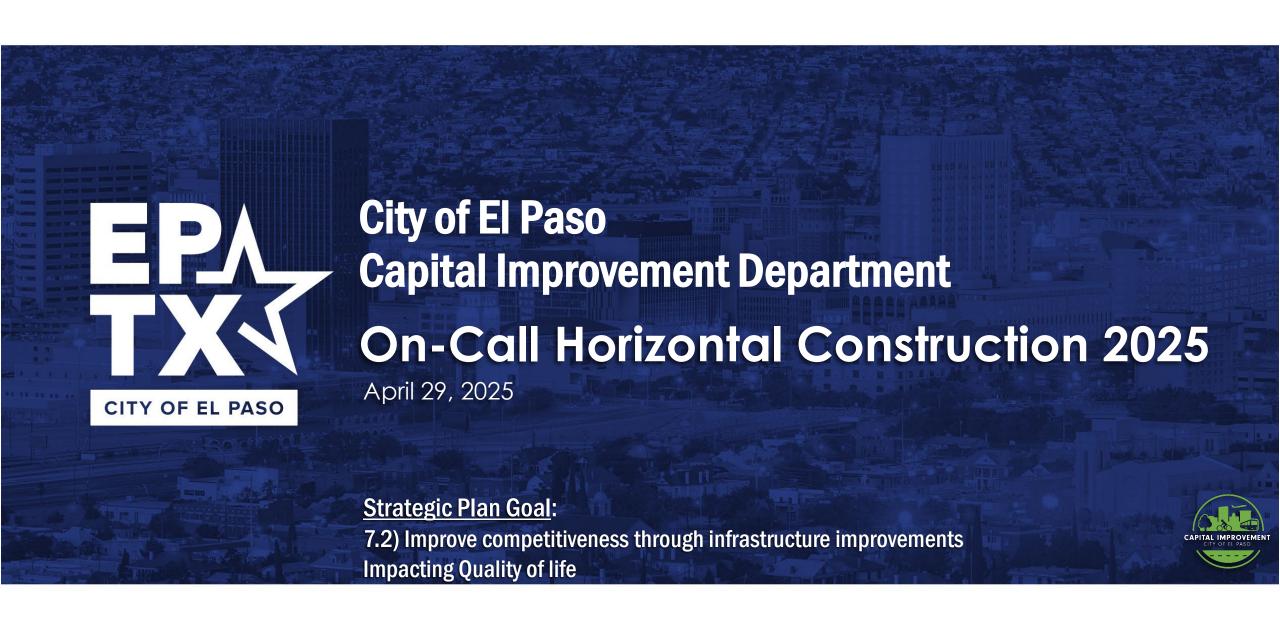
"Benefiting" Shall include but not be limited to any contract, bid award, franchise, permit, zoning or rezoning, and other award that council will vote on.

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#### Contributor / Donor Information:

Full Name	Francisco Guillen
Business Name	Keystone GC, LLC.
Agenda Item Type	Contract Award
Relevant Department	Capital Improvement

	nation: Please check the appropriate box below to in nations totaling an aggregate of \$500 or more to an	
or term(s) of City o	ffice specified in Section 2.92.080 of the El Paso Mu	unicipal Code.
X City Cou	OT made campaign contributions or donations totalincil member(s) during their campaign(s) or term(s) of the El Paso Municipal Code.	
OR		
	nade campaign contributions or donations totaling ar uncil member(s) during their campaign(s) or term(s)	
OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor	1/0/186 B	
District 1	W &	
District 2		
District 3		201
District 4		025/
District 5		
District 6	IRV	5
District 7		
District 8		
knowledge. I unde subject to verificati	eby affirm that the information provided in this disclorstand that this disclosure is required by Title 2, Cha ion by the city authorities. Further, I understand that contributions of donations prior to the relevant of	pter 2.92 of the El Paso Municipal Code and is at upon submission of this form, I must disclose
Signature:	4 Manle	Date:01.03.2025



# **Project Details**

Location:	Citywide
District(s):	All
	Two Contracts Initial Term \$5M each; with options \$1M per year.
Contract Term:	Two Years with three one-year options
Funding Source:	Various, Project Specific



# **Job Order Contracting**

- Texas Statute Title 10 Subtitle F Chapter 2269 Subchapter I use for maintenance, repair, alteration, renovation, remediation, or minor construction for City of El Paso infrastructure and right of ways on a task order basis.
- Used when the work is of a recurring nature, but the delivery times, type, and quantities of work required are not specified.
- Task order costs are developed using a Unit Price Book, e.g., R.S. Means with a locality adjustment and an overhead coefficient.
- Generally, reduces the time needed to procure construction services.



# **Job Order Contracting**

- City has used JOC through the Region 19 Cooperative
- Project assignments/tasks under this contract will be issued from various funding sources to complete projects that are simple and/or have fast track requirements/schedules
- City-specific JOC will improve schedules for planned projects.
- Plan to use City-specific contracts primarily for renovations of various sites outside a building envelope and within city right of way property
- Any individual task over \$500,000 requires City Council Approval



# **Procurement Summary**

- Solicitation was advertised on November 26, 2024, and December 3, 2024
  - ✓ There were 35 viewers on line; three (3) firms submitted proposals; one (1) from local supplier.
  - ✓ NO protests were received
- Offerors evaluated on price (coefficient), experience, organizational structure and business practices, quality of goods and services, safety performance, and response to sample project.



# Recommendation

 Award contracts to the two highest ranked firms, Keystone Contractors and Engineers a local firm and Amstar Inc. General Contractor (headquartered in San Antonio with a local office).







# MISSION



Deliver exceptional services to support a high quality of life and place for our community.

## VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, Respect, Excellence, Accountability, People

# MISIÓN



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

# VISIÓN



Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



VALORES

Integridad, Respeto, Excelencia, Responsabilidad, Personas

## El Paso, TX

## **Legislation Text**

File #: 25-507, 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**

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 that the City Manager be authorized to sign a two year On-Call Agreement for Professional Services to perform geotechnical engineering and materials testing services on a task by task basis by and between the by City of El Paso and each of the following five (5) consultants:

- 1. Atlas Technical Consultants, LLC
- 2. CQC Testing and Engineering, LLC
- 3. LEC Engineering, Inc. DBA LOI Engineers
- 4. Terracon Consultants, Inc.
- 5. WSP USA, Inc.

Each On-Call Agreement will be for an amount not to exceed \$500,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of the identified project and if the increased amounts are within the appropriate budget identified for the project. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

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

DEPARTMENT:		
AGENDA DATE:		
PUBLIC HEARING DA	ATE:	
CONTACT PERSON I	NAME:	PHONE NUMBER:
DISTRICT(S) AFFECT	ΓED:	
STRATEGIC GOAL:	No. 7: Enhance and Sustain E	l Paso's Infrastructure Network
SUBGOAL: N/A		
SUBJECT:		

BACKGROUND / DISCUSSION:	
COMMUNITY AND STAKEHOLDER OUTREACH:	
PRIOR COUNCIL ACTION:	
AMOUNT AND SOURCE OF FUNDING:	
Tambotti Filito Godino I or Folizato.	
REPORTING OF CONTRIBUTION OR DONATION TO CITY (	COUNCIL:
NAME	AMOUNT (\$)
**************************************	THORIZATION************************************
(l ett de mande	

**DEPARTMENT HEAD:** 

### RESOLUTION

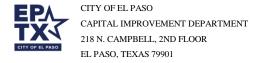
#### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a two year On-Call Agreement for Professional Services to perform geotechnical engineering and materials testing services on a task by task basis by and between the by City of El Paso and each of the following five (5) consultants:

- 1. Atlas Technical Consultants, LLC
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Each On-Call Agreement will be for an amount not to exceed \$500,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of the identified project and if the increased amounts are within the appropriate budget identified for the project. In addition, the City Manager is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of each On-Call Agreement.

APPROVED this	day of	2025.	
		CITY OF EL PASO:	
		Renard U. Johnson Mayor	_
ATTEST:			
Laura Prine City Clerk			
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:	
Poberta Bruto		Yvette Hernandez Yvette Hernandez, City Engineer	
Roberta Brito		Yvette Hernandez, City Engineer	
Assistant City Attorney		Capital Improvement Department	



### **EVALUATION COMMITTEE SCORESHEET SUMMARY**

#### SOLICITATION #2025-0262R ON-CALL PROFESSIONAL SERVICES - GEOTECHNICAL ENGINEERING & MATERIAL TESTING

CONSULTANT	ATLAS	cqc	LOI	PSI	TERRACON	WSP
Rater 1	60	66	51	60	63	68
Rater 2	61	55	50	42	58	55
Rater 3	57	50	43	36	58	55
Total Rater Scores	178	171	144	138	179	178
References	10	9.9	9.9	9.9	9.6	6.7
Overall Score:	188	180.9	153.9	147.9	188.6	184.7

Rankings	Consultant
1	TERRACON
2	ATLAS
3	WSP

Rankings	Consultant
4	cqc
5	LOI
6	PSI

THE STATE OF TEXAS )	)	ON-CALL
)	)	AGREEMENT FOR
COUNTY OF EL PASO )	)	PROFESSIONAL SERVICES

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2025 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 "Owner", and Atlas Technical Consultants LLC, a Delaware, USA, Foreign Limited Liability Company Authorized to Transact Business in Texas, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform Geotechnical Engineering and Material Testing services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment "A"**; and

**WHEREAS,** the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances.

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

### ARTICLE I ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate
Attachment "F"	Federal Aviation Administration contract provisions for Airport
	Improvement Program Projects

# ARTICLE II PROJECT

- 2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform oncall professional services on a Task Order basis. Each individual Task Order will identify the Project ("**Project**") and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment "A"**.
- 2.2 For each Project, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

1

- 2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.
- 2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.
- 2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working days time period.

## ARTICLE III CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$500,000.00 for all basic services and reimbursables performed pursuant to this Agreement.

No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

- **3.2 CONSULTANT'S SERVICES.** The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.
- 3.3 CONSULTANT'S INVOICES. For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in Attachment "D". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.
  - **3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.
  - **3.3.2** The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.
- **3.4 PROJECT CONSTRUCTION BUDGET.** The Consultant acknowledges that the construction budget and a construction time for each Project will be identified in each Task Order.
- **3.5 COSTS NOT ENUMERATED.** Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

# ARTICLE IV PERIOD OF SERVICE AND TERMINATION

- **4.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.
- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction

contracts, including extra work and required extensions thereto; or b) Unless construction has not begun within a period of **twelve** (12) months after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.
  - **4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.
  - 4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.
  - **4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

# ARTICLE V INSURANCE AND INDEMNIFICATION

- **5.1 INSURANCE.** Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.
  - **5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

#### a) COMMERCIAL GENERAL LIABILITY

\$1,000,000.00 Per Occurrence \$2,000,000.00 General Aggregate \$2,000,000.00 Products/Completed Operations Aggregate \$1,000,000.00 Personal and Advertising Injury

#### Personal Injury or Death & Property Damage

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate** \$1,000,000.00 \$1,000,000.00 per occurrence

## b) <u>AUTOMOBILE LIABILITY</u>

Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or

officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

- **5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.
- **5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.
- **5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

Further, all polices shall provide either in the policy itself and 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 thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that 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), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express

or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

### ARTICLE VI FEDERAL AND STATE PROVISIONS

**6.1 COMPLIANCE WITH APPLICABLE LAWS – FEDERAL AND STATE FUNDING REQUIREMENTS.** Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable 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 Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, shall apply, <u>including</u> <u>but not limited to:</u>

- --The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.
- --The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.
- --The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".
- --The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

**6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant 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 consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

- **6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.
- 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

(1) **Compliance with Regulations**: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as

- they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination**: Consultant, with regard to the work performed by it during the contract, shall 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. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

#### ARTICLE VII GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time

schedules indicated within **Attachment "D"**. It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within ten percent (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

- 7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in Attachment "D" and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.
- **7.4 COPYRIGHT AND REPRODUCTION RIGHTS.** Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as

the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

- **7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
- **7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
- **7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

- **7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.
- **7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.
- **7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso

Attn: City Manager P.O. Box 1890

El Paso, Texas 79950-1890

With a Copy to: The City of El Paso

Attn: City Engineer P.O. Box 1890

El Paso, Texas 79950-1890

To the Consultant: Atlas Technical Consultants LLC

Attn: Jesus Lozano

5950 Luckett Court, Bldg. B

El Paso, Texas 79932

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

- **7.12 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.
- **7.13 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.
- **7.14 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

## WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

	CITY OF EL PASO:
	Dionne Mack City Manager
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Poberta Birto	Gvette Hernandez Yvette Hernandez, City Engineer
Roberta Brito Senior Assistant City Attorney	Yvette Hernandez, City Engineer Capital Improvement Department
(Ackı	nowledgment)
THE STATE OF TEXAS \$ \$ COUNTY OF EL PASO \$	
This instrument was acknowledged by Dionne Mack, as <b>City Manager</b> of the <b>C</b>	pefore me on this day of, 2025, gity of El Paso, Texas.
	Notary Public, State of Texas
My commission expires:	
(Signatures continue on following page)	_

## **CONSULTANT:**

ATLAS TECHNICAL CONSULTANTS LLC

By: Dennis Turner

Title: Texas Region Business Leader

(Acknowledgment)

THE STATE OF TEXAS

**COUNTY OF EL PASO** 

This instrument was acknowledged before me on this 14th day of 2025, by Dennis Turner, as Texas Region Business Leader of Atlas Technical Consultants LLC.

Notary Public, State of Texas

My commission expires: 6/13/2026

MARIANA D. MORENO My Notary ID # 125725893 Expires June 13, 2026

# ATTACHMENT "A" SCOPE OF SERVICES

## ATTACHMENT A SCOPE OF SERVICES

The firm is to perform all phases of geotechnical and geological investigation, testing, analysis, and design services from conceptual through final design and construction. The anticipated projects under these selections may include roadways, parking lots/structures, quality of life, public safety, and other municipal facilities. Anticipated activities include, but are not limited to:

- Site investigation and characterization
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities, underground structures such as manholes, concrete pavement, monuments, railroad tracks, etc., and potholing
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Forensic evaluation of settlement of existing structures, pavement, and other material failures
- Soil slope stability analyses (i.e., berms, embankments and cut slopes) and development of recommendations for slope construction (i.e., slope angles, protection, anchoring, backfilling material requirements, and compaction), slope protection or stabilization methods to mitigate slope erosion and maintenance
- Determining of lateral earth pressure coefficients for below-grade and retaining wall structures
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring
- Reviewing existing geotechnical data and background information
- Developing conceptual design or layout in support of the geotechnical recommendation
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Implementing creative and innovative approaches to address project requirements.
- Geotechnical laboratory testing as appropriate, including but not limited to the following:
  - A) Materials Sampling and Testing: Concrete compressive strength ASTM-C39, concrete and asphalt coring, Hot Mix Asphaltic Concrete (HMAC) molding for flow/stability, extraction/gradation, Marshall density /stability and flow, field density ASTM-D6938, base course proctor, SA, PI (w/D-4718 oversize correction) and field density base course ASTM D 6938.
  - B) Earthwork Sampling and Testing of select fill, backfill, and existing subgrade materials for determination of moisture-density relationship (Proctor) ASTM-D698 or D1557, grain size distribution, #200 Test ASTM-D6913 & D1140, Atterburg Limits (PI) ASTM-D4318 field density ASTM-D1566, soil corrosivity ASTM STP 741, and ASTM STP1013, field measurement of soil resistivity ASTM G 57-78 and ASTM G 51-84 as appropriate, and trenching, subgrade and base course compaction testing

Other materials testing as requested including but not limited to:

- Roofing moisture, withdrawal resistance of mechanical fasteners, and wind uplift
- Visual, acoustics, radiographic, dye penetrants, magnetic particle (ferrous metal only) weld testing
- Mill thickness, lead for paint materials
- Subgrade and drainage design
- Stability, settlement, and foundation design
- Performing geotechnical construction observation and testing during construction
- Preparing geotechnical reports, design plans, and specifications
- Coordinating with other design disciplines or parties

# ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES



#### A. PROPOSAL DETAILS

Consultant Name: Atlas Technical Consultants, LLC

Solicitation #: 2025-0262R

#### **B. FIELD AND LABORATORY TESTING**

ITEM#	FIELD AND LABORATORY TESTING - SOILS	UNIT	COST
1	Sampling (Soils)	EACH	\$ 0.00
2	Density of Soils Nuclear Method- 1 Test	EACH	\$ 0.00
3	Density of Soils Nuclear Method - 2-4 Tests	EACH	\$ 0.00
4	Density of Soils Nuclear Method - 5+ Tests	EACH	\$ 0.00
5	Density of Soils Sand Cone Method- 1 Test	EACH	\$ 25.00
6	Density of Soils Sand Cone Method - 2-4 Tests	EACH	\$ 45.00
7	Density of Soils Sand Cone Method - 5+ Tests	EACH	\$ 50.00
8	Proctor - Moisture Density	EACH	\$ 305.00
9	Rock Correction for Proctor & Sieve Analysis	EACH	\$ 50.00
10	Particle Size	EACH	\$ 75.00
11	Atterberg Limits Test	EACH	\$ 72.00
12	Moisture Content	EACH	\$ 15.00
13	Specific Gravity	EACH	\$ 80.00
14	LA Abrasion	EACH	\$ 225.00
15	Soil Classification / Sampling, sieve Analysis & Atterberg Limits	EACH	\$ 155.00

ITEM#	FIELD AND LABORATORY TESTING - CONCRETE	UNIT	COST
16	Concrete Cylinders (Cured and/or Testing in Compression	EACH	\$ 22.00
17	Grout (Cured and/or Testing in Compression	EACH	\$ 22.00
18	Mortar Cubes (Cured and/or Testing in Compression	EACH	\$ 22.00
19	Concrete Cores (Tested in Compression)	EACH	\$ 28.00
20	Concrete Beams (Cured and/or Testing in Compression)	EACH	\$ 75.00
21	Concrete Mix Design	EACH	\$ 2,300.00
22	Schmidt Hammer	DAY	\$ 105.00
23	Windsor Probe	EACH	\$ 132.00
ITEM#	FIELD AND LABORATORY TESTING - ASPHALT	UNIT	COST
24	Marshall Value	EACH	\$ 150.00
25	Extraction and Graduation	EACH	\$ 150.00
26	Rice	EACH	\$ 110.00
27	Asphalt Core (Voids/Density/Thickness	EACH	\$ 30.00
28	Coring Crew	HOUR	\$ 175.00
29	Asphalt Coring Machine	PER DAY	\$ 185.00

#### B. PROFESSIONAL PERSONNEL / MISCELLANEOUS COSTS

ITEM#	LABOR CLASSIFICATION	UNIT	RATE
30	Principal	Hour	\$ 185.00
31	Senior Project Manager	Hour	\$ 150.00
32	Project Manager	Hour	\$ 130.00
33	Project Engineer	Hour	\$ 118.00
34	Staff Engineer / Geologist / Specialist Level I	Hour	\$ 98.00
35	Staff Engineer / Geologist / Specialist Level II	Hour	\$ 125.00
36	Senior Field Technician	Hour	\$ 85.00
37	GIC/CAD Technician	Hour	\$ 81.00
38	Field / Lab Technician	Hour	\$ 77.00
39	Welding / Special Inspector	Hour	\$ 125.00
40	Administrative Assistant	Hour	\$ 68.00

ITEM#	OTHER	UNIT	COST
41	Mileage	current IRS as	oproved Rate)
42	2 WD Vehicle	DAY	\$ 55.00
43	4 WD Vehicle	DAY	\$ 55.00
44	Generator	DAY	\$ 130.50
45	Printing 8 1/2 X 11 B&W	PAGE	\$ 0.20
46	Printing 8 1/2 X 11 Color	PAGE	\$ 1.00
47	Oversize Printing	PAGE	\$ 0.30
48	UT Welding Equipment	DAY	\$ 189.50
49	Travel (If applicable):	Actual Cost	Actual Cost
50	Overtime Markup	1.5X Approve	ed Hourly Rate

#### Notes:

- 1: The rates included in this proposal shall represent only the cost of the test. Labor hours associated with the testing must be itemized and detailed within the proposal using the above labor rates
- 2: A detailed list of miscellaneous expenses should be attached to this proposal (If available). The rates outlined in this proposal will take precedence over any duplicate items listed among the miscellaneous expenses.
- 3: All charges, including miscellaneous items must be approved in advance by the City Project Manager
- 4: The City will not allow minimum number of samples / hours for any testing / inspection
- 5: Only for City PM approved overtime. Must be accompanied by written authorization and backup that OT work was conducted
- 6: The consultant shall not begin any extra services not outlined in the original approved proposal until a new purchase order or an increase to the current one is provided. Additionally, the consultant shall notify PM at about 80% of the PO amount to determine if an increase in services will be necessary.



Client: Proposal:

City of El Paso Capital Improement Department On Call Professional Services

218 N. Cambell, 2nd Floor Geotechnical and Materials Testing Services
El Paso, Texas 79901 Capital Improvement Projecs

Attn: Mrs. Ellsa Rodriguez March 13, 2025

Description of Services	Unit	Price
Professional Services - Engineering / Administrative		
Special Inspector 1 (Reinforced concrete/Masonry/Soils)	Per Hour	\$ 85.00
Special Inspector 2 (Structural Steel and Bolting/Firestoping/EIFS/Fireproofing)	Per Hour	\$ 125.00
Structural Steel Inspection - UT/MT	Per Hour	\$ 182.00
Floor Flatness	Per Test	\$ 1,200.00
Window Testing	Per Test	\$ 1,750.00
Report Review and Distribution	Per Report	\$ 45.00
Materials Field Testing and Inspections		
Per Field Inspector - Drilled Pier Observation and Testing	Per Hour	\$ 85.00
Per Field Inspector - Post - Tension Inspection	Per Hour	\$ 90.00
Geotechnical Drilling and Field Services		
Drilling per Foot (from depth of 0' to 50')	Per Linear Foot	\$ 26.00
Drilling per Foot (depth greater than 50')	Per Linear Foot	\$ 32.00
Drill Rig Mobilization	Per Trip	\$ 650.00
Percolation Test	Per Test	\$ 400.00
Geotechnical Field Logging and Sampling	Per Hour	\$ 72.00
Soils and Base Course Laboratory Testing		
Amount of Material Finer than No. 200 Sieve in Soils by Washing	Per Sample	\$ 75.00
Particle Size Analysis of Soils by Hydrometer Method/additional cost per time of duration of the test	Per Sample	\$ 215.00
California Bearing Ratio	Per Sample	\$ 550.00
Unconfined Compressive Strength of Clay	Per Sample	\$ 60.00
Compressive Strength of Molded Soil-Cement Cylinders	Per Sample	\$ 60.00
Soil pH Determination	Per Sample	\$ 30.00
Measurement of Resistivity of Soils	Per Sample	\$ 60.00
Chlorides Test	Per Sample	\$ 80.00
Sulfates Test	Per Sample	\$ 80.00
Triaxial (Strength only) TxDOT Method	Per Sample	\$ 1,600.00
Triaxial (Strength and Class) TxDOT Method	Per Sample	\$ 1,850.00
Aggregates Laboratory Testing		
Sieve Analysis of Coarse and Fine Aggregates	Per Sample	\$ 80.00
Materials Finer than No. 200 Sieve by Washing	Per Sample	\$ 75.00
Sulfate Soundness	Per Sample	\$ 450.00
Los Angeles Abrasion	Per Sample	\$ 350.00
Micro-Deval	Per Sample	\$ 300.00
Flat and Elongated Particles	Per Sample	\$ 100.00
Determination of Fractured Faces	Per Sample	\$ 75.00
Unit Weight of Coarse and Fine Aggregates	Per Sample	\$ 52.00



Specific Gravity and Absorption of Coarse and Fine Aggregates	Per Sample	\$ 125.00
Clay Lumps and Friable Particles	Per Sample	\$ 78.00
Organic Impurities	Per Sample	\$ 100.00
Sand Equivalent Value	Per Sample	\$ 125.00
Asphalt Testing		
Core Repair/Patch Asphalt Cold Mix	Per Patch	\$ 70.00
Core Repair/Patch Concrete-Utilibond	Per Patch	\$ 70.00

#### **General Notes:**

All field hourly services will be on a portal to portal basis from 5950 Luckett Court, Bldg. B, El Paso TX. Field Technician rate includes equipment fees. Scheduling or cancellation of field testing services is required no less than the working day (7am to 5pm) prior to the date the services are to be performed. Services cancelled without advance and/or inadequate notice will be assesses a minimum 2 hour charge. **Overtime hours must be approved by the Client**. The Overtime rate will be 1.5 times the applicable unit rate. Cost will be dependent on number of calls from client. Services not included may be quoted upon request.

#### **Proposal Acceptance**

Date:	Agreed to this	day of	, 2024
Signature:			
Printed Name:			
Title:			
Firm:			

Each individual Task Order will identify the "**Project**", and the Consultant shall provide the Basic and Additional Services as noted herein.

#### **BASIC SERVICES OF THE CONSULTANT**

#### **GENERAL**

- 1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering and Construction Management Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
- 3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

### **REPORT PHASE**

- 1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
  - **a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - **b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

- **d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

- 1. Consult with the Owner to determine the Owner's requirements for the Project.
- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the

Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

- 3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- **8.** Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- 9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

### PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.
- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- Advise the Owner of any adjustment to the Consultant's previous opinion of probable 3. construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility Consultant comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- 3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4. As per Attachment "D"**, furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. **As per Attachment "D"**, furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in **Attachment "D"**, required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- 2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- 3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.
- 5. As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

### **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- 1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with

such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

- 3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
- 4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract

documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

- Passed on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- 8. Conduct with the Owner and construction contractor no more than two brief preliminary inspections, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- 9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two City working days after the final inspection.
- 10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- 11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints,

- drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
- 13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- **15.** Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- 17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- 18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- 19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
- 21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- 22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the

construction contractor's default under the construction contract due to delinquency or insolvency.

- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
- 25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- 1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by ten percent or more.
- 3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

### **RESIDENT PROJECT SERVICES**

- 1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- 3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

### **Fixed fee Payment to Consultant**

Report Phase	To be determined by Task Order
<b>Preliminary Design Phase</b>	To be determined by Task Order
<b>Pre-Final Design Phase</b>	To be determined by Task Order
Final Design Phase	To be determined by Task Order
<b>Bidding Phase</b>	To be determined by Task Order
<b>Construction Phase</b>	To be determined by Task Order

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars (\$50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars (\$50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and a Consulting Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/Consultant location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable*.

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with Owner's fiscal year.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the City. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

#### **DELIVERABLE SCHEDULE**

#### REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **5 copies** of the Preliminary Study and Report shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **10 copies** of any required documents and opinion of probable construction costs shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five copies** of the resubmitted design documents.

### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **10 copies** the required documents and services shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **10 copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **3 copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **10 copies** of the final design documents and specifications for bidding to the Owner within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit 1 copy of all addenda to the Owner for appropriate action within 2 consecutive calendar days.

### **PHASE V - CONSTRUCTION PHASE**

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

# ATTACHMENT "E" Insurance

ACORD*	CERTIFICATE OF LIAB	ILITY INSURANCE	11/1
THIS CERTIFICATE IS ISSUED AS	A MATTER OF INFORMATION ONLY A	ND CONFERS NO RIGHTS UPON TH	E CI
CERTIFICATE DOES NOT AFFIRM	ATIVELY OR NEGATIVELY AMEND, EX	KTEND OR ALTER THE COVERAGE	AFF
BELOW. THIS CERTIFICATE OF	INSURANCE DOES NOT CONSTITUTE	A CONTRACT BETWEEN THE ISSUI	NG
REPRESENTATIVE OR PRODUCER	, AND THE CERTIFICATE HOLDER.		
IMPORTANT: If the certificate hold	er is an ADDITIONAL INSURED, the pol	icy(les) must have ADDITIONAL INSUF	RED

I1/13/2025 3/4/2025

IPON THE CERTIFICATE HOLDER. THIS

/ERAGE AFFORDED BY THE POLICIES

HE ISSUING INSURER(S). AUTHORIZED

DATE (MWDD/YYYY)

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(les) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Insurance Brokers, LLC CA License #0B99399 777 S. Figueroa St., 52nd Floor Los Angeles CA 90017 (213) 689-0065	CA License #0B99399 777 S. Figueroa St., 52nd Floor	CONTACT NAME: PHONE (AIC, No, Ext): E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
	(213) 525 555	INSURER A: Steadfast Insurance Company	26387
INSURED	Atlas Technical	INSURER B : Zurich American Insurance Company	16535
1530203 Consultants Inc. 13215 Bee Cave Parkway Building B, Suite 230 Austin, TX 78738	Consultants Inc.	INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 21473032

REVISION NUMBER: XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. ADDL SUBR POLICY EFF POLICY EXP (MM/DD/YYYY) TYPE OF INSURANCE POLICY NUMBER LIMITS COMMERCIAL GENERAL LIABILITY х \$ 2,000,000 A Y Y GPL-0217085-09 11/13/2024 11/13/2025 EACH OCCURRENCE CLAIMS-MADE X OCCUR \$ 1,000,000 PREMISES (Ea occurrence X,C,U Included \$ 10,000 MED EXP (Any one person) Contractual Liab х \$ 2,000,000 PERSONAL & ADV INJURY GEN'L AGGREGATE LIMIT APPLIES PER GENERAL AGGREGATE \$ 6,000,000 POLICY X PRO- X LOC \$ 4,000,000 PRODUCTS - COMP/OP AGG X OTHER: Policy Aggregate \$6M COMBINED SINGLE LIMIT (Ea accident) В AUTOMOBILE LIABILITY BAP-0217109-09 11/13/2024 11/13/2025 \$ 5,000,000 Y ANY AUTO BODILY INJURY (Per person) \* XXXXXXX OWNED AUTOS ONLY SCHEDULED AUTOS BODILY INJURY (Per accident) \* XXXXXXXX HIRED AUTOS ONLY NON-OWNED AUTOS ONLY PROPERTY DAMAGE (Per accident) Х \* XXXXXXXX \* XXXXXXX UMBRELLA LIAB 11/13/2024 11/13/2025 \$ 1,000,000 A X occur N SXS-0217077-09 EACH OCCURRENCE **EXCESS LIAB** Х CLAIMS-MADE AGGREGATE \$ 1,000,000 DED RETENTION \$ \* XXXXXXX WORKERS COMPENSATION X STATUTE WC-0217111-09 (AOS) WC-7306651-03 (WIS) B B 11/13/2025 11/13/2024 AND EMPLOYERS' LIABILITY 11/13/2024 11/13/2025 ANY PROPRIETOR PARTNER EXECUTIVE N

(Mandatory in NH) E.L. EACH ACCIDENT \$ 1,000,000 EL. DISEASE - EA EMPLOYEE \$ 1,000,000 f yes, describe under DESCRIPTION OF OPERATIONS below EL. DISEASE - POLICY LIMIT \$ 1,000,000 Per Occur/Agg:\$2,000,000/\$6,000,000 Per Claim/Agg:\$2,000,000/\$6,000,000 Env Contr Poll N Ν GPL-0217085-09 11/13/2024 11/13/2025 Env Prof (E&O) A GPL-0217085-09 11/13/2024 11/13/2025

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: COEP On-Call Geotechnical & Material Testing. City of El Paso is Additional Insured(s) as per the attached endorsement or policy language. Waiver of subrogation applies as per the attached endorsements or policy language, where allowed by law. Notice of Cancellation applies as per attached endorsement or policy language.

CERTIFICATE HOLDER	CANCELLATION See Attachments
21473032 City of El Paso Capital Improvement Department	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Attn: Elsa Rodriguez 218 N. Campbell St. El Paso, TX 79901	AUTHORIZED REPRESENTATIVE

CANCELLATION Co. Americant

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CERTIFICATE UOLDER

# ATTACHMENT "F" Federal Aviation Administration contract provisions for Airport Improvement Program Projects

### **ATTACHMENT "F"**

### FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

In this Attachment "F", the term "Contractor" shall refer to the "Consultant", and the term "Airport Sponsor" shall refer to the "City".

If there are any conflicts between the terms and conditions of Attachment "F" and Article VI of the Agreement, the terms and conditions of Attachment "F" will prevail.

### A. GENERAL REQUIREMENT FOR CONTRACT

- 1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
- 2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
- 4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

### B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1. Withhold progress payments or final payment,
- 2. Terminate the contract,
- 3. Seek suspension/debarment, or
- 4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

### C. <u>CONTRACT PROVISIONS</u>

### 1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. <u>BREACH OF CONTRACT TERMS</u> (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. <u>BUY AMERICAN PREFERENCES</u> (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

### Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

#### \*\*\*\*

### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
  - a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 3 Waiver -** The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

4/14/2025	
Date	Signature
Atlas Technical Consultants LLC	Texas Region Business Leader
Company Name	Title

\* \* \* \* \*

### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
  - a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

4/14/2025	\ John
Date	Signature
Atlas Technical Consultants LLC	Texas Region Business Leader
Company Name	Title

### 4. <u>GENERAL CIVIL RIGHTS PROVISIONS</u> (all contracts)

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

# 5. <u>CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION</u> <u>REQUIREMENTS</u> (all AIP funded projects)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (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 Statutes 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. **Non-discrimination:** 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination 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 sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 subcontractor 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.

# 6. <u>CLEAN AIR AND WATER POLLUTION CONTROL</u> (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

- 1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- 2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- 3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- 4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

# 7. <u>CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS</u> (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

### 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

#### 4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

# 8. <u>CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)</u> (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### 9. <u>DISADVANTAGED BUSINESS ENTERPRISES</u> (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

# 10. <u>FEDERAL FAIR LABOR STANDARDS ACT</u> (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

# 11. <u>LOBBYING AND INFLUENCING FEDERAL EMPLOYEES</u> (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an 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.
- 2. 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

### 12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

### 13. <u>RIGHTS TO INVENTIONS</u> (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

### 14. <u>TERMINATION OF CONTRACT</u> (contracts that exceed \$10,000)

- 1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- 2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- 3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- 4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### 15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### 16. TEXTING WHEN DRIVING (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

AGREEMENT FOR
ROFESSIONAL SERVICES

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2025 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 "Owner", and CQC Testing and Engineering, LLC, a Domestic Limited Liability Company, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform geotechnical engineering and material testing services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in Attachment "A"; and

**WHEREAS,** the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances;

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

### ARTICLE I ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate
Attachment "F"	Federal Aviation Administration contract provisions for Airport
	Improvement Program Projects

### ARTICLE II PROJECT

- 2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform oncall professional services on a Task Order basis. Each individual Task Order will identify the Project ("**Project**") and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment "A"**.
- 2.2 For each Project, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

1

- 2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.
- 2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.
- 2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working days time period.

### ARTICLE III CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$500,000.00 for all basic services and reimbursables performed pursuant to this Agreement.

No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to Attachment "D".

- **3.2 CONSULTANT'S SERVICES.** The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.
- 3.3 CONSULTANT'S INVOICES. For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in Attachment "D". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.
  - **3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.
  - **3.3.2** The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.
- **3.4 PROJECT CONSTRUCTION BUDGET.** The Consultant acknowledges that the construction budget and a construction time for each Project will be identified in each Task Order.
- 3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

# ARTICLE IV PERIOD OF SERVICE AND TERMINATION

- **4.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.
- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not

begun within a period of **twelve** (12) months after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.
  - **4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.
  - 4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.
  - **4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

# ARTICLE V INSURANCE AND INDEMNIFICATION

**5.1 INSURANCE.** Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner.

The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

**5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

### a) COMMERCIAL GENERAL LIABILITY

\$1,000,000.00 Per Occurrence \$2,000,000.00 General Aggregate \$2,000,000.00 Products/Completed Operations Aggregate \$1,000,000.00 Personal and Advertising Injury

### Personal Injury or Death & Property Damage

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate** \$1,000,000.00 \$1,000,000.00 per occurrence

### b) <u>AUTOMOBILE LIABILITY</u>

Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

- **5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.
- **5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.
- **5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

Further, all polices shall provide either in the policy itself and 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 thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that 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), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance

policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

### ARTICLE VI FEDERAL AND STATE PROVISIONS

**6.1 COMPLIANCE WITH APPLICABLE LAWS – FEDERAL AND STATE FUNDING REQUIREMENTS.** Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable 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 Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, shall apply, <u>including</u> <u>but not limited to:</u>

- --The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.
- --The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.
- --The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".
- -- The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

**6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant 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 consultant to carry out

these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

**6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

# 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

- (1) **Compliance with Regulations**: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination**: Consultant, with regard to the work performed by it during the

- contract, shall 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. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

### ARTICLE VII GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within Attachment "D". It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the

City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within ten percent (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

- 7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in **Attachment "D"** and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.
- 7.4 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project;

provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

- **7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
- **7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
- **7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.
- **7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

- **7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.
- **7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso

Attn: City Manager P.O. Box 1890

El Paso, Texas 79950-1890

With a Copy to: The City of El Paso

Attn: City Engineer P.O. Box 1890

El Paso, Texas 79950-1890

To the Consultant: CQC Testing and Engineering, LLC

Attn: Jaime Rojas 4606 Titanic Avenue El Paso, Texas 79904

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

- **7.12 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.
- **7.13 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.
- **7.14 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

(SIGNATURES BEGIN ON THE FOLLOWING PAGES)

# WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

	CITY OF EL PASO:
	Dionne Mack City Manager
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Roberta Brito Senior Assistant City Attorney	Yvette Hernandez, City Engineer Capital Improvement Department
(Ac	cknowledgment)
THE STATE OF TEXAS \$ \$ COUNTY OF EL PASO \$	
This instrument was acknowledge	ed before me on this day of, 2025,
by Dionne Mack, as City Manager of the	e City of El Paso, Texas.
	Notary Public, State of Texas
My commission expires:	
(SIGNATURES CON	NTINUE ON FOLLOWING PAGE)

**CONSULTANT:** 

CQC TESTING AND ENGINEERING, LLC

By: Jaime Rojas

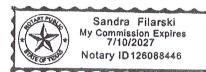
Title: President

(Acknowledgment)

THE STATE OF TEXAS

§

COUNTY OF EL PASO



7/10/2027

Notary Public, State of Texas

My commission expires:

# ATTACHMENT "A" SCOPE OF SERVICES

### ATTACHMENT A SCOPE OF SERVICES

The firm is to perform all phases of geotechnical and geological investigation, testing, analysis, and design services from conceptual through final design and construction. The anticipated projects under these selections may include roadways, parking lots/structures, quality of life, public safety, and other municipal facilities. Anticipated activities include, but are not limited to:

- Site investigation and characterization
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities, underground structures such as manholes, concrete pavement, monuments, railroad tracks, etc., and potholing
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Forensic evaluation of settlement of existing structures, pavement, and other material failures
- Soil slope stability analyses (i.e., berms, embankments and cut slopes) and development of recommendations for slope construction (i.e., slope angles, protection, anchoring, backfilling material requirements, and compaction), slope protection or stabilization methods to mitigate slope erosion and maintenance
- Determining of lateral earth pressure coefficients for below-grade and retaining wall structures
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring
- Reviewing existing geotechnical data and background information
- Developing conceptual design or layout in support of the geotechnical recommendation
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Implementing creative and innovative approaches to address project requirements.
- Geotechnical laboratory testing as appropriate, including but not limited to the following:
  - A) Materials Sampling and Testing: Concrete compressive strength ASTM-C39, concrete and asphalt coring, Hot Mix Asphaltic Concrete (HMAC) molding for flow/stability, extraction/gradation, Marshall density /stability and flow, field density ASTM-D6938, base course proctor, SA, PI (w/D-4718 oversize correction) and field density base course ASTM D 6938.
  - B) Earthwork Sampling and Testing of select fill, backfill, and existing subgrade materials for determination of moisture-density relationship (Proctor) ASTM-D698 or D1557, grain size distribution, #200 Test ASTM-D6913 & D1140, Atterburg Limits (PI) ASTM-D4318 field density ASTM-D1566, soil corrosivity ASTM STP 741, and ASTM STP1013, field measurement of soil resistivity ASTM G 57-78 and ASTM G 51-84 as appropriate, and trenching, subgrade and base course compaction testing

Other materials testing as requested including but not limited to:

- Roofing moisture, withdrawal resistance of mechanical fasteners, and wind uplift
- Visual, acoustics, radiographic, dye penetrants, magnetic particle (ferrous metal only) weld testing
- Mill thickness, lead for paint materials
- Subgrade and drainage design
- Stability, settlement, and foundation design
- Performing geotechnical construction observation and testing during construction
- Preparing geotechnical reports, design plans, and specifications
- Coordinating with other design disciplines or parties

# ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES





#### A. PROPOSAL DETAILS

Consultant Name:
Solicitation #: 2025-0262R

#### **B. FIELD AND LABORATORY TESTING**

ITEM#	FIELD AND LABORATORY TESTING - SOILS	UNIT	COST
1	Sampling (Soils)	EACH	
2	Density of Soils Nuclear Method- 1 Test	EACH	
3	Density of Soils Nuclear Method - 2-4 Tests	EACH	
4	Density of Soils Nuclear Method - 5+ Tests	EACH	
5	Density of Soils Sand Cone Method- 1 Test	EACH	
6	Density of Soils Sand Cone Method - 2-4 Tests	EACH	
7	Density of Soils Sand Cone Method - 5+ Tests	EACH	
8	Proctor - Moisture Density	EACH	
9	Rock Correction for Proctor & Sieve Analysis	EACH	
10	Particle Size	EACH	
11	Atterberg Limits Test	EACH	
12	Moisture Content	EACH	
13	Specific Gravity	EACH	
14	LA Abrasion	EACH	
15	Soil Classification / Sampling, sieve Analysis & Atterberg Limits	EACH	

ITEM#	FIELD AND LABORATORY TESTING - CONCRETE	UNIT	COST
16	Concrete Cylinders (Cured and/or Testing in Compression	EACH	
17	Grout (Cured and/or Testing in Compression	EACH	
18	Mortar Cubes (Cured and/or Testing in Compression	EACH	
19	Concrete Cores (Tested in Compression)	EACH	
20	Concrete Beams (Cured and/or Testing in Compression)	EACH	
21	Concrete Mix Design	EACH	
22	Schmidt Hammer	DAY	
23	Windsor Probe	EACH	
ITEM#	FIELD AND LABORATORY TESTING - ASPHALT	UNIT	COST
24	Marshall Value	EACH	
25	Extraction and Graduation	EACH	
26	Rice	EACH	
27	Asphalt Core (Voids/Density/Thickness	EACH	
28	Coring Crew	HOUR	_
29	Asphalt Coring Machine	PER DAY	

#### B. PROFESSIONAL PERSONNEL / MISCELLANEOUS COSTS

ITEM#	LABOR CLASSIFICATION	UNIT	RATE
30	Principal	Hour	
31	Senior Project Manager	Hour	
32	Project Manager	Hour	
33	Project Engineer	Hour	
34	Staff Engineer / Geologist / Specialist Level I	Hour	
35	Staff Engineer / Geologist / Specialist Level II	Hour	
36	Senior Field Technician	Hour	
37	GIC/CAD Technician	Hour	
38	Field / Lab Technician	Hour	
39	Welding / Special Inspector	Hour	
40	Administrative Assistant	Hour	

ITEM#	OTHER	UNIT COST		
41	Mileage	current IRS approved Rat		
42	2 WD Vehicle	DAY		
43	4 WD Vehicle	DAY		
44	Generator	DAY		
45	Printing 8 1/2 X 11 B&W	PAGE		
46	Printing 8 1/2 X 11 Color	PAGE		
47	Oversize Printing	PAGE		
48	UT Welding Equipment	DAY		
49	Travel (If applicable):	Actual Cost Actual Co		
50	Overtime Markup	1.5X Approved Hourly Rate		

#### Notes:

- 1: The rates included in this proposal shall represent only the cost of the test. Labor hours associated with the testing must be itemized and detailed within the proposal using the above labor rates
- 2: A detailed list of miscellaneous expenses should be attached to this proposal (If available). The rates outlined in this proposal will take precedence over any duplicate items listed among the miscellaneous expenses.
- 3: All charges, including miscellaneous items must be approved in advance by the City Project Manager
- **4:** The City will not allow minimum number of samples / hours for any testing / inspection
- 5: Only for City PM approved overtime. Must be accompanied by written authorization and backup that OT work was conducted
- 6: The consultant shall not begin any extra services not outlined in the original approved proposal until a new purchase order or an increase to the current one is provided. Additionally, the consultant shall notify PM at about 80% of the PO amount to determine if an increase in services will be necessary.

**Unit Rates** 



A. PROFESSIONAL SERVICES

### "EXHIBIT B-2"

### **CQC Testing and Engineering, L.L.C.**

# Solicitation #2025-0262R On Call Professional Services - Geotechnical Materials Testing Other Geotechnical Unit Rate and Miscellaneous Expenses Fee Schedule

P	A. PROFESSIONAL SERVICES	<u>Unit Rates</u>
	1. Sub-Consultant Services (As Requested for Special Tasks)**	At Cost plus 11%
Е	B. GEOTECHNICAL DRILLING AND FIELD EVALUATION SERVICES	5
		<u>Unit Rates</u>
	1. Standard Auger Drilling Rig Soil Borings with S.S. Sampling	\$14.50 - 18.00 /ft.
:	2. Auger Drilling Rig Soil Borings with Sampling from Auger Flights	\$10.00 - 12.50 /ft.
;	3. Drilling with All Terrain Track Drill Rig	\$18.50 - 35.00 /ft.
	4. Air Rotary or Mud Rotary Drilling	\$35.00 - 55.00 /ft.
;	5. NW Rock Coring and Sampling	\$75.00 - \$85.00 /ft.
(	6. Split Spoon Testing and/or Texas Cone Penetrometer Testing	\$22.00 /ea.
	7. Shelby Tube Sample	\$35.00 /ea.
	8. DCP Tests	\$120.00 /ea.
9	9. Soil Percolation Tests,ea. (10 feet max.)	\$850.00 /ea.
•	10 DCP and Hand Auger Charge, per day	\$190.00 /day
	11 Installation of Monitoring Wells or Piezometer Wells	At Cost +11%
	12 Local Auger Drill Rig and Crew Mob., within city limits	\$350.00 - \$600.00 /ea.
	13 Out of Town Track Drilling Rig Mob.	At Cost +11%
	14 Out of Town Per Diem, per person	\$36.00 - \$55.00 /day
	15 Material Supply Costs and Equipment Rental, if required	At Cost +11%
	16 Support Vehicle, within city limits	75.00 /day
	17 Borehole Grouting	\$12.00 /foot
•	18 Misc. Drilling Costs (Drilling Fluids Disposal, Borehole Abandoning,	At Cost +11%
	Sample Boxes, Full Boring Depth Grouting, Lodgeing).	1.0 . 1.10/
	19 Traffic Control Costs	At Cost +11%
		<u>Unit Rates</u>
C	C. <u>OTHER LABORATORY SOIL TESTS</u>	
	1 Hydrometer Analysis of Fine Soils	\$185.00 /ea.
	2 TXDOT Linear Bar Shrinkage Test, TEX 107 E	\$85.00 /ea.
	3 TXDOT Wet Ball Mill Test, TEX 107 E	\$280.00 /ea.
	4 Laboratory Soil California Bearing Ratio Test, 2 pt.	\$350.00 /ea.
	5 Soil Consolidation Test, Method: ASTM D2434	\$650.00 /ea.
	6 One Dimensional Swell Test, Method ASTM D4546	\$185.00 /ea.
	7 Permeability Test, Flexible Wall (Triaxial),	\$550.00 /ea.
	8 Method: ASTM D5084.	*
	Laboratory Soil pH and Electrical Resistivity Test	\$125.00 /ea.
	9 Soil Unconfined Compressive Strength Test	\$85.00 /ea.
	10 Soil Direct Shear Test, 3 points	\$625.00 /ea.
•	11 Sand Equivalent Test, TEX 203-F	\$85.00 /ea.
•	12 TXDOT Triaxial Compression Test, TEX 117 E	\$1,650.00 /ea.
	D. <u>OTHER CONCRETE TESTS</u>	Unit Rates
	1 Air Content and Additional Slump Tests, (does not include	\$24.00 /ea.
	additional tech-time, stand-by time, if required).	
	O. Additional Culindan Complex	Φ00 00 /

Effective Date: Revised - 4/1/2025

2 Additional Cylinder Samples

3 Floor Flatness / Levelness Testing4 Floor Flatness Equipment Rental

\$22.00 /ea.

\$1,200.00 /day

\$500.00 /day



#### **"EXHIBIT B-2"**

### CQC Testing and Engineering, L.L.C.

# Solicitation #2025-0262R On Call Professional Services - Geotechnical Materials Testing Other Geotechnical Unit Rate and Miscellaneous Expenses Fee Schedule

1 2	OTHER ASPHALTIC-CONCRETE MATERIAL TESTS	<b>Unit Rates</b>		
1	Superpave Gyratory Compacted AC Samples	\$55.00 /ea.		
2	Indirect Tensile Strength of HMAC Samples	\$70.00 /ea.		
3	Hamburg Wheel-Tracking Test, TEX 242-F	\$650.00 /ea.		

F.	OTHER AGGREGATE TESTS	Unit Rat	<u>tes</u>
1	Soundness, 5 cycles - Sodium or Magnesium	\$230.00	/ea.
2	Degradation of Coarse Aggregates by Micro-Deval Abrasion	\$290.00	/ea.
3	Specific Gravity and Absorption	\$95.00	/ea.
4	Clay Lumps/Friable Particles and/Organic Impurities	\$70.00	/ea.
5	Flat/Elongated Particles	\$70.00	/ea.
6	Fractured Face Count	\$70.00	/ea.
7	Determining Chloride and Sulfate Content in Soils	\$125.00	/ea.

#### **G. OTHER INDIRECT COSTS**

1. Other Costs (Special Testing, Shipping, Rental or Equipment Insurance, etc.)

At Cost +11%

Charges will be assessed only for actual tests performed and services rendered. This proposal does not include services conducted on Sundays, Saturdays or holidays or not within regular working hours (7:30 am to 5:00 pm) from Monday through Friday. Our services on Sundays, Saturdays or holidays, or not within working hours will be invoiced at 1.25 times the unit rates presented within this fee schedule.

Each individual Task Order will identify the "**Project**", and the Consultant shall provide the Basic and Additional Services as noted herein.

### **BASIC SERVICES OF THE CONSULTANT**

### **GENERAL**

- 1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering and Construction Management Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
- 3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

#### REPORT PHASE

- 1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
  - **a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - **b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

- **d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

- 1. Consult with the Owner to determine the Owner's requirements for the Project.
- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the

Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

- 3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- 6. Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- **8.** Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- 9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

### PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.
- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- Advise the Owner of any adjustment to the Consultant's previous opinion of probable 3. construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility Consultant comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- 3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4. As per Attachment "D"**, furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. **As per Attachment "D"**, furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in **Attachment "D"**, required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- 2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- 3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.
- As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

# **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- 1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with

such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

- 3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
- 4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract

documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

- Passed on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- 8. Conduct with the Owner and construction contractor no more than two brief preliminary inspections, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- 9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two City working days after the final inspection.
- 10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- 11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints,

- drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
- 13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- 15. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- 17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- 18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- 19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
- 21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- 22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the

construction contractor's default under the construction contract due to delinquency or insolvency.

- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
- 25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- 1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by ten percent or more.
- 3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

### **RESIDENT PROJECT SERVICES**

- 1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- 3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

### **Fixed fee Payment to Consultant**

Report Phase	To be determined by Task Order
<b>Preliminary Design Phase</b>	To be determined by Task Order
<b>Pre-Final Design Phase</b>	To be determined by Task Order
Final Design Phase	To be determined by Task Order
<b>Bidding Phase</b>	To be determined by Task Order
<b>Construction Phase</b>	To be determined by Task Order

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars (\$50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars (\$50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and a Consulting Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/Consultant location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable*.

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with Owner's fiscal year.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the City. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

#### **DELIVERABLE SCHEDULE**

#### REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **5 copies** of the Preliminary Study and Report shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **10 copies** of any required documents and opinion of probable construction costs shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five copies** of the resubmitted design documents.

### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **10 copies** the required documents and services shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **10 copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **3 copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **10 copies** of the final design documents and specifications for bidding to the Owner within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

# ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit 1 copy of all addenda to the Owner for appropriate action within 2 consecutive calendar days.

### PHASE V - CONSTRUCTION PHASE

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

# ATTACHMENT "E" Insurance





# CERTIFICATE OF LIABILITY INSURANCE

**MMAHONEY** 

3/3/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 4682	CONTACT NAME:		
Hub International Insurance Services 601 N. Mesa, Suite 1550	PHONE (A/C, No, Ext): (915) 206-6023	399-3972	
El Paso, TX 79901	E-MAIL ADDRESS: tex.elpasoinfo@hubinterna	tional.com	
	INSURER(S) AFFORDING COVE	ERAGE	NAIC#
	INSURER A : Accelerant Specialty Insur	ance Company	16890
INSURED	INSURER B: The Travelers Indemnity C	25658	
CQC Testing and Engineering, LLC	INSURER C: United Specialty Insurance	12537	
4606 Titanic	INSURER D: Travelers Casualty and Su	rety Company	19038
El Paso, TX 79904	INSURER E : Admiral Insurance Compa	ny	24856
	INSURER F: Capitol Specialty Insurance	10328	
	INSURENT Capitor Specially Insurance	e corporation	10320

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBI	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP	LIMIT	s		
Α	X COMMERCIAL GENERAL LIABILITY	1100 1110		, minize z r r r r r	<u> </u>	EACH OCCURRENCE	\$	2,000,000	
	CLAIMS-MADE X OCCUR		S0012GL00186300	6/10/2024	6/10/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000	
						MED EXP (Any one person)	\$	5,000	
						PERSONAL & ADV INJURY	\$	1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE	\$	2,000,000	
	POLICY X PRO-					PRODUCTS - COMP/OP AGG	\$	2,000,000	
	OTHER:						\$		
В	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$	1,000,000	
	X ANY AUTO		BA-8R454046-24-47-G	BA-8R454046-24-47-G	BA-8R454046-24-47-G 6/10/2024	6/10/2025	BODILY INJURY (Per person)	\$	
	OWNED SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$		
	HIRED NON-OWNED AUTOS ONLY					PROPERTY DAMAGE (Per accident)	\$		
							\$		
С	UMBRELLA LIAB X OCCUR		11 T V V V V V V V V V V V V V V V V V V	6-7-5	EACH OCCURRENCE	\$	5,000,000		
	X EXCESS LIAB CLAIMS-MADE		BTN2411633	6/10/2024	6/10/2025	AGGREGATE	\$	5,000,000	
	DED RETENTION\$						\$		
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					X PER OTH-			
	ANY PROPRIETOR/PARTNER/EXECUTIVE		UB-6K08380A-24-47-G	6/10/2024	6/10/2025	E.L. EACH ACCIDENT	\$	1,000,000	
	OFFICER/MEMBER EXCLUDED? N / (Mandatory in NH)					E.L. DISEASE - EA EMPLOYEE	\$	1,000,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT		1,000,000	
Е	Errors & Omissions		EO000044657-07	6/10/2024	6/10/2025	Each Claim		5,000,000	
F	Pollution / Environm		EV20181742-07	6/10/2024	6/10/2025	See below			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The General Liability and Automobile polices Includes a blanket automatic additional insured endorsement or policy terms that provide additional insured status to the Certificate Holder and organization named in a contract or agreement, with a waiver of subrogation.

The General Liability, Automobile and Workers Compensation policies includes a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for nonpayment of premium, 10 days' notice after the policy is canceled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company.

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER CANCELLATION

City of El Paso Capital Improvements Department 218 N. Campbell Street El Paso, TX 79901 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

DAZ =

# ATTACHMENT "F"

Federal Aviation Administration contract provisions for Airport Improvement Program Projects

#### **ATTACHMENT "F"**

### FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

In this Attachment "F", the term "Contractor" shall refer to the "Consultant", and the term "Airport Sponsor" shall refer to the "City".

If there are any conflicts between the terms and conditions of Attachment "F" and Article VI of the Agreement, the terms and conditions of Attachment "F" will prevail.

### A. GENERAL REQUIREMENT FOR CONTRACT

- 1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
- 2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
- 4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

### B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1. Withhold progress payments or final payment,
- 2. Terminate the contract,
- 3. Seek suspension/debarment, or
- 4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

### C. <u>CONTRACT PROVISIONS</u>

### 1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. <u>BREACH OF CONTRACT TERMS</u> (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. <u>BUY AMERICAN PREFERENCES</u> (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### **Type of Certification is based on Type of Project:**

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

#### \*\*\*\*

#### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
  - a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

\* \* \* \* \*

#### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

Bidder or o	offeror h	ereby o	certifies	that it	will com	ply with	49 USC	§ 50101 b	v:

- a. Only installing steel and manufactured products produced in the United States, or;
- b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
- c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

## 4. <u>GENERAL CIVIL RIGHTS PROVISIONS</u> (all contracts)

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

# 5. <u>CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION</u> <u>REQUIREMENTS</u> (all AIP funded projects)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (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 Statutes 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. **Non-discrimination:** 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination 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 sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 subcontractor 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.

# 6. <u>CLEAN AIR AND WATER POLLUTION CONTROL</u> (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

- 1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- 2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- 3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- 4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

# 7. <u>CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS</u> (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

#### 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

#### 4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

# 8. <u>CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)</u> (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### 9. <u>DISADVANTAGED BUSINESS ENTERPRISES</u> (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

# 10. <u>FEDERAL FAIR LABOR STANDARDS ACT</u> (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

# 11. <u>LOBBYING AND INFLUENCING FEDERAL EMPLOYEES</u> (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an 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.
- 2. 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

#### 12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

#### 13. <u>RIGHTS TO INVENTIONS</u> (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

#### 14. <u>TERMINATION OF CONTRACT</u> (contracts that exceed \$10,000)

- 1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- 2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- 3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- 4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### 15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### 16. TEXTING WHEN DRIVING (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

THE STATE OF TEXAS )	ON-CALL
)	AGREEMENT FOR
COUNTY OF EL PASO )	PROFESSIONAL SERVICES

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2025 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 "Owner", and LEC Engineering, Inc. DBA LOI Engineers, a Domestic For-Profit Corporation, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform geotechnical engineering and material testing services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment "A"**; and

**WHEREAS,** the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances.

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

### ARTICLE I ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate
Attachment "F"	Federal Aviation Administration contract provisions for Airport
	Improvement Program Projects

## ARTICLE II PROJECT

- 2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform oncall professional services on a Task Order basis. Each individual Task Order will identify the Project ("**Project**") and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment "A"**.
- 2.2 For each Project, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

1

- 2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.
- 2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.
- 2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working days time period.

### ARTICLE III CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$500,000.00 for all basic services and reimbursables performed pursuant to this Agreement.

No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to Attachment "D".

- **3.2 CONSULTANT'S SERVICES.** The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.
- 3.3 CONSULTANT'S INVOICES. For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in Attachment "D". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.
  - **3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.
  - 3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.
- **3.4 PROJECT CONSTRUCTION BUDGET.** The Consultant acknowledges that the construction budget and a construction time for each Project will be identified in each Task Order.
- 3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

## ARTICLE IV PERIOD OF SERVICE AND TERMINATION

- **4.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.
- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not

begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.
  - **4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.
  - 4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.
  - **4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

## ARTICLE V INSURANCE AND INDEMNIFICATION

- **5.1 INSURANCE.** Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.
  - **5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

#### a) <u>COMMERCIAL GENERAL LIABILITY</u>

\$1,000,000.00 Per Occurrence \$2,000,000.00 General Aggregate \$2,000,000.00 Products/Completed Operations Aggregate \$1,000,000.00 Personal and Advertising Injury

### Personal Injury or Death & Property Damage

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate** \$1,000,000.00 \$1,000,000.00 per occurrence

#### b) **AUTOMOBILE LIABILITY**

Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the

benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

- **5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.
- **5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.
- **5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

Further, all polices shall provide either in the policy itself and 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 thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that 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), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence,

professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

#### ARTICLE VI FEDERAL AND STATE PROVISIONS

**6.1 COMPLIANCE WITH APPLICABLE LAWS** – **FEDERAL AND STATE FUNDING REQUIREMENTS.** Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable 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 Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, shall apply, **including but not limited to:** 

- --The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.
- --The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.
- --The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".
- -- The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

- **6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant 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 consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
- **6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

**6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

# 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

(1) **Compliance with Regulations**: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of

- Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination**: Consultant, with regard to the work performed by it during the contract, shall 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. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

#### ARTICLE VII GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill

and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within **Attachment "D"**. It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within ten percent (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

- 7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in Attachment "D" and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.
- **7.4 COPYRIGHT AND REPRODUCTION RIGHTS.** Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant

for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

- 7.6 SUCCESSORS AND ASSIGNS. This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
- **7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
- **7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

- **7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.
- **7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.
- **7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso

Attn: City Manager P.O. Box 1890

El Paso, Texas 79950-1890

With a Copy to: The City of El Paso

Attn: City Engineer P.O. Box 1890

El Paso, Texas 79950-1890

To the Consultant: LEC Engineering, Inc. DBA LOI Engineers

Attn: Bernadino Olague

2101 E. Missouri Avenue, Suite B

El Paso, Texas 79903

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

- **7.12 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.
- **7.13 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.
- **7.14 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

(SIGNATURES BEGING ON THE FOLLOWING PAGES)

## WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

	CITY OF EL PASO:
	Dionne Mack City Manager
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Roberta Brito Senior Assistant City Attorney	Yvette Hernandez, City Engineer Capital Improvement Department
(Ac	knowledgment)
THE STATE OF TEXAS \$ \$ COUNTY OF EL PASO \$	I before me on this day of, 2025,
by Dionne Mack, as <b>City Manager</b> of the	
	Notary Public, State of Texas
My commission expires:	

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

**CONSULTANT:** 

LEC ENGINEERING, INC. DBA

LOI ENGINEERS

By: Bernardino Olague

Title: Principal / CEO

## (Acknowledgment)

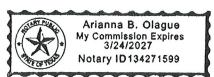
THE STATE OF TEXAS §

**COUNTY OF EL PASO** 

This instrument was acknowledged before me on this 14th day of April by Bernardino Olague, as Principal / CEO of LEC Engineering, Inc. DBA LOI ENGINEERS.

My commission expires:

March 24, 2027



# ATTACHMENT "A" SCOPE OF SERVICES

### ATTACHMENT A SCOPE OF SERVICES

The firm is to perform all phases of geotechnical and geological investigation, testing, analysis, and design services from conceptual through final design and construction. The anticipated projects under these selections may include roadways, parking lots/structures, quality of life, public safety, and other municipal facilities. Anticipated activities include, but are not limited to:

- Site investigation and characterization
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities, underground structures such as manholes, concrete pavement, monuments, railroad tracks, etc., and potholing
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Forensic evaluation of settlement of existing structures, pavement, and other material failures
- Soil slope stability analyses (i.e., berms, embankments and cut slopes) and development of recommendations for slope construction (i.e., slope angles, protection, anchoring, backfilling material requirements, and compaction), slope protection or stabilization methods to mitigate slope erosion and maintenance
- Determining of lateral earth pressure coefficients for below-grade and retaining wall structures
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring
- Reviewing existing geotechnical data and background information
- Developing conceptual design or layout in support of the geotechnical recommendation
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Implementing creative and innovative approaches to address project requirements.
- Geotechnical laboratory testing as appropriate, including but not limited to the following:
  - A) Materials Sampling and Testing: Concrete compressive strength ASTM-C39, concrete and asphalt coring, Hot Mix Asphaltic Concrete (HMAC) molding for flow/stability, extraction/gradation, Marshall density /stability and flow, field density ASTM-D6938, base course proctor, SA, PI (w/D-4718 oversize correction) and field density base course ASTM D 6938.
  - B) Earthwork Sampling and Testing of select fill, backfill, and existing subgrade materials for determination of moisture-density relationship (Proctor) ASTM-D698 or D1557, grain size distribution, #200 Test ASTM-D6913 & D1140, Atterburg Limits (PI) ASTM-D4318 field density ASTM-D1566, soil corrosivity ASTM STP 741, and ASTM STP1013, field measurement of soil resistivity ASTM G 57-78 and ASTM G 51-84 as appropriate, and trenching, subgrade and base course compaction testing

Other materials testing as requested including but not limited to:

- Roofing moisture, withdrawal resistance of mechanical fasteners, and wind uplift
- Visual, acoustics, radiographic, dye penetrants, magnetic particle (ferrous metal only) weld testing
- Mill thickness, lead for paint materials
- Subgrade and drainage design
- Stability, settlement, and foundation design
- Performing geotechnical construction observation and testing during construction
- Preparing geotechnical reports, design plans, and specifications
- Coordinating with other design disciplines or parties

# ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES

#### A. PROPOSAL DETAILS

Consultant Name: LEC Engineering, Inc. DBA LOI Eng. Inc.

Solicitation #: 2025-0262R

#### **B. FIELD AND LABORATORY TESTING**

ITEM#	FIELD AND LABORATORY TESTING - SOILS	UNIT	COST
1	Sampling (Soils)	EACH	\$ 0.00
2	Density of Soils Nuclear Method- 1 Test	EACH	\$ 15.00
3	Density of Soils Nuclear Method - 2-4 Tests	EACH	\$ 14.00
4	Density of Soils Nuclear Method - 5+ Tests	EACH	\$ 13.00
5	Density of Soils Sand Cone Method- 1 Test	EACH	\$ 77.00
6	Density of Soils Sand Cone Method - 2-4 Tests	EACH	\$ 50.00
7	Density of Soils Sand Cone Method - 5+ Tests	EACH	\$ 45.00
8	Proctor - Moisture Density	EACH	\$ 290.00
9	Rock Correction for Proctor & Sieve Analysis	EACH	\$ 59.00
10	Particle Size	EACH	\$ 65.00
11	Atterberg Limits Test	EACH	\$ 65.00
12	Moisture Content	EACH	\$ 20.00
13	Specific Gravity	EACH	\$ 65.00
14	LA Abrasion	EACH	\$ 115.00
15	Soil Classification / Sampling, sieve Analysis & Atterberg Limits	EACH	\$ 275.00

		CANCEL STREET, THE	
ITEM#	FIELD AND LABORATORY TESTING - CONCRETE	UNIT	COST
16	Concrete Cylinders (Cured and/or Testing in Compression	EACH	\$ 25.00
17	Grout (Cured and/or Testing in Compression	EACH	\$ 20.00
18	Mortar Cubes (Cured and/or Testing in Compression	EACH	\$ 17.00
19	Concrete Cores (Tested in Compression)	EACH	\$ 25.00
20	Concrete Beams (Cured and/or Testing in Compression)	EACH	\$ 35.00
21	Concrete Mix Design	EACH	\$ 1,250.00
22	Schmidt Hammer	DAY	\$ 105.00
23	Windsor Probe	EACH	\$ 125.00
ITEM#	FIELD AND LABORATORY TESTING - ASPHALT	UNIT	COST
24	Marshali Value	EACH	\$ 120.00
25	Extraction and Graduation	EACH	\$ 120.00
26	Rice	EACH	\$ 120.00
27	Asphalt Core (Voids/Density/Thickness	EACH	\$ 85.00
28	Coring Crew	HOUR	\$ 130.00
29	Asphalt Coring Machine	PER DAY	\$ 195.00

#### B. PROFESSIONAL PERSONNEL / MISCELLANEOUS COSTS

ITEM#	LABOR CLASSIFICATION	UNIT	RATE
30	Principal	Hour	\$ 210.00
31	Senior Project Manager	Hour	\$ 165.00
32	Project Manager	Hour	\$ 135.00
33	Project Engineer	Hour	\$ 120.00
34	Staff Engineer / Geologist / Specialist Level I	Hour	\$ 105.00
35	Staff Engineer / Geologist / Specialist Level II	Hour	\$ 130.00
36	Senior Field Technician	Hour	\$ 85.00
37	GIC/CAD Technician	Hour	\$ 75.00
38	Field / Lab Technician	Hour	\$ 70.50
39	Welding / Special Inspector	Hour	\$ 146.00
40	Administrative Assistant	Hour	\$ 65.00

ITEM#	OTHER	UNIT	COST
41	Mileage	current IRS approved Rate	
42	2 WD Vehicle	DAY	\$ 62.60
43	4 WD Vehicle	DAY	\$ 74.40
44	Generator	DAY	\$ 100.00
45	Printing 8 1/2 X 11 B&W	PAGE	\$ 0.15
46	Printing 8 1/2 X 11 Color	PAGE	\$ 0.20
47	Oversize Printing	PAGE	\$ 1.00
48	UT Welding Equipment	DAY	\$ 193.20
49	Travel (If applicable):	Actual Cost	Actual Cost
50	Overtime Markup	1.5X Approve	d Hourly Rate

#### Notes:

- 1: The rates included in this proposal shall represent only the cost of the test. Labor hours associated with the testing must be itemized and detailed within the proposal using the above labor rates.
- 2: A detailed list of miscellaneous expenses should be attached to this proposal (If available). The rates outlined in this proposal will take precedence over any duplicate items listed among the miscellaneous expenses.
- 3: All charges, including miscellaneous items must be approved in advance by the City Project Manager
- 4: The City will not allow minimum number of samples / hours for any testing / inspection
- 5: Only for City PM approved overtime. Must be accompanied by written authorization and backup that OT work was conducted
- 6: The consultant shall not begin any extra services not outlined in the original approved proposal until a new purchase order or an increase to the current one is provided. Additionally, the consultant shall notify PM at about 80% of the PO amount to determine if an increase in services will be necessary.



## **ATTACHMENT B-2**

3/7/2025

Project: City of El Paso - On-Call Geotechnical Engineering Services

File No. P25-1-03001

## **Field Exploration**

Description	Units	Rate	
Mobilization - Truck-mounted drill rig	Mile	\$4.00	
Drilling - to 15 feet	FEET	\$20.00	
Drilling - to 45 feet	FEET	\$22.00	
Drilling - to 100 feet	FEET	\$24.00	
Drilling below water table	FEET	\$28.00	
Backfill boreholes with bentonite top 5 feet	FEET	\$5.00	
Conversion of boring to piezometer	FEET	\$38.00	
Well Pad Completion and Locking Cap	EA	\$300.00	
TWDB MW Licensed Driller	HR	\$80.00	
Traffic control	COST	•	
Field Engineer (EIT/Geologist logger)	HR	\$95.00	

## ATTACHMENT "C" CONSULTANT'S BASIC AND ADDITIONAL SERVICES

Each individual Task Order will identify the "**Project**", and the Consultant shall provide the Basic and Additional Services as noted herein.

#### **BASIC SERVICES OF THE CONSULTANT**

#### **GENERAL**

- 1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering and Construction Management Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
- 3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

#### REPORT PHASE

- 1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
  - **a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - **b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - c. (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

## ATTACHMENT "C" CONSULTANT'S BASIC AND ADDITIONAL SERVICES

- **d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

- 1. Consult with the Owner to determine the Owner's requirements for the Project.
- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the

## ATTACHMENT "C" CONSULTANT'S BASIC AND ADDITIONAL SERVICES

Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

- 3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- 8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- 9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

### PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.
- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- Advise the Owner of any adjustment to the Consultant's previous opinion of probable 3. construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility Consultant comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- 3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4. As per Attachment "D"**, furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. **As per Attachment "D"**, furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in **Attachment "D"**, required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

#### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- 2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- 3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.
- As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

## **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- 1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with

such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

- 3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
- 4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract

documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

- Passed on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- 8. Conduct with the Owner and construction contractor no more than two brief preliminary inspections, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- 9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two City working days after the final inspection.
- 10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- 11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints,

- drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
- 13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- **15.** Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- 17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- **18**. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- 19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
- 21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- 22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the

construction contractor's default under the construction contract due to delinquency or insolvency.

- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
- 25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- 1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by ten percent or more.
- 3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

### **RESIDENT PROJECT SERVICES**

- 1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- 3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

### **Fixed fee Payment to Consultant**

Report Phase	To be determined by Task Order
<b>Preliminary Design Phase</b>	To be determined by Task Order
<b>Pre-Final Design Phase</b>	To be determined by Task Order
Final Design Phase	To be determined by Task Order
<b>Bidding Phase</b>	To be determined by Task Order
<b>Construction Phase</b>	To be determined by Task Order

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars (\$50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars (\$50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and a Consulting Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/Consultant location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable*.

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with Owner's fiscal year.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the City. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

#### **DELIVERABLE SCHEDULE**

#### REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **5 copies** of the Preliminary Study and Report shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **10 copies** of any required documents and opinion of probable construction costs shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five copies** of the resubmitted design documents.

### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **10 copies** the required documents and services shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **10 copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **3 copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **10 copies** of the final design documents and specifications for bidding to the Owner within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit 1 copy of all addenda to the Owner for appropriate action within 2 consecutive calendar days.

## PHASE V - CONSTRUCTION PHASE

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

## ATTACHMENT "E" Insurance



### CERTIFICATE OF LIABILITY INSURANCE

3/5/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER AssuredPartners of Texas, LLC 500 N. Central Expressway #550 Plano TX 75074		CONTACT NAME: Judith Webb			
		PHONE (A/C, No, Ext): (972) 331-3722	FAX (A/C, No):		
	,	E-MAIL ADDRESS: judith.webb@assuredpartners.com			
		INSURER(S) AFFORDING COVERAGE		NAIC#	
		INSURER A: Continental Casualty Company		20443	
LEC Engineering, Inc. dba LOI Engineers 2101 E. Missouri Ave Suite B		ınsurer в : Valley Forge Insurance Company		20508	
		INSURER C:			
		INSURER D:			
		INSURER E :			
El Paso TX 79903		INSURER F:			

#### COVERAGES CERTIFICATE NUMBER: 1848217954 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR		TYPE OF INSURANCE	ADDL INSD		POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	s
Α	Х	COMMERCIAL GENERAL LIABILITY		 5094357678	8/2/2024	8/2/2025	EACH OCCURRENCE	\$2,000,000
		CLAIMS-MADE X OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$2,000,000
	GEN	N'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE	\$4,000,000
		POLICY X PRO- JECT LOC					PRODUCTS - COMP/OP AGG	\$4,000,000
		OTHER:						\$
	AUT	OMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$
		ANY AUTO					BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS ONLY					BODILY INJURY (Per accident)	\$
		HIRED NON-OWNED AUTOS ONLY AUTOS ONLY					PROPERTY DAMAGE (Per accident)	\$
								\$
Α	Х	UMBRELLA LIAB X OCCUR		5094360872	8/2/2024	8/2/2025	EACH OCCURRENCE	\$3,000,000
		EXCESS LIAB CLAIMS-MADE					AGGREGATE	\$3,000,000
		DED X RETENTION \$ 10,000						\$
В		RKERS COMPENSATION EMPLOYERS' LIABILITY		5094360841	8/2/2024	8/2/2025	X PER OTH- STATUTE ER	
	ANY	PROPRIETOR/PARTNER/EXECUTIVE   Y / N	N/A				E.L. EACH ACCIDENT	\$1,000,000
	(Mar	ndatory in NH)	11,7				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
	If yes	s, describe under CRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	\$1,000,000
Α	Leas	sed/Rented Equipment		 5094357678	8/2/2024	8/2/2025	Leas/Rent Equip Limit	50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The general liability policy includes a blanket automatic additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status. The general liability policy contains a special endorsement with "primary and non-contributory" wording. The general liability & worker's compensation policies include a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. Project: Solicitation #2025-0262R: On-Call Professional Services, Geotechnical Engineering & Materials Testing.

CERTIFICATE HOLDER	CANCELLATION
City of El Paso 218 N. Campbell, 2nd Floor El Paso TX 79901	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Budg KC

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## ATTACHMENT "F"

Federal Aviation Administration contract provisions for Airport Improvement Program Projects

#### **ATTACHMENT "F"**

### FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

In this Attachment "F", the term "Contractor" shall refer to the "Consultant", and the term "Airport Sponsor" shall refer to the "City".

If there are any conflicts between the terms and conditions of Attachment "F" and Article VI of the Agreement, the terms and conditions of Attachment "F" will prevail.

## A. GENERAL REQUIREMENT FOR CONTRACT

- 1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
- 2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
- 4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

## B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1. Withhold progress payments or final payment,
- 2. Terminate the contract,
- 3. Seek suspension/debarment, or
- 4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

## C. <u>CONTRACT PROVISIONS</u>

### 1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. <u>BREACH OF CONTRACT TERMS</u> (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. <u>BUY AMERICAN PREFERENCES</u> (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

## Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

#### \*\*\*\*

## Certificate of Buy American Compliance for Total Facility

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark ( $\checkmark$ ) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
  - a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date Signature

Bernardino olague, P.E.

LEC Engineering, Inc. 0/6/9 LOI ENGINEERS Principal / CEC

Company Name

Title

\* \* \* \* \*

## **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- ☑ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
  - a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

4/14/2025	Lun	
Date	Signature	Bernardino Olague. P.E
	•	

LEC Engineering, Inc. d/b/a LOI ENGINEERS Principal / CED

Company Name

Title

## 4. <u>GENERAL CIVIL RIGHTS PROVISIONS</u> (all contracts)

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

## 5. <u>CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION</u> <u>REQUIREMENTS</u> (all AIP funded projects)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (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 Statutes 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. **Non-discrimination:** 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination 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 sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 subcontractor 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.

## 6. <u>CLEAN AIR AND WATER POLLUTION CONTROL</u> (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

- 1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- 2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- 3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- 4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

## 7. <u>CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS</u> (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

## 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

#### 4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

## 8. <u>CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)</u> (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

## 9. <u>DISADVANTAGED BUSINESS ENTERPRISES</u> (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

## 10. <u>FEDERAL FAIR LABOR STANDARDS ACT</u> (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

## 11. <u>LOBBYING AND INFLUENCING FEDERAL EMPLOYEES</u> (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an 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.
- 2. 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

## 12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

### 13. <u>RIGHTS TO INVENTIONS</u> (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

### **TERMINATION OF CONTRACT** (contracts that exceed \$10,000)

- 1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- 2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- 3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- 4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

## 15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

### **16.** <u>TEXTING WHEN DRIVING</u> (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

THE STATE OF TEXAS )	ON-CALL
)	AGREEMENT FOR
COUNTY OF EL PASO )	PROFESSIONAL SERVICES

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_\_, 2025 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 "Owner", and Terracon Consultants, Inc., a Delaware USA, Foreign For-Profit Corporation Authorized to Transact Business in Texas, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform geotechnical and engineering and material testing services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment "A"**; and

**WHEREAS,** the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances;

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows.

## ARTICLE I ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate
Attachment "F"	Federal Aviation Administration contract provisions for Airport
	Improvement Program Projects

### ARTICLE II PROJECT

- 2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform oncall professional services on a Task Order basis. Each individual Task Order will identify the Project ("**Project**") and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment "A"**.
- 2.2 For each Project, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

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- 2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.
- 2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.
- 2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working days time period.

## ARTICLE III CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$500,000 for all basic services and reimbursables performed pursuant to this Agreement.

No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

- **3.2 CONSULTANT'S SERVICES.** The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.
- 3.3 CONSULTANT'S INVOICES. For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in Attachment "D". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.
  - **3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.
  - 3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.
- **3.4 PROJECT CONSTRUCTION BUDGET.** The Consultant acknowledges that the construction budget and a construction time for each Project will be identified in each Task Order.
- 3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

## ARTICLE IV PERIOD OF SERVICE AND TERMINATION

- **4.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.
- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not

begun within a period of **twelve** (12) **months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.
  - **4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.
  - 4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.
  - **4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

## ARTICLE V INSURANCE AND INDEMNIFICATION

**5.1 INSURANCE.** Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner.

The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

**5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

### a) COMMERCIAL GENERAL LIABILITY

\$1,000,000.00 Per Occurrence \$2,000,000.00 General Aggregate \$2,000,000.00 Products/Completed Operations Aggregate \$1,000,000.00 Personal and Advertising Injury

### Personal Injury or Death & Property Damage

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate** \$1,000,000.00 \$1,000,000.00 per occurrence

## b) <u>AUTOMOBILE LIABILITY</u>

Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

- **5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.
- **5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.
- **5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

Further, all polices shall provide either in the policy itself and 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 thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that 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), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance

policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

### ARTICLE VI FEDERAL AND STATE PROVISIONS

**6.1 COMPLIANCE WITH APPLICABLE LAWS – FEDERAL AND STATE FUNDING REQUIREMENTS.** Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable 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 Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, shall apply, <u>including</u> <u>but not limited to:</u>

- --The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.
- --The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.
- --The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".
- -- The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

**6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant 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 consultant to carry out

these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

**6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

# 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

- (1) Compliance with Regulations: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination**: Consultant, with regard to the work performed by it during the

- contract, shall 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. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

### ARTICLE VII GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within Attachment "D". It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule

in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within **ten percent** (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

- 7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in Attachment "D" and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.
- 7.4 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the

Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

- **7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
- **7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
- **7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.
- **7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.
- **7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso

Attn: City Manager P.O. Box 1890

El Paso, Texas 79950-1890

With a Copy to: The City of El Paso

Attn: City Engineer P.O. Box 1890

El Paso, Texas 79950-1890

To the Consultant: Terracon Consultants, Inc.

Attn: Ruben Solis-Hernandez 6460 Hiller Street, Suite A El Paso, Texas 79925

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

- **7.12 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.
- **7.13 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.
- **7.14 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

(SIGNATURES BEGING ON THE FOLLOWING PAGES)

### WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

	Dionne Mack City Manager
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Voberta Birto	Gvette Hernandez Yvette Hernandez, City Engineer
	Yvette Hernandez, City Engineer Capital Improvement Department
(Acknowledge	ment)
THE STATE OF TEXAS \$ \$ COUNTY OF EL PASO \$  This instrument was acknowledged before me by Dionne Mack, as City Manager of the City of El	e on this day of, 2025,
by Dionne wack, as City wanager of the City of El	Traso, Texas.
1	Notary Public, State of Texas
My commission expires:	

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

CONSULTANT:

TERRACON CONSULTANTS, INC.

By: Ruben Solis-Hernandez Title: Office Manager

(Acknowledgment)

THE STATE OF TEXAS

§

COUNTY OF EL PASO

This instrument was acknowledged before me on this 4 day of 2025, by Ruben Solis-Hernandez, as Office Manager of Terracon Consultants, Inc.

Notary Public, State of Texas

My commission expires:

9.25.27

MIREYA TENA
Notary Public, State of Texas
Comm. Expires 09-25-2027
Notary ID 126267699

# ATTACHMENT "A" SCOPE OF SERVICES

### ATTACHMENT A SCOPE OF SERVICES

The firm is to perform all phases of geotechnical and geological investigation, testing, analysis, and design services from conceptual through final design and construction. The anticipated projects under these selections may include roadways, parking lots/structures, quality of life, public safety, and other municipal facilities. Anticipated activities include, but are not limited to:

- Site investigation and characterization
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities, underground structures such as manholes, concrete pavement, monuments, railroad tracks, etc., and potholing
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Forensic evaluation of settlement of existing structures, pavement, and other material failures
- Soil slope stability analyses (i.e., berms, embankments and cut slopes) and development of recommendations for slope construction (i.e., slope angles, protection, anchoring, backfilling material requirements, and compaction), slope protection or stabilization methods to mitigate slope erosion and maintenance
- Determining of lateral earth pressure coefficients for below-grade and retaining wall structures
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring
- Reviewing existing geotechnical data and background information
- Developing conceptual design or layout in support of the geotechnical recommendation
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Implementing creative and innovative approaches to address project requirements.
- Geotechnical laboratory testing as appropriate, including but not limited to the following:
  - A) Materials Sampling and Testing: Concrete compressive strength ASTM-C39, concrete and asphalt coring, Hot Mix Asphaltic Concrete (HMAC) molding for flow/stability, extraction/gradation, Marshall density /stability and flow, field density ASTM-D6938, base course proctor, SA, PI (w/D-4718 oversize correction) and field density base course ASTM D 6938.
  - B) Earthwork Sampling and Testing of select fill, backfill, and existing subgrade materials for determination of moisture-density relationship (Proctor) ASTM-D698 or D1557, grain size distribution, #200 Test ASTM-D6913 & D1140, Atterburg Limits (PI) ASTM-D4318 field density ASTM-D1566, soil corrosivity ASTM STP 741, and ASTM STP1013, field measurement of soil resistivity ASTM G 57-78 and ASTM G 51-84 as appropriate, and trenching, subgrade and base course compaction testing

Other materials testing as requested including but not limited to:

- Roofing moisture, withdrawal resistance of mechanical fasteners, and wind uplift
- Visual, acoustics, radiographic, dye penetrants, magnetic particle (ferrous metal only) weld testing
- Mill thickness, lead for paint materials
- Subgrade and drainage design
- Stability, settlement, and foundation design
- Performing geotechnical construction observation and testing during construction
- Preparing geotechnical reports, design plans, and specifications
- Coordinating with other design disciplines or parties

# ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES



#### A. PROPOSAL DETAILS

Consultant Name: Terracon Consultants, Inc.

Solicitation #: 2025-0262R

#### **B. FIELD AND LABORATORY TESTING**

ITEM#	FIELD AND LABORATORY TESTING - SOILS	UNIT	COST
1	Sampling (Soils)	EACH	\$ 50.00
2	Density of Soils Nuclear Method- 1 Test	EACH	\$ 60.00
3	Density of Soils Nuclear Method - 2-4 Tests	EACH	\$ 24.00
4	Density of Soils Nuclear Method - 5+ Tests	EACH	\$ 24.00
5	Density of Soils Sand Cone Method- 1 Test	EACH	\$ 77.00
6	Density of Soils Sand Cone Method - 2-4 Tests	EACH	\$ 38.00
7	Density of Soils Sand Cone Method - 5+ Tests	EACH	\$ 38.00
8	Proctor - Moisture Density	EACH	\$ 250.00
9	Rock Correction for Proctor & Sieve Analysis	EACH	\$ 59.00
10	Particle Size	EACH	\$ 83.50
11	Atterberg Limits Test	EACH	\$ 75.00
12	Moisture Content	EACH	\$ 12.00
13	13 Specific Gravity		\$ 83.00
14	LA Abrasion	EACH	\$ 182.00
15	Soil Classification / Sampling, sieve Analysis & Atterberg Limits	EACH	\$ 279.00

ITEM#	FIELD AND LABORATORY TESTING - CONCRETE	UNIT	COST
16	Concrete Cylinders (Cured and/or Testing in Compression	EACH	\$ 35.00
17	Grout (Cured and/or Testing in Compression	EACH	\$ 30.00
18	Mortar Cubes (Cured and/or Testing in Compression	EACH	\$ 30.00
19	Concrete Cores (Tested in Compression)	EACH	\$ 37.00
20	Concrete Beams (Cured and/or Testing in Compression)	EACH	\$ 80.00
21	Concrete Mix Design	EACH	\$ 1,700.00
22	Schmidt Hammer	DAY	\$ 68.00
23	Windsor Probe	EACH	\$ 141.50
ITEM#	FIELD AND LABORATORY TESTING - ASPHALT	UNIT	COST
24	Marshall Value	EACH	\$ 63.00
25	Extraction and Graduation	EACH	\$ 160.00
26	Rice	EACH	\$ 120.00
27	Asphalt Core (Voids/Density/Thickness	EACH	\$88.00
28	Coring Crew	HOUR	\$ 130.00
29	Asphalt Coring Machine	PER DAY	\$ 195.00

#### B. PROFESSIONAL PERSONNEL / MISCELLANEOUS COSTS

ITEM#	LABOR CLASSIFICATION	UNIT	RATE
30	Principal	Hour	\$ 210.00
31	Senior Project Manager	Hour	\$ 167.50
32	Project Manager	Hour	\$ 121.00
33	Project Engineer	Hour	\$ 121.00
34	Staff Engineer / Geologist / Specialist Level I	Hour	\$ 89.00
35	Staff Engineer / Geologist / Specialist Level II	Hour	\$ 130.50
36	Senior Field Technician	Hour	\$ 77.00
37	GIC/CAD Technician	Hour	\$ 85.50
38	Field / Lab Technician	Hour	\$ 65.00
39	Welding / Special Inspector	Hour	\$ 131.00
40	Administrative Assistant	Hour	\$ 71.00

ITEM#	OTHER	UNIT	COST
41	Mileage	current IRS a	oproved Rate)
42	2 WD Vehicle	DAY	\$ 43.00
43	4 WD Vehicle	DAY	\$ 57.00
44	Generator	DAY	\$ 91.00
45	Printing 8 1/2 X 11 B&W	PAGE	\$ 0.25
46	Printing 8 1/2 X 11 Color	PAGE	\$ 0.50
47	Oversize Printing	PAGE	\$ 0.75
48	UT Welding Equipment	DAY	\$ 85.00
49	Travel (If applicable):	Actual Cost	Actual Cost
50	Overtime Markup	1.5X Approve	d Hourly Rate

#### Notes:

- 1: The rates included in this proposal shall represent only the cost of the test. Labor hours associated with the testing must be itemized and detailed within the proposal using the above labor rates
- 2: A detailed list of miscellaneous expenses should be attached to this proposal (If available). The rates outlined in this proposal will take precedence over any duplicate items listed among the miscellaneous expenses.
- 3: All charges, including miscellaneous items must be approved in advance by the City Project Manager
- 4: The City will not allow minimum number of samples / hours for any testing / inspection
- 5: Only for City PM approved overtime. Must be accompanied by written authorization and backup that OT work was conducted
- 6: The consultant shall not begin any extra services not outlined in the original approved proposal until a new purchase order or an increase to the current one is provided. Additionally, the consultant shall notify PM at about 80% of the PO amount to determine if an increase in services will be necessary.

Item#	Personnel	Unit	2025 Labor Rate (\$/hr)	Description
101	Senior Principal	Hour	\$247,00	<u> </u>
103	Senior Project Engineer	Hour	\$179.00	
104	Senior Project Scientist	Hour	\$194.00	
105	Regional Compliance Manager	Hour	\$179.00	
111	Staff Scientist	Hour	\$98.00	An overtime markup of 1.5 times the hourly will apply for Materials Technician services provided Monday
113	Materials Technician IV	Hour	\$71.00	through Friday that are in excess of 8 hours per day and for services provided before 7:00 AM and after
115	Materials Technician II	Hour	<del>\$61.00</del>	6:00 PM, as well as for services provided on Saturday, Sunday and Terracon recognized Holidays.
116	Materials Technician I	Hour	\$55.00	
Item#	Expenses and Supplies	Unit	2025 Unit Cost (\$/ea)	Description
202	Additional 2WD truck charge for assignments beyond 50 miles round trip	Mile	\$0.80	
203	Subcontractors and Subconsultants*	Lump Sum	Cost + 10%	Shipping charges, rental equipment, outside labor, public transportation, materials, permit fees or other
204	Miscellaneous charges, including analytical laboratory tests*	Lump Sum	Cost + 10%	contracted services
205	Additional technician time for mobilization	Hour	See Personnel Rates	
Item#	Geotechnical Exploration (Drilling)	Unit	2025 Unit Cost (\$/ea)	Description
	Project and Site Coordination			
301	General Project and Site Coordination	Hour	See Personnel Rates	
302	Right-of-Way Permit Request and Processing	Hour	See Personnel Rates	
303	Pavement Cut or Excavation Permit Request and Processing	Hour	See Personnel Rates	
304	Locate and mark borings in the field	Boring	\$28.00	
305	Public Utility Check (811) Ticket Request	Boring	\$19.00	
306	Truck Trip Charge	Day	\$40.00	Within City limits, does not include technician or engineer's travel time
	Drilling Crew Mobilization			
307	Mobilization of Equipment and Personnel (Truck-Mounted Drill Rig)	Day	\$352.00	Minimum charge
308	All-Terrain or Track-Mounted Drill	Mile	\$7.90	each way (\$1,500.00 minimum)

	General Drilling Rates			Contaminated soils observed during drilling may require additional surcharges.
310	Asphalt Pavement 10-inch Core (to access subgrade)	Bore	\$60.00	
311	Concrete Pavement 10-inch Core (to access subgrade)	Bore	\$89.00	
312	10-inch Square Pavement Sawcut (to access subgrade)	Each	\$120.00	
313	Drilling w/truck-mounted rig with two-person crew	Hour	\$267.00	
314	Drilling w/track-mounted or ATV rig with two-person crew	Hour	\$294.00	
315	Client delay, standby, or non-drilling time (truck-mounted rig)	Hour	\$294.00	
316	Client delay, standby, or non-drilling time (track-mounted or ATV rig)	Hour	\$315.00	
317	Cost of special drilling equipment	Lump Sum	Cost + 10%	
318	Plugging borehole with lean bentonite-cement grout (max. 8" diameter)	Foot	\$10.30	
319	Plugging borehole with lean bentonite chips (max. 8" diameter)	Foot	\$12.60	
320	Asphalt Pavement patching and cleaning	Bore	\$60.00	
321	Concrete Pavement patching and cleaning	Bore	\$90.00	
322	Field Logging and Stratification or Boring Logs	Hour	See Personnel Rates	
323	Pressuremeter or Bore Hole Shear Equipment	Day	\$1,420.00	Personnel time not included
324	Additional Pressuremeter Membranes or End Caps	Each	\$294.00	Personnel time not included
	Auger Drilling			Contaminated soils observed during drilling may require additional surcharges.
325	Auger drilling without sampling	Foot	\$12.50	
	Auger drilling with soil sampling			Using either conventional split-barrel or Shelby tube sampler at 5-foot intervals in soil
	Depth Range (Feet)			
326	0 - 40	Foot	\$15.00	
327	41 - 60	Foot	\$19.00	
328	61 - 80	Foot	\$22.00	
329	81 - 100	Foot	\$24.00	
	Rotary Drilling and Coring			Contaminated soils observed during drilling may require additional surcharges.
	Drilling and sampling in dense soil, cobbles or rock formations			Using either conventional split-barrel or Shelby tube sampler at 5-foot intervals in soil
	Depth Range (Feet)			
330	0 - 40	Foot	\$37.00	
331	40 - 80	Foot	\$42.00	
332	80 - 120	Foot	\$47.00	
333	Air or Mud Rotary set up	Boring	\$119.00	
334	Rock coring set up	Boring	\$175.00	
	NQ rock coring depth range (feet)			Cores runs not exceeding 5 feet at a time
335	0 - 40	Foot	\$61.00	
336	Below 40	Foot	\$71.00	
337	Wire line rock coring	Foot	\$89.00	

tem#	Soil Testing	Unit	2025 Unit Cost (\$/ea)	Description
	Construction Phase Soil and Proctor Field Sampling and Testing Combinations			These items include technician time and one trip charge
408	Additional Technician Time	Hour	See Personnel Rates	
	Soil Classification and Physical Property Testing (trip charge to be charged separately	()		
409	Soil Sampling & Classification Suite (sieve analysis and Atterberg Limits)	Each	\$630.00	
412	Hydrometer Analysis	Test	\$340.00	Includes Sieve analysis, specific gravity and hydrometer
414	Density Determination	Test	\$61.00	Undisturbed sample only, from Shelby tube
416	Shrinkage Limit Determination	Test	\$193.00	
417	Sand Equivalent	Test	\$193.00	
418	Organic Content (By heating)	Test	\$75.00	
419	Soil Suction (ASTM D-5298)	Test	\$91.00	
420	Porosity	Test	\$165.00	
421	Pin Hole Dispersion	Test	\$454.00	
422	With Remolding of Sample	Test	\$483.00	
	Compaction and Density			
423	Standard Proctor (ASTM D-698)	Each	\$147.00	
424	Standard Proctor with Portland Cement (2-hour delay)	Each	\$284.00	
425	Modified Proctor (ASTM D-1557)	Test	\$250.00	
427	Laboratory CBR	Test	\$454.00	
428	Field CBR	Test	quote per request	
429	R-value (ASTM D-2844)	Each	\$470.00	
430	Relative Density (ASTM D-4253 and D-4254, wet or dry method)	Each	\$357.00	

	Shear Strength			
	Unconfined Compression:			
431	Undisturbed Soil Sample	Test	\$57.00	
432	With Stress-Strain Curve	Each	\$102.00	
433	Calibrated Hand Penetrometer or Torvane	Each	\$13.00	
434	Direct Shear FAST (cohesionless)	Point	\$260.00	
435	Direct Shear SLOW (cohesive)	Point	\$414.00	
436	Standard Sample Preparation	Sample	\$90.00	
437	Preparation on remolding for Difficult Samples	Hour	\$97.00	
438	Unconfined Compression on Cured Proctor Sample with Fly Ash	Test	\$97.00	
				Triaxial compression test rates are for 1.4 inch, 1.8 inch and 2.8 inch diameter samples only. Rates for
				other diameter samples available upon request. Consolidated Undrained Test includes pore pressure
	Triaxial Compression			measurements.
439	Unconsolidated Undrained Triaxial (Total per Circle)	Test	\$442.00	
440	Consolidated Undrained (CU) Triaxial (Total per Circle)	Test	\$607.00	
441	Consolidated Drained (CD) Triaxial (Total per Circle)	Test	quote per request	*Note: normally requires three circles
442	Preparation of Remolded Samples	Circle	\$102.00	
	Consolidation and Swelling			
443	Consolidation Test on 2-1/2 inch diameter Specimen			
444	Regular increasing Load increments to 16 TSF	Test	\$635.00	
445	Plotted Time Curves	Each	\$97.00	
446	Each additional Unloaded-Reload Cycle	Cycle	\$159.00	
447	Swell Test single pressure	Test	\$153.00	
448	Additional pressures	Each	\$68.00	
449	Swell Test ASTM D4546-08 Method A	Test	\$1,418.00	
450	Swell Test ASTM D4546-08 Method B	Test	\$323.00	
451	Swell Test ASTM D4546-08 Method C	Test	\$635.00	
	<u>Permeability</u>			
452	Constant Head Permeability Test (ASTM D2434)	Test	\$442.00	
453	Falling Head Permeability Test (ASTM D5084)	Test	\$347.00	
454	Preparation of Remolded Samples	Each	\$102.00	
	<u>Chemical Tests</u>			
455	pH (By meter)	Each	\$51.00	
456	Electrical Conductivity by Miller box	Each	\$227.00	
457	Chloride Concentration	Each	\$102.00	
458	Soluble Sulfate	Each	\$90.00	
459	Cation Exchange Capacity of Soil	Each	\$165.00	

Item#	Aggregates	Unit	2025 Unit Cost (\$/ea)	Description
501	Sieve Analysis (ASTM C-136)	Each	\$120.00	
502	Analysis of Material finer than #200 Sieve (ASTM C-117)	Each	\$63.00	
503	Specific Gravity (ASTM C127 or C128)	Each	\$82.00	
504	Percentage Particles Less than 1.95 Specific Gravity (AASHTO T 150)	Each	quote per request	
505	Absorption Analysis (ASTM C127 or C128)	Each	\$82.00	
507	Large Size Aggregate (ASTM C535)	Each	\$539.00	
508	Specific Gravity and Absorption combined (ASTM C127 or C128)	Each	\$103.00	
509	Unit Weight (ASTM C29)	Each	\$103.00	
510	Soundness (ASTM C88) (5 cycles) (fine or coarse)	Each	\$454.00	
511	Large Size Aggregate	Each	\$482.00	
512	Organic Impurities	Each	\$68.00	
	Lightweight Particles or Chert Analysis (ASTM C123):			
513	Fine	Each	\$125.00	
514	Coarse	Each	\$198.00	
515	Chert	Each	\$198.00	
516	Clay Lumps (ASTM C142)	Each	\$85.00	
517	Organic Impurities - Mortar Strength (ASTM C87)	Each	\$2,268.00	
518	Scratch Hardness Test	Each	\$80.00	
519	Freeze Thaw (AASHTO T-103)	Each	\$874.00	
520	Flat and Elongated Particles	Each	\$307.00	
521	Crushed Particle Determination	Each	\$120.00	
522	Bulk Impregnated Specific Gravity	Each	\$420.00	
523	Solubility	Each	\$103.00	
524	Insoluble Residue in Carbonate Aggregates (ASTM D3042)	Each	\$386.00	

em#	Concrete and Masonry	Unit	2025 Unit Cost (\$/ea)	Description
	Field Sampling and Testing Combinations			These items include technician time and one trip charge
602	6"x12" Concrete Cylinder sampling and testing*	Each	\$410.00	Set of 4 cylinders, include 1 slump,1 air content, concrete and ambient temperatures, curing, compressive strength testing and report)
604	Additional slump test in same trip	Each	\$19.00	
605	Additional air content test in same trip	Each	\$19.00	
606	Additional cylinder in same trip (beyond set of 4)	Each	\$20.00	
607	Additional beam in same trip (beyond set of 4)	Each	\$85.00	
	Concrete Property Testing (trip charge and technician time to be charged separately)			
612	Initial setting time (ASTM C403) (already mixed)	Minimum	\$454.00	
613	Compressive Strength of 6" X 12" Cylinder (ASTM C39)	Each	\$28.00	
614	Compressive Strength of 4" X 8" Cylinder (ASTM C39)	Each	\$23.00	
615	Flexural Strength of Concrete Beam	Each	\$85.00	
616	Splitting Tensile Test (6" Cylinders)	Each	\$68.00	
619	Floor Flatness Testing (excludes probe rental and pin fees)	Sq. Ft.	\$0.11	
621	Laboratory Concrete Trial Batch (with cylinders)	Minimum	\$793.00	
622	Laboratory Concrete Trial Batch (with beams)	Minimum	\$1,389.00	
623	Additional Technician Time	Hour	See Personnel Rates	
	Concrete Coring of Hardened Concrete			
624	Concrete Coring (2-technician crew)	Hour	See Personnel Rates	
625	Core drilling machine	Day	\$89.00	
	Diamond bit wear per inch depth (1" steel = 12" concrete):		1,000	
627	3 to 5 inch diameter core	Inch	\$7.40	
628	5 to 7 inch diameter core	Inch	\$8.40	
629	Concrete-sawing technician	Hour	See Personnel Rates	
630	Saw	Day	\$80.00	
631	Blades	Lump Sum		
633	Trimming	Cut	\$34.00	

634	Depending on size and quantity	Each	\$315 to \$530	Minimum set of 3
	Net Area, Absorption, Specific Gravity and Moisture			
635	Content of Masonry Block (ASTM C140)	Block	\$103.00	
636	Lineal Drying Shrinkage of Masonry Block (ASTM C426)	Each	\$340.00	
637	Compressive Strength of Masonry Block Prism (Hollow)	Each	\$170.00	
638	Compressive Strength of Masonry Block Prism (filled with grout)	Each	\$263.00	
639	Compressive Strength of 3X6 inch Grout Prism	Each	\$28.00	
640	Compressive Strength of 2-inch Mortar Cube of 2-inch Cylinder	Each	\$28.00	
641	Laboratory Mortar, Trial Batch (does not include testing cubes)	Each	\$483.00	
642	Mortar Flow Test (ASTM C270)	Test	\$85.00	
643	Mortar Water Retention Test (ASTM C270)	Test	\$294.00	
644	Efflorescence Test	Each	\$182.00	
645	Each additional concurrently tested material	Each	\$113.00	
	Chloride ion content of concrete			Submitted sample prepared through #50 sieve, with James Meter
646	Less than 5 samples	Each	\$80.00	Submitted sample prepared trillough #50 sieve, with James Meter
647	5 or more samples	Each	\$57.00	
04/	ASTM or AASHTO Titration	EdUII	\$37.00	
648	Less than 5 samples	Each	\$103.00	
649	5 or more samples	Each	\$108.00	
650	Sample Preparation	Hour	\$68.00	
550	Rapid chloride permeability of concrete - 4-inch diameter sample,	rioui	Ψ00:00	includes sawing to length but no special curing
351	1st Sample	Each	\$323.00	included dawling to length back no operating
652	Additional Samples	Each	\$227.00	
653	Rapid cure by boiling procedure	Each	\$131.00	
em#	Asphalt	Unit	2025 Unit Cost (\$/ea)	Description
701	In-place asphalt concrete nuclear density	Test	\$252.00	Includes technician time, nuclear gauge, and one-trip charge
702	Additional density test (within same trip)	Test	\$28.00	
703	Loose asphaltic concrete sampling and testing	Each	\$255.00	Up to 500 lbs, includes technician time and one-trip charge
704	Asphalt cement extraction only (by ignition)	Each	\$89.00	
706	Extraction by mechanical means (ASTM D2172) (includes gradation)	Each	\$315.00	
708	Marshall Density Specimens (ASTM D6926) (already mixed)	Each	\$165.00	
711	Additional Technician Time	Hour	See Personnel Rates	

712	Asphalt Design Mix Review (Marshall Method)	Design	\$457.00	
/ 12	Three Point Marshall Curve	Design	φ437.00	
713	(including laboratory mixed asphalt with 9 stability, flow and density tests)	Set	\$1,474.00	
714	Additional Point	Point	\$415.00	
7.17	Hveem Stability and Density (ASTM D1560) (already mixed)	1 Ollic	Ψ-10.00	
715	(Set of 3 samples)	Set	\$323.00	
	SuperPave Molded Density Specimens		4020.00	
716	(Set of 2 samples)	Set	\$415.00	
717	Penetration and Specific Gravity	Each	\$103.00	
718	Bitumen Softening Point	Each	\$85.00	
719	Strength Retention Test	Test	\$1,134.00	
720	Viscosity of Bituminous Materials (Kinematic)	Test	\$131.00	
721	Absolute Viscosity	Test	\$131.00	
722	Asphalt Coring	Hour	See Personnel Rates	
				Chroniches Control
Item#	Structural Steel and Metals	Unit	2025 Unit Cost (\$/ea)	Description
802	AWS Certified Associate Welding Inspector	Hour	\$126.00	
803	Ultrasonic Examination of Welds	Hour	\$145.00	
804	Ultrasonic Equipment and Consumables	Day	\$131.00	
805	Magnetic Particle or Dye Penetrant Examination	Hour	\$147.00	
806	Magnetic Particle or Dye Penetrant Materials	Lump Sum	Cost + 20%	
	AWS or ASME Welder Qualifications			
807	Pipe	Each	\$193.00	
808	Plate	Each	\$153.00	*Excluding machining, sample preparation and base metal costs, if required.
	Weld Procedure Qualification			
809	AWS	Each	\$483.00	*Excluding machining, sample preparation and base metal costs, if required.
810	ASME	Each	\$510.00	
811	Tensile, Yield and Elongation Test	Each	\$176.00	*Excluding machining, sample preparation and base metal costs, if required.

m#	Petrographic Services (Rock, Concrete, Aggregate)	Unit	2025 Unit Cost (\$/ea)	Description	
	Concrete				
901	Visual Description, Fracture Logging	Linear Foot	\$21.00		
902	Air Content (ASTM C457)	Each	\$737.00		
903	Air Void System Parameters Includes (ASTM C-457)	Each	\$794.00		
904	Petrographic Examination (ASTM C-856)	Each	\$1,365.00		
905	Resistance of Concrete to Rapid Freezing and Thawing (ASTM C666)	Set of 3	\$3,119.00		
	Aggregate Petrographic Examination (ASTM C-295)				
906	Coarse Aggregate	Each	\$1,503.00		
907	Fine Aggregate	Each	\$1,247.00		
	Riprap, Armorstone, Quarry Run, Etc.				
908	Petrographic Examination	Hour	\$200.00		
	Personnel Services				
909	Petrographer	Each	\$1,061.00		
910	Materials Consultant	Hour	\$159.00		
911	Laboratory Technician	Hour	\$97.00		
Item#	Geophysical, Geotechnical and Materials Equipment Rental	Unit	2025 Unit Cost (\$/ea)	Description	
1001	Floor Flatness Equipment (Dipstick)	Day	\$210.00	Personnel time not included	
1002	Floor Flatness Equipment (Dipstick)	Week	\$641.00	Personnel time not included	
1003	Windsor Probe	Day	\$113.00	Personnel time not included	
1004	Windsor Pin	Each	\$165.00	Personnel time not included	
1005	Maturity Meter	Day	\$90.00	Personnel time not included	
1006	Probes	Each	\$45.00	Personnel time not included	
1007	Electrical Resistivity Equipment	Day	\$327.00	Personnel time not included	
1008	James R-Meter (for size and location of reinforcing steel)	Day	\$63.00	Personnel time not included	
1009	Profometer	Day	\$147.00	Personnel time not included	
1010	Ferroscan	Day	\$255.00	Personnel time not included	
1011	Instrumentation Equipment - Stress Stain Gauge	Item	quote per request	Personnel time not included	
1012	Dial Indicators	Item	quote per request	Personnel time not included	
1013	Vibration Monitoring	ltem	See Personnel Rates	Personnel time not included	
1014	Vibration Monitoring Equipment	Day	quote per request	Personnel time not included	

Each individual Task Order will identify the "**Project**", and the Consultant shall provide the Basic and Additional Services as noted herein.

#### **BASIC SERVICES OF THE CONSULTANT**

#### **GENERAL**

- 1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering and Construction Management Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
- 3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

### REPORT PHASE

- 1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
  - **a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - **b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - **c.** (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

- **d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

- 1. Consult with the Owner to determine the Owner's requirements for the Project.
- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the

Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.

- 3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- 8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- 9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

### PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.
- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- Advise the Owner of any adjustment to the Consultant's previous opinion of probable 3. construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

### PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility Consultant comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- 3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4. As per Attachment "D"**, furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. **As per Attachment "D"**, furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in **Attachment "D"**, required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

#### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- 2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- 3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.
- As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

### **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- 1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with

such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.

- 3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.
- 4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract

documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

- Passed on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- 8. Conduct with the Owner and construction contractor no more than two brief preliminary inspections, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- 9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two City working days after the final inspection.
- 10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- 11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints,

- drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
- 13. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.
- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- 15. Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- 17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- 18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- 19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
- 21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- 22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the

construction contractor's default under the construction contract due to delinquency or insolvency.

- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
- 25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- 1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by ten percent or more.
- 3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

### **RESIDENT PROJECT SERVICES**

- 1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- 3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

### **Fixed fee Payment to Consultant**

Report Phase	To be determined by Task Order
<b>Preliminary Design Phase</b>	To be determined by Task Order
<b>Pre-Final Design Phase</b>	To be determined by Task Order
Final Design Phase	To be determined by Task Order
<b>Bidding Phase</b>	To be determined by Task Order
<b>Construction Phase</b>	To be determined by Task Order

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars (\$50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars (\$50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and a Consulting Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/Consultant location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable.* 

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with Owner's fiscal year.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the City. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

#### **DELIVERABLE SCHEDULE**

#### REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **5 copies** of the Preliminary Study and Report shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **10 copies** of any required documents and opinion of probable construction costs shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five copies** of the resubmitted design documents.

### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **10 copies** the required documents and services shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **10 copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **3 copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **10 copies** of the final design documents and specifications for bidding to the Owner within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit 1 copy of all addenda to the Owner for appropriate action within 2 consecutive calendar days.

### PHASE V - CONSTRUCTION PHASE

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

# ATTACHMENT "E" Insurance



### CERTIFICATE OF LIABILITY INSURANCE

4/1/2025

DATE (MM/DD/YYYY) 8/15/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND. EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	CONTACT NAME:  PHONE (A/C, No, Ext):  E-MAIL ADDRESS:  FAX (A/C, No):				
	kcasu@lockton.com	INSURER(S) AFFORDING COVERAGE				
	Kedsu(G)OCKOII.COII	INSURER A: Travelers Property Casualty Company of America	a 25674			
INSURED 1312891	TERRACON CONSULTANTS, INC.	INSURER B: Allied World Assurance Company (U.S.) Inc. 1 INSURER c: The Travelers Indemnity Company 2				
	10841 S. RIDGEVIEW ROAD					
	OLATHE KS 66061	INSURER D: The Travelers Indemnity Company of America	25666			
		INSURER E: Lloyds of London				
		INSURER F:				

**REVISION NUMBER: COVERAGES CERTIFICATE NUMBER:** 13881552 XXXXXXX THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	s
A	X COMMERCIAL GENERAL LIABILITY	N	N	TC2J-GLSA-9P529930	4/1/2024	4/1/2025	EACH OCCURRENCE	\$ 2,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	X CONTRACTUAL LIAB						MED EXP (Any one person)	\$ 25,000
	X XCU COVERAGE						PERSONAL & ADV INJURY	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 4,000,000
	POLICY X PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$ 4,000,000
	OTHER:							\$
A	AUTOMOBILE LIABILITY	N	N	TC2J-CAP-131J3858	4/1/2024	4/1/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
	X ANY AUTO						BODILY INJURY (Per person)	\$ XXXXXXX
	OWNED SCHEDULED AUTOS							\$ XXXXXXX
	HIRED NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$ XXXXXXX
								\$ XXXXXXX
A :	X UMBRELLA LIAB X OCCUR	N	N	CUP-4W208814	4/1/2024	4/1/2025	EACH OCCURRENCE	\$ 5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$ 5,000,000
	DED X RETENTION\$ \$0							\$ XXXXXXX
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		N	UB-1T88663A (AOS)	4/1/2024	4/1/2025	X PER OTH-	
C	ANY PROPRIETOR/PARTNER/EXECUTIVE	N/A N/A		UB-1T885681 (AZ, MA, WI)	4/1/2024	4/1/2025	E.L. EACH ACCIDENT	\$ 1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
В	CONTRACTORS POLLUTION LIAB	N	N	0312-6506	4/1/2023	4/1/2025	\$10,000,000 EACH OCCURANCE/AGGREGA	ATE
Е	PROFESSIONAL LIABILITY			LDUSA2405180	4/1/2024	4/1/2025	\$1,000,000 EACH CLAIM AGGREGATE	/\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED. PROOF OF COVERAGE. THE UMBRELLA LIABILITY IS FOLLOW FORM OVER THE GENERAL LIABILITY, AUTO LIABILITY, AND EMPLOYER'S LIABILITY PER THE POLICY TERMS, CONDITIONS, AND EXCLUSIONS.

CERTIFICATE HOLDER	CANCELLATION			
<b>13881552</b> SPECIMEN	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.			
	AUTHORIZED REPRESENTATIVE  Japhs M Agnella			

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## ATTACHMENT "F"

Federal Aviation Administration contract provisions for Airport Improvement Program Projects

#### **ATTACHMENT "F"**

#### FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

In this Attachment "F", the term "Contractor" shall refer to the "Consultant", and the term "Airport Sponsor" shall refer to the "City".

If there are any conflicts between the terms and conditions of Attachment "F" and Article VI of the Agreement, the terms and conditions of Attachment "F" will prevail.

#### A. GENERAL REQUIREMENT FOR CONTRACT

- 1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
- 2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
- 4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

#### B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1. Withhold progress payments or final payment,
- 2. Terminate the contract,
- 3. Seek suspension/debarment, or
- 4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

#### C. <u>CONTRACT PROVISIONS</u>

#### 1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. <u>BREACH OF CONTRACT TERMS</u> (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. <u>BUY AMERICAN PREFERENCES</u> (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

#### \*\*\*\*

#### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
  - a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

\* \* \* \* \*

#### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
  - a. Only installing steel and manufactured products produced in the United States, or;
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

## 4. <u>GENERAL CIVIL RIGHTS PROVISIONS</u> (all contracts)

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

# 5. <u>CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION</u> <u>REQUIREMENTS</u> (all AIP funded projects)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (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 Statutes 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. **Non-discrimination:** 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination 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 sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 subcontractor 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.

# 6. <u>CLEAN AIR AND WATER POLLUTION CONTROL</u> (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

- 1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- 2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- 3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- 4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

## 7. <u>CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS</u> (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

#### 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

#### 4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

## 8. <u>CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)</u> (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### 9. <u>DISADVANTAGED BUSINESS ENTERPRISES</u> (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

## 10. <u>FEDERAL FAIR LABOR STANDARDS ACT</u> (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

## 11. <u>LOBBYING AND INFLUENCING FEDERAL EMPLOYEES</u> (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an 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.
- 2. 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

#### 12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

#### 13. <u>RIGHTS TO INVENTIONS</u> (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

#### 14. <u>TERMINATION OF CONTRACT</u> (contracts that exceed \$10,000)

- 1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- 2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- 3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- 4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### 15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### **16.** <u>TEXTING WHEN DRIVING</u> (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

THE STATE OF TEXAS )	ON-CALL
)	AGREEMENT FOR
COUNTY OF EL PASO )	PROFESSIONAL SERVICES

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_\_, 2025 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 "Owner", and WSP USA Inc., a New York, USA, Foreign For-Profit Corporation Authorized to Transact Business in Texas, hereinafter referred to as the "Consultant".

WHEREAS, the Owner intends to engage the Consultant to perform Geotechnical Engineering and Material Testing services on a task order basis through the use of task orders referencing this Agreement, the scope of which is further described in **Attachment "A"**; and

**WHEREAS,** the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner's selection procedure, in accordance with all applicable state and local laws and ordinances.

**NOW, THEREFORE,** for the consideration set forth in this Agreement and its attachments, the Owner and Consultant agree as follows:

#### ARTICLE I ATTACHMENTS

**1.1** The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment "A"	Scope of Services
Attachment "B"	Consultant's Fee Proposal and Hourly Rates
Attachment "C"	Consultant's Basic and Additional Services
Attachment "D"	Payment and Deliverable Schedules
Attachment "E"	Insurance Certificate
Attachment "F"	Federal Aviation Administration contract provisions for Airport
	Improvement Program Projects

#### ARTICLE II PROJECT

- 2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform oncall professional services on a Task Order basis. Each individual Task Order will identify the Project ("**Project**") and the total compensation due to each Project. The Task Order for each Project shall include the Scope of Services described in **Attachment "A"**.
- 2.2 For each Project, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

1

- 2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.
- 2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.
- 2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working days time period.

#### ARTICLE III CONSULTANT FEES AND PROJECT BUDGET

**3.1 PAYMENT TO CONSULTANT.** The Owner shall pay to the Consultant an amount not to exceed \$500,000 for all basic services and reimbursables performed pursuant to this Agreement.

No services are being requested through this Agreement, nor shall any indebtedness accrue through the mere execution of this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"** in an amount not to exceed \$50,000.00, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding \$50,000.00 must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

- **3.2 CONSULTANT'S SERVICES.** The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C".**
- 3.3 CONSULTANT'S INVOICES. For each Project, the Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to the schedule established in Attachment "D". Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.
  - **3.3.1** Each invoice shall contain a brief summary indicating, at a minimum, the total Project budget, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of each phase. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.
  - 3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to Consultant shall not exceed Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.
- **3.4 PROJECT CONSTRUCTION BUDGET.** The Consultant acknowledges that the construction budget and a construction time for each Project will be identified in each Task Order.
- 3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

## ARTICLE IV PERIOD OF SERVICE AND TERMINATION

- **4.1 PERIOD OF SERVICE.** The term of this Agreement shall be for a period not to exceed **two (2) years** from the date first shown above. The services called for by each Task Order shall begin upon the issuance of a Notice to Proceed from the City Engineer and shall continue through the completion of the construction of the Project, including any required extensions beyond the contract time for construction of the Project, as may be directed by the Owner.
- **4.2 SUSPENSION.** Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not

begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant's services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

- **4.3 TERMINATION.** This Agreement may be terminated as provided herein.
  - **4.3.1 TERMINATION BY OWNER.** It is mutually understood and agreed by the Consultant and Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one final invoice for all services completed and reimbursable expenses incurred prior to the Owner's notice of termination. Owner shall compensate Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.
  - 4.3.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.
  - **4.3.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE.** Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

## ARTICLE V INSURANCE AND INDEMNIFICATION

**5.1 INSURANCE.** Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner.

The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

**5.1.1 WORKERS' COMPENSATION INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

"The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured."

**5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE.** The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

#### a) COMMERCIAL GENERAL LIABILITY

\$1,000,000.00 Per Occurrence \$2,000,000.00 General Aggregate \$2,000,000.00 Products/Completed Operations Aggregate \$1,000,000.00 Personal and Advertising Injury

#### Personal Injury or Death & Property Damage

\$1,000,000.00 per occurrence combined single limit for bodily injury and property damage.

**General Aggregate** \$1,000,000.00 \$1,000,000.00 per occurrence

## b) <u>AUTOMOBILE LIABILITY</u>

Combined Single Limit \$1,000,000.00 per accident

**5.1.3 PROFESSIONAL LIABILITY INSURANCE.** The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) on a claims made basis.

- **5.1.4 OWNER AS ADDITIONAL INSURED.** The Owner shall be named as an Additional Insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation and Professional Liability Insurance required by this Contract.
- **5.1.5 PROOF OF INSURANCE.** The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this agreement.
- **5.1.6 GENERAL INSURANCE PROVISIONS.** All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment "E"**. All certificates shall also include the name of the project on the corresponding insurance certificate.

Further, all polices shall provide either in the policy itself and 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 thirty (30) calendar days prior written notice to the City or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Owner, and Owner's officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that 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), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by Owner and Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City's Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

**5.2.1 CONSULTANT'S LIABILITY LIMITED TO AMOUNT OF INSURANCE REQUIREMENTS.** Consultant shall procure and maintain insurance as required by and set forth in the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and consultants (hereafter referred to collectively as "Consultant"), to Owner and anyone claiming by through, or under Owner for any and all claims, losses, costs, or damages, whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Consultant (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Consultant by Consultant's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Consultant's insurance

policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Consultant to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$250,000.00 per person or \$500,000.00 per incident with property damage liability limited to \$100,000.00 per incident.

#### ARTICLE VI FEDERAL AND STATE PROVISIONS

**6.1 COMPLIANCE WITH APPLICABLE LAWS** – **FEDERAL AND STATE FUNDING REQUIREMENTS.** Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable 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 Owner or Consultant with respect to the use of federal and state funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal and state funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that to the extent required by any agreement between the Owner and any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, shall apply, <u>including</u> <u>but not limited to:</u>

- --The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.
- --The Department of Housing and Urban Development through a Grant Agreement or Cooperative Agreement with the Owner.
- --The Federal Aviation Administration (FAA) through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".
- -- The Texas Department of Transportation through an Agreement with the Owner.

Copies of grant assurances will be made available to Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal and State agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project.

**6.1.1 CONTRACT ASSURANCE**. The Consultant or subconsultant 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 consultant to carry out

these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

**6.1.2 DBE GOOD FAITH EFFORTS.** The requirements of 49 CFR Part 26, regulations of the U.S. DOT, applies to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of performance of this contract. All firms qualifying under this solicitation are encouraged to submit proposals. Award of this contract will be conditioned upon satisfying the requirements of this proposal. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual task order established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The offeror shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this contract may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

**6.2 TERMINATION FOR CANCELLATION OF GRANT.** Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

# 6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT.252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

- (1) **Compliance with Regulations**: Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: Consultant, with regard to the work performed by it during the

- contract, shall 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. ADP shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports**: Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by Client to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Client, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance**: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Client shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:
  - a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or
  - b. Cancellation, termination or suspension of the contract in whole or in part.
- (6) **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Client may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Client to enter into such litigation to protect the interests of Client and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

#### ARTICLE VII GENERAL PROVISIONS

7.1 CONTRACT TIME. Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete all phases of this Agreement within the time schedules indicated within Attachment "D". It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule

in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 OPINION OF PROBABLE COST. As a design professional practicing in El Paso the Consultant is expected to be familiar with the cost of construction, labor, and materials in the El Paso area and of bidding and market trends. The cost opinions of construction cost provided by the Consultant, as required herein, are to be made in light of such familiarity and are expected to be within ten percent (10%) of the bid for the base bid item expected from the lowest responsible bidder.

The Consultant's final cost opinions for the construction of the Project, shall take into account labor costs which shall be based on the current City of El Paso prevailing wage rates as adopted by the City Council. In the event that the Project is funded with federal funds, the higher of the City of El Paso prevailing wage rates or the Davis-Bacon wage rates shall be utilized by the Consultant in compiling a final cost opinions for the Project.

If the Consultant's most recent cost opinion for any construction contract is in excess of the Project construction budget, the Owner shall give written approval of an increase in the limit, or shall cooperate in revising the Project's scope or quality, or both, to reduce the cost as required. Such revisions shall be made, and Drawings and Specifications modified by the Consultant without further compensation.

As noted herein, if all responsible bids exceed the final cost opinion by more than **ten percent** (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

- 7.3 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect and the orderly progress of the Project and in accordance with the time periods established in Attachment "D" and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner.
- 7.4 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for this Project including, without limitation, those in electronic form (sometimes referred to as the "Instruments of Service") are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the

Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant's seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.5 AUDITING RECORDS FOR THE SPECIFIC PROJECT. Consultant's records subject to audit shall include but not be limited to records which, in the Owner's discretion, have a bearing on matters of interest to the Owner in connection with the Consultant's work on this Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide Owner's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's employees, pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

- **7.6 SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.
- **7.7 VENUE.** For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
- **7.8 GOVERNING LAW.** The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.
- **7.9 CAPTIONS.** The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.
- **7.10 SEVERABILITY.** Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

**7.11 NOTICES.** Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso

Attn: City Manager P.O. Box 1890

El Paso, Texas 79950-1890

With a Copy to: The City of El Paso

Attn: City Engineer P.O. Box 1890

El Paso, Texas 79950-1890

To the Consultant: WSP USA Inc.

Attn: David Varela 125 Montoya Road El Paso, Texas 79932

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

- **7.12 CONFLICTING PROVISIONS.** Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.
- **7.13 ENTIRE AGREEMENT.** This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.
- **7.14 TEXAS GOVERNMENT CODE.** In accordance to Chapter 2274 of the Texas Government Code, as amended from time to time, the Consultant represents and warrants to the Owner the following: (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Consultant will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

(SIGNATURES BEING ON THE FOLLOWING PAGES)

## WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

	CITY OF EL PASO:
	Dionne Mack City Manager
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Poberta Birto	Gvette Hernandez Yvette Hernandez, City Engineer
Roberta Brito Senior Assistant City Attorney	Yvette Hernandez, City Engineer Capital Improvement Department
(Acknowle	edgment)
THE STATE OF TEXAS \$ \$ COUNTY OF EL PASO \$	
This instrument was acknowledged before by Dionne Mack, as <b>City Manager</b> of the <b>City o</b>	e me on this, day of, 2025, f El Paso, Texas.
	Notary Public, State of Texas
My commission expires:	
- <u></u>	

(SIGNATURES CONTINUE ON FOLLOWING PAGE)

CONSULTANT: WSP USA INC.

By: David Varela

Title: Vice President

(Acknowledgment)

THE STATE OF TEXAS

8 8 8

COUNTY OF EL PASO

This instrument was acknowledged before me on this Hard day of Hard by David Varela, as Vice President of WSP USA Inc..

Notary Public, State of Texas

My commission expires:

2/9/2027

# ATTACHMENT "A" SCOPE OF SERVICES

#### ATTACHMENT A SCOPE OF SERVICES

The firm is to perform all phases of geotechnical and geological investigation, testing, analysis, and design services from conceptual through final design and construction. The anticipated projects under these selections may include roadways, parking lots/structures, quality of life, public safety, and other municipal facilities. Anticipated activities include, but are not limited to:

- Site investigation and characterization
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities, underground structures such as manholes, concrete pavement, monuments, railroad tracks, etc., and potholing
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Forensic evaluation of settlement of existing structures, pavement, and other material failures
- Soil slope stability analyses (i.e., berms, embankments and cut slopes) and development of recommendations for slope construction (i.e., slope angles, protection, anchoring, backfilling material requirements, and compaction), slope protection or stabilization methods to mitigate slope erosion and maintenance
- Determining of lateral earth pressure coefficients for below-grade and retaining wall structures
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring
- Reviewing existing geotechnical data and background information
- Developing conceptual design or layout in support of the geotechnical recommendation
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Implementing creative and innovative approaches to address project requirements.
- Geotechnical laboratory testing as appropriate, including but not limited to the following:
  - A) Materials Sampling and Testing: Concrete compressive strength ASTM-C39, concrete and asphalt coring, Hot Mix Asphaltic Concrete (HMAC) molding for flow/stability, extraction/gradation, Marshall density /stability and flow, field density ASTM-D6938, base course proctor, SA, PI (w/D-4718 oversize correction) and field density base course ASTM D 6938.
  - B) Earthwork Sampling and Testing of select fill, backfill, and existing subgrade materials for determination of moisture-density relationship (Proctor) ASTM-D698 or D1557, grain size distribution, #200 Test ASTM-D6913 & D1140, Atterburg Limits (PI) ASTM-D4318 field density ASTM-D1566, soil corrosivity ASTM STP 741, and ASTM STP1013, field measurement of soil resistivity ASTM G 57-78 and ASTM G 51-84 as appropriate, and trenching, subgrade and base course compaction testing

Other materials testing as requested including but not limited to:

- Roofing moisture, withdrawal resistance of mechanical fasteners, and wind uplift
- Visual, acoustics, radiographic, dye penetrants, magnetic particle (ferrous metal only) weld testing
- Mill thickness, lead for paint materials
- Subgrade and drainage design
- Stability, settlement, and foundation design
- Performing geotechnical construction observation and testing during construction
- Preparing geotechnical reports, design plans, and specifications
- Coordinating with other design disciplines or parties

# ATTACHMENT "B" CONSULTANT'S FEE PROPOSAL AND HOURLY RATES



#### A. PROPOSAL DETAILS

Consultant Name: WSP USA, Inc.

Solicitation #: 2025-0262R

#### **B. FIELD AND LABORATORY TESTING**

ITEM#	FIELD AND LABORATORY TESTING - SOILS	UNIT	COST
1	Sampling (Soils)	EACH	\$ 50.00
2	Density of Soils Nuclear Method- 1 Test	EACH	\$ 60.00
3	Density of Soils Nuclear Method - 2-4 Tests	EACH	\$ 37.00
4	Density of Soils Nuclear Method - 5+ Tests	EACH	\$ 27.50
5	Density of Soils Sand Cone Method- 1 Test	EACH	\$ 77.00
6	Density of Soils Sand Cone Method - 2-4 Tests	EACH	\$ 60.00
7	Density of Soils Sand Cone Method - 5+ Tests	EACH	\$ 60.00
8	Proctor - Moisture Density	EACH	\$ 305.00
9	Rock Correction for Proctor & Sieve Analysis	EACH	\$ 35.00
10	Particle Size	EACH	\$ 80.00
11	Atterberg Limits Test	EACH	\$ 75.00
12	Moisture Content	EACH	\$ 16.00
13	Specific Gravity	EACH	\$ 83.00
14	LA Abrasion	EACH	\$ 223.00
15	Soil Classification / Sampling, sieve Analysis & Atterberg Limits	EACH	\$ 279.00

ITEM#	FIELD AND LABORATORY TESTING - CONCRETE	UNIT	COST
16	Concrete Cylinders (Cured and/or Testing in Compression	EACH	\$ 35.00
17	Grout (Cured and/or Testing in Compression	EACH	\$ 30.00
18	Mortar Cubes (Cured and/or Testing in Compression	EACH	\$ 30.00
19	Concrete Cores (Tested in Compression)	EACH	\$ 37.00
20	Concrete Beams (Cured and/or Testing in Compression)	EACH	\$ 85.00
21	Concrete Mix Design	EACH	\$ 2,400.00
22	Schmidt Hammer	DAY	\$ 79.00
23	Windsor Probe	EACH	\$ 137.00
ITEM#	FIELD AND LABORATORY TESTING - ASPHALT	UNIT	COST
24	Marshall Value	EACH	\$ 159.00
25	Extraction and Graduation	EACH	\$ 170.00
26	Rice	EACH	\$ 105.00
27	Asphalt Core (Voids/Density/Thickness	EACH	\$80.00
28	Coring Crew	HOUR	\$ 136.00
29	Asphalt Coring Machine	PER DAY	\$ 150.00

#### B. PROFESSIONAL PERSONNEL / MISCELLANEOUS COSTS

ITEM#	LABOR CLASSIFICATION	UNIT	RATE
30	Principal	Hour	\$ 210.00
31	Senior Project Manager	Hour	\$ 167.00
32	Project Manager	Hour	\$ 137.00
33	Project Engineer	Hour	\$ 125.00
34	Staff Engineer / Geologist / Specialist Level I	Hour	\$ 106.00
35	Staff Engineer / Geologist / Specialist Level II	Hour	\$ 130.00
36	Senior Field Technician	Hour	\$ 87.00
37	GIC/CAD Technician	Hour	\$ 85.00
38	Field / Lab Technician	Hour	\$ 70.00
39	Welding / Special Inspector	Hour	\$ 145.00
40	Administrative Assistant	Hour	\$ 73.00

ITEM#	OTHER	UNIT	COST	
41	Mileage	current IRS ap	current IRS approved Rate)	
42	2 WD Vehicle	DAY	\$ 62.50	
43	4 WD Vehicle	DAY	\$ 74.00	
44	Generator	DAY	\$ 137.00	
45	Printing 8 1/2 X 11 B&W	PAGE	\$ 0.15	
46	Printing 8 1/2 X 11 Color	PAGE	\$ 0.89	
47	Oversize Printing	PAGE	\$ 10.50	
48	UT Welding Equipment	DAY	\$ 131.00	
49	Travel (If applicable):	Actual Cost	Actual Cost	
50	Overtime Markup	1.5X Approve	ed Hourly Rate	

#### Notes:

- 1: The rates included in this proposal shall represent only the cost of the test. Labor hours associated with the testing must be itemized and detailed within the proposal using the above labor rates.
- 2: A detailed list of miscellaneous expenses should be attached to this proposal (If available). The rates outlined in this proposal will take precedence over any duplicate items listed among the miscellaneous expenses.
- 3: All charges, including miscellaneous items must be approved in advance by the City Project Manager
- 4: The City will not allow minimum number of samples / hours for any testing / inspection
- 5: Only for City PM approved overtime. Must be accompanied by written authorization and backup that OT work was conducted
- 6: The consultant shall not begin any extra services not outlined in the original approved proposal until a new purchase order or an increase to the current one is provided. Additionally, the consultant shall notify PM at about 80% of the PO amount to determine if an increase in services will be necessary.

## **Materials Testing Unit Fee Schedule**

Unit Code	ltem	Unit	Rate
	Unit Cost Laboratory Tests - Soils & Rock		
	Hydrometer with soil Specific Gravity and Fine Sieve (ASTM D422)	Test	\$ 260.00
	Unit Cost Laboratory Tests - Asphalt		
	Asphalt Binder Testing	Test	\$ 1,750.00
	Unit Cost Laboratory Tests - Masonry		
	Compressive Strength of Concrete Masonry Unit (Set of 3 required)	Each	\$ 100.00
	Compressive Strength of Masonry Prism	Each	\$ 300.00

Drill rig rates and other services not included in our fee schedule will be quoted on an as-needed basis.

## ATTACHMENT "C" CONSULTANT'S BASIC AND ADDITIONAL SERVICES

Each individual Task Order will identify the "**Project**", and the Consultant shall provide the Basic and Additional Services as noted herein.

#### BASIC SERVICES OF THE CONSULTANT

#### **GENERAL**

- 1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
- 2. The Consultant shall comply with the City of El Paso Engineering and Construction Management Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Engineering Department, in the performance of the services requested under the design phases of this Agreement.
- 3. The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
- 4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with a project within the allocated budget. The Owner's review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

#### **REPORT PHASE**

- 1. Upon receipt of the Owner's written authorization to proceed with the **Report Phase**, the Consultant shall:
  - **a.** Consult with the Owner to determine the requirements of the Project and together with the Owner develop a mutually acceptable scope for the Project.
  - **b.** Provide preliminary investigations, studies, topographic surveys including ties to known monuments of right-of-way lines, general supervision of any other services obtained as described in Part 1.c. of this section and interpreting or incorporating results of any such services for inclusion in the Preliminary Study and Report referred to in Part 1.d. of this section.
  - **c.** (1) Provide consultation and advice as to the necessity of providing or obtaining other services such as: (a) Property surveys, boundary surveys, right-of-way surveys, and utility surveys, (b) Core borings, probings, and hydrographic surveys, (c) Laboratory testing, and (d) Inspection or other special consultation; (2) Act as the Owner's representative in

connection with such services; and (3) If concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.

- **d.** Prepare a Preliminary Study and Report on the Project based on the mutually accepted program in sufficient detail to indicate clearly the problems involved and the alternative solutions available to the Owner, to include schematic layouts, sketches, flow diagrams and reports of studies, and a general opinion of probable construction costs for such of the above listed improvements to be included in the Project, and to set forth the Consultant's recommendations.
- e. As per Attachment "D", furnish the Preliminary Study and Report and a general opinion of probable construction cost opinion to the Owner.
- 2. Upon receipt of the Preliminary Study and Report and before the Consultant is authorized to proceed with the Preliminary Design Phase, the Owner at its option may designate in writing various construction contracts into which the Project shall be divided, each of which may include one or more of the above listed improvements to be constructed. If the Owner designates various construction contracts into which the Project is to be divided, the Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, and final design drawings, specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 3. As identified in the Scope of Work in Attachment "A", the Consultant shall investigate the extent and character of any potential soil or water contamination on the properties identified in the Scope of Work, conduct asbestos investigations, environmental site assessments, and provide other environmental engineering services as required and authorized. Services not included in the original scope of work shall be considered Additional Services. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with this Agreement, applicable Texas Commission on Environmental Quality and Texas Department of State Health Services Regulations, and any and all applicable state, federal and local laws. The Consultant shall develop an Investigation Plan for the identified properties. Upon approval of the Investigation Plan by the City, the City shall arrange to issue a Notice to Proceed for the Consultant to proceed in relation to an identified property.

### PHASE I - PRELIMINARY DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the **Preliminary Design Phase**, the Consultant shall do the following separately for each construction contract:

1. Consult with the Owner to determine the Owner's requirements for the Project.

- 2. Provide at the Consultant's sole expense right-of-way surveys, boundary surveys, topographic surveys, drainage surveys, and soil investigations as needed to design the Project and as required by the Scope of Work of the Agreement; obtain all available information from all utility companies and other affected agencies including, but not limited to, the Texas Department of Transportation and the U.S. Department of Interior, Bureau of Reclamation, as needed to complete the proper design. This does not, however, include property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 3. Obtain all available horizontal and vertical locations of public utilities, and fully coordinate design of the Project with public utilities in an effort to minimize relocation of utilities as much as possible.
- **4.** Make drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 5. Provide consultation and advice as to the necessity of providing or obtaining other services such as the types described herein, and act as the Owner's representative in connection with any such services, and if concurred with and authorized by the Owner, provide, procure, or assist in procuring such Additional Services.
- Review with the Owner alternative approaches in regard to the construction of the Project. The Owner at its option may designate in writing various construction contracts into which the Project shall be divided. The Consultant may request additional reasonable compensation if the Owner designates various construction contracts into which the Project is to be divided. The Consultant shall thereafter treat each construction contract as a separate Project under this Agreement. Each construction contract shall be separately bid and the Consultant shall prepare separate preliminary design, pre-final design, and final design specifications, proposal forms, notices to bidders, construction contract documents, and other required documents for each construction contract.
- 7. Prepare for approval by the Owner preliminary design documents consisting of evaluation of existing structural report, design criteria, drawings, and outline specifications to develop, and establish the scope of each construction contract.
- 8. Prepare a detailed opinion of probable construction costs for each construction contract containing the main construction components, based on the information given in the preliminary design documents.
- 9. As per Attachment "D", furnish copies of the above preliminary design documents and opinion of probable construction costs for each construction contract. If the above preliminary design documents are not approved by the Owner, the Consultant shall furnish copies of the resubmitted preliminary design documents at no additional cost to the Owner.

#### PHASE II - PRE-FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Pre-Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Prepare required documents and assist the Owner in obtaining approval of such governmental authorities as may have jurisdiction over the design criteria applicable to each construction contract. The Consultant's assistance in obtaining such approvals shall include participation in submissions to and negotiations with the appropriate authorities. The Consultant shall be fully responsible for coordination with all utility companies to resolve conflicts pertaining to location of utility lines and shall exercise customary and usual professional care for obtaining utility clearances. Since some utility locations may not be recorded or mapped, additional efforts to locate utilities maybe required as an additional service upon written approval of the Owner.
- 2. On the basis of the approved preliminary design documents and subject to approval of design criteria, prepare for incorporation in the construction contract documents detailed drawings and plans, hereinafter called the "Drawings," to show the character and scope of the work to be performed by construction contractors on each construction contract, instructions to bidders, general conditions, special conditions, and technical provisions, hereinafter called "Specifications." These plans shall include the required cross sections from actual fieldwork for estimated earthwork quantities.
- Advise the Owner of any adjustment to the Consultant's previous opinion of probable 3. construction costs for each construction contract caused by changes in scope, design requirements, general market conditions, or construction costs and furnish a revised opinion of probable construction costs, based on the completed Drawings and Specifications. The Consultant expressly authorizes any person designated by the Owner to review at any time prior to the Bidding Phase any opinion of probable construction costs made by the Consultant. The Consultant agrees to cooperate fully in such review, and shall furnish the access to all pertinent information upon which the Consultant's cost opinions were based. In addition, detailed estimates to include orderly presented takeoff sheets, summary and main summary sheets are to be provided to the Owner. Nothing in this provision shall be construed as limiting or waiving the right of the Owner to obtain such information at any other time, or as relieving the Consultant of the responsibility of preparing opinions of probable construction costs. The Owner understands that the Consultant has no control over the cost of availability of labor, equipment, market conditions, or the contractor's method of pricing and that the Consultant's opinion of probable construction costs are made on the basis of professional judgment and experience. The Consultant makes no warranty that the bids will not vary from the opinion of probable construction costs.
- **4.** Prepare proposal forms.

5. As per Attachment "D", furnish to the Owner copies of the Drawings for review by the Owner, other governmental authorities, and the public utilities. If the Drawings are not approved by the Owner, the Consultant shall furnish copies of the resubmitted Drawings at no additional cost to the Owner. Furnish to the Owner copies of the Specifications and copies of the design analysis showing all engineering calculations for review by the Owner, other governmental authorities who may have jurisdiction over each construction contract, and the public utilities.

#### PHASE III - FINAL DESIGN PHASE

Upon receipt of the Owner's written authorization to proceed with the Final Design Phase, the Consultant shall do the following separately for each construction contract:

- 1. Incorporate changes requested by the Owner and other governmental authorities after review of pre-final design documents and perform redesign necessitated by public utility conflicts.
- 2. Coordinate closely with utility companies during the Preliminary Design and Pre-Final Design Phases. The amount of redesign necessary to accommodate utility Consultant comments on the pre-final design drawings is expected to be in proportion to the effectiveness of that coordination and is to be performed by the Consultant as part of the Final Design Phase of this Agreement. The Consultant shall obtain written utility clearance from all utility companies affected by the scope of this Project as part of the Final Design Phase of this Agreement.
- 3. Submit to the Texas Department of Licensing and Regulation, or a State Certified ADA consultant, a set of Final Design Drawings for ADA review and approval.
- **4. As per Attachment "D"**, furnish to the Owner copies of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes.
- 5. **As per Attachment "D"**, furnish to the Owner copies of the Drawings and Specifications in final approved form for bidding purposes for each construction contract.
- 6. Additional copies of the drawings and specifications beyond those identified in **Attachment "D"**, required for public utilities and other agencies, will be provided by the Consultant as an Additional Service.

#### **BIDDING PHASE**

Upon receipt of Owner's written request, the Consultant shall provide any of the following services during the Bidding Phase:

- 1. Assist the Owner in the determination of the bidding period and bid date and provide necessary data for preparation of the notice to bidders by the Owner as required for advertising purposes.
- 2. Assist the Owner in responding to all questions from prospective bidders concerning the Drawings and Specifications.
- 3. Attend a pre-bid conference, if any, to explain the Project and to answer questions regarding the Project.
- 4. Prepare addenda to the Drawings and Specifications as may be required during the advertising period. Any addenda issued shall be approved by all agencies having approval authority over the Drawings and Specifications. As per Attachment "D", deliver copies of all addenda to the Owner for appropriate action.
- 5. As identified in Attachment "A", assist the Owner in evaluating bids, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the three lowest responsible bidders or assist the Owner in rating all bidders using Best Value Evaluation Criteria provided by the Owner, including obtaining and providing to the Owner reasonably available information as to the quality, ability, and performance record of the bidders. If Best Value Evaluation Criteria are required after the consulting fees have been negotiated and accepted, Consultant may request Additional Services fees.
- 6. Advise the Owner concerning the acceptability of subcontractors and other persons and organizations proposed by the general construction contractor for those portions of the work for which such acceptability is required by the construction contract documents.

#### **CONSTRUCTION PHASE**

At Owner's request, the Consultant shall provide any of the following services associated with the Construction Phase:

- 1. Attend the pre-construction conference to assist the Owner in responding to all questions from the construction contractor.
- 2. Advise and consult with the Owner and act as the Owner's representative as provided in the general conditions of the Agreement included in the construction contract. Such general conditions shall be the Owner's standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions being agreed to by both the Consultant and the Owner.
- 3. Unless otherwise stipulated in Attachment "A", Scope of Services, the Consultant will stake one set of control stakes for the construction contractor.

4. Visit each construction site at least once each week or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. The Consultant shall provide the Owner with typed or printed field notes for each construction site visit. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and shall not be responsible for the construction means, methods, techniques, sequences, or procedures, or the safety precautions incident thereto. The Consultant's efforts shall be directed toward providing assurance for the Owner that each completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.

- 5. Review shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within ten City working days following receipt of submittal documents. The Consultant shall also assemble maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
- 6. Issue the Owner's instructions to the construction contractor when required to do so, prepare routine change orders to include independent detailed opinion of probable construction cost for the Owner's approval as required after securing approval of all agencies having approval authority over each construction contract. The Consultant shall require, as the Owner's representative and subject to the written concurrence by the Owner, special inspection or testing of the work, whether or not fabricated, installed, or completed and shall act as interpreter of the terms and conditions of the construction contract documents, subject to the Owner's interpretation of such terms and conditions. If the Owner authorizes such testing, it shall be addressed under the provisions of Additional Services of the Consultant.

- Passed on the Consultant's on-site observations as an experienced and qualified design professional and on review of the construction contractor's applications for payment and supporting data, determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the construction contract documents and to any qualifications stated in his approval. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of each construction contract price.
- 8. Conduct with the Owner and construction contractor no more than two brief preliminary inspections, at times requested by the construction contractor to determine if the Project is ready for final inspection.
- 9. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a final inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two City working days after the final inspection.
- 10. Issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within **two City working days** after the final inspection.
- 11. Monitor and verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
- 12. Furnish the Owner one set of reproducible (**D format**) "record" drawings **on Mylar** showing changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the construction contractor to the Consultant. Also provide project documents in acceptable electronic media format.
- **13.** Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.

- 14. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
- **15.** Furnish property surveys and legal descriptions as needed to acquire additional right-of-way or additional property.
- 16. Revise previously approved studies, reports, design documents, drawings, or specifications, except when said revisions are required as a result of errors, negligence, or other fault on the part of the Consultant.
- 17. Prepare documents for alternate bids requested by the Owner for construction work for which bids have not been awarded.
- 18. If Best Value Evaluation Criteria are required after the Consulting fees have been negotiated and accepted, the Consultant may request Additional Service fees.
- 19. Prepare detailed renderings, exhibits, or scale models for the Project, except as otherwise required herein.
- **20.** Furnish additional tests and inspections, in excess of those required herein during the Construction Phase.
- 21. Prepare change orders requiring additional significant design changes not provided for in the Agreement, requested by the Owner.
- 22. Inspect each construction contract site prior to expiration of the guarantee period and report, in written form, observed discrepancies under guarantees provided by the construction contractor.
- 23. Provide additional or extended services during construction made necessary by: a) work damaged by fire or other cause during construction; b) prolongation of the construction contract time by more than **twenty-five percent** provided that such prolongation is not caused by errors, negligence, or other fault on the part of the Consultant; c) Acceleration of the work schedule involving services beyond normal city working hours; or d) the construction contractor's default under the construction contract due to delinquency or insolvency.
- **24.** Provide extensive assistance in the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.

25. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.

### **ADDITIONAL SERVICES OF THE CONSULTANT**

#### **GENERAL**

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

- 1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
- 2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by ten percent or more.
- 3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
- 4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
- 5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

#### RESIDENT PROJECT SERVICES

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.

- 2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.
- 3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

### ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PAYMENT SCHEDULE

Basic services for design shall include the phases listed below at the fixed fee shown for each phase. The remainder of the fixed contract amount, if any, shall consist of the estimate for the time and materials for the bidding phase and construction phase.

#### **Fixed fee Payment to Consultant**

Report Phase	To be determined by Task Order
<b>Preliminary Design Phase</b>	To be determined by Task Order
<b>Pre-Final Design Phase</b>	To be determined by Task Order
Final Design Phase	To be determined by Task Order
<b>Bidding Phase</b>	To be determined by Task Order
<b>Construction Phase</b>	To be determined by Task Order

Time and materials shall be billed to Owner by Consultant pursuant to the schedule provided in the consultant's proposal found in **Attachment "B"**. The time shown in **Attachment "B"** is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services. Written authorization shall be only by contract amendment in accordance with the contract provisions. For contracts with a total value less than Fifty Thousand and No/100 Dollars (\$50,000), the parties agree that at no time may the amount of the compensation under this contract exceed Fifty Thousand and No/100 Dollars (\$50,000) except by execution of an amendment to this Agreement.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and a Consulting Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/Consultant location.

**Reimbursable Costs:** Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

**Receipts:** Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable*.

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1<sup>st</sup> of each year and ends on August 31<sup>st</sup> of each year. Consultant's invoices must be separated into items that end August 31<sup>st</sup> and those that begin on Septembers 1<sup>st</sup> of any given year, to coincide with Owner's fiscal year.

### ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the City. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**Personal Automobile Mileage:** Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

**Entertainment Costs:** Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

#### **DELIVERABLE SCHEDULE**

#### REPORT PHASE

The services called for in the Report Phase of this Agreement shall be completed and **5 copies** of the Preliminary Study and Report shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE I—PRELIMINARY DESIGN PHASE

The services called for in **Phase I** of this Agreement shall be completed and **10 copies** of any required documents and opinion of probable construction costs shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. If Owner does not approve the preliminary design documents, the Consultant shall furnish **five copies** of the resubmitted design documents.

#### PHASE II—PRE-FINAL DESIGN PHASE

The services called for in **Phase II** of this Agreement shall be completed and **10 copies** the required documents and services shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

#### PHASE III—FINAL DESIGN PHASE

The services called for in **Phase III** of this Agreement shall be completed and **10 copies** of final design Drawings and Specifications for review and approval prior to the reproduction for bidding purposes shall be submitted within the time frame set forth in the written authorization from the Owner for the Consultant to proceed. After review, the Consultant shall submit to Owner **3 copies** of the final revised design documents and specifications for final check. Upon the approval of the final design documents, the Consultant shall furnish **10 copies** of the final design documents and specifications for bidding to the Owner within the time frame set forth in the written authorization from the Owner for the Consultant to proceed.

## ATTACHMENT "D" PAYMENT AND DELIVERABLE SCHEDULES

#### PHASE IV—BIDDING PHASE

Provide services as authorized by Owner during the bid phase as described in Attachment "C" and submit 1 copy of all addenda to the Owner for appropriate action within 2 consecutive calendar days.

### **PHASE V - CONSTRUCTION PHASE**

Provide services as authorized by Owner during construction phase as described in Attachment "C" and submit one set of Mylar and one set of electronic media format copies of all record drawings to the Owner within sixty days from the date of substantial completion.

# ATTACHMENT "E" Insurance



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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PRODUCER Arthur J. Gallagher Risk Manager 300 Madison Avenue 28th Floor	ement Services, LLC	CONTACT AJG Service Team  PHONE (A/C, No, Ext): 212-994-7020  E-MAIL ADDRESS: GGB.WSPUS.CertRequests@a	FAX (A/C, No):	
New York NY 10017		INSURER(S) AFFORDING COV	ERAGE	NAIC#
		INSURER A: Liberty Insurance Corporation		42404
INSURED WSPGL WSP USA Inc. One Penn Plaza New York, NY 10119	WSPGLOB-01	INSURER B: Zurich American Insurance Co	mpany	16535
		INSURER c : American Guarantee and Liabi	ility Ins Co	26247
		INSURER D: AXIS Surplus Insurance Comp	any	26620
		INSURER E:		
		INSURER F:		
COVERAGES	CERTIFICATE NUMBER: 166764298	REVISIO	ON NUMBER:	
THE IC TO OFFITE THAT THE DOL	LIGIES OF INCLIDANCE LISTED DELOWARD	VE DEEN ICCUED TO THE INCUDED NAME	D ADOVE FOR THE DO	LIOY DEDICE

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TR	TYPE OF INSURANCE	ADDL SUBR INSD WVD		POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	s		
В	X COMMERCIAL GENERAL LIABILITY		GLO 9835819-11	5/1/2024	5/1/2025	EACH OCCURRENCE	\$ 3,500,000		
	CLAIMS-MADE X OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 3,500,000		
						MED EXP (Any one person)	\$ 10,000		
						PERSONAL & ADV INJURY	\$ 3,500,000		
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE	\$ 7,000,000		
	X POLICY PRO- JECT LOC					PRODUCTS - COMP/OP AGG	\$ 4,000,000		
	OTHER:						\$		
A	AUTOMOBILE LIABILITY		AS7-621-094060-034		5/1/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000		
X ANY AUTO P-001-001008908-03		5/1/2024	5/1/2025	BODILY INJURY (Per person)	\$				
	OWNED SCHEDULED AUTOS ONLY				BODILY INJURY (Per accident)	\$			
	HIRED NON-OWNED AUTOS ONLY							PROPERTY DAMAGE (Per accident)	\$
						XS COMB. SINGLE LIMIT	\$5,000,000		
0	X UMBRELLA LIAB X OCCUR	AUC 00144386-08	5/1/2024	5/1/2025	EACH OCCURRENCE	\$ 3,000,000			
	EXCESS LIAB CLAIMS-MADE					AGGREGATE	\$ 3,000,000		
	DED X RETENTION \$ 250 000						\$		
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		WA7-62D-094060-014 WA7-62D-095609-074	5/1/2024 5/1/2024	5/1/2025 5/1/2025	X PER OTH- STATUTE ER			
			WC7-621-094060-914	5/1/2024	5/1/2025	E.L. EACH ACCIDENT	\$ 2,000,000		
						E.L. DISEASE - EA EMPLOYEE	\$ 2,000,000		
						E.L. DISEASE - POLICY LIMIT	\$ 2,000,000		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) THIRTY (30) DAYS NOTICE OF CANCELLATION.

CERTIFICATE HOLDER	CANCELLATION
AS A MATTER OF RECORD	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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### ATTACHMENT "F"

Federal Aviation Administration contract provisions for Airport Improvement Program Projects

#### **ATTACHMENT "F"**

#### FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

In this Attachment "F", the term "Contractor" shall refer to the "Consultant", and the term "Airport Sponsor" shall refer to the "City".

If there are any conflicts between the terms and conditions of Attachment "F" and Article VI of the Agreement, the terms and conditions of Attachment "F" will prevail.

### A. GENERAL REQUIREMENT FOR CONTRACT

- 1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
- 2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
- 4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

### B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1. Withhold progress payments or final payment,
- 2. Terminate the contract,
- 3. Seek suspension/debarment, or
- 4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

### C. <u>CONTRACT PROVISIONS</u>

#### 1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized

representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. <u>BREACH OF CONTRACT TERMS</u> (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. <u>BUY AMERICAN PREFERENCES</u> (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

#### **Type of Certification is based on Type of Project:**

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

#### \*\*\*\*

#### **Certificate of Buy American Compliance for Total Facility**

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
  - a. Only installing steel and manufactured products produced in the United States; or
  - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
  - 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.

- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver -** The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

\* \* \* \* \*

### **Certificate of Buy American Compliance for Manufactured Products**

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC  $\S$  50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark  $(\checkmark)$  or the letter "X".

Bidder or offeror here	eby certifies	that it will	comply with	149 USC 8	§ 50101 by:
Blace of offerer ner	oo, continues	CIICCO IC TO III	COLLIDITY WILL	, .,	,

- a. Only installing steel and manufactured products produced in the United States, or;
- b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
- c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic product
- 3. To furnish US domestic product for any waiver request that the FAA rejects
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- □ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  - 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.

- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 3 Waiver -** The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

**False Statements**: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

### 4. <u>GENERAL CIVIL RIGHTS PROVISIONS</u> (all contracts)

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

## 5. <u>CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION</u> <u>REQUIREMENTS</u> (all AIP funded projects)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (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 Statutes 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. **Non-discrimination:** 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination 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 sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 subcontractor 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.

# 6. <u>CLEAN AIR AND WATER POLLUTION CONTROL</u> (all contracts that exceed \$100,000)

Contractors and subcontractors agree:

- 1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- 2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- 3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- 4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

# 7. <u>CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS</u> (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

### 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

#### 4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

## 8. <u>CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)</u> (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### 9. <u>DISADVANTAGED BUSINESS ENTERPRISES</u> (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (49 CFR §26.29)**- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

## 10. <u>FEDERAL FAIR LABOR STANDARDS ACT</u> (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

## 11. <u>LOBBYING AND INFLUENCING FEDERAL EMPLOYEES</u> (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an 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.
- 2. 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

### 12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

### 13. <u>RIGHTS TO INVENTIONS</u> (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

#### **TERMINATION OF CONTRACT** (contracts that exceed \$10,000)

- 1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- 2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- 3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- 4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed

to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

### 15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### **16.** <u>TEXTING WHEN DRIVING</u> (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

#### 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. "Benefitina" 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	Bernadino Olague
Business Name	LEC Engineering, Inc. DBA LOI Engineers
Agenda Item Type	Geotechnical and Material Testing On-Call
Relevant Department	Capital Improvement

City Co	NOT made campaign contributions or donations totaling an aggregate of \$500 or more to any number (s) during their campaign(s) or term(s) of City office, as specified in Section of the El Paso Municipal Code.
OR	
	made campaign contributions or donations totaling an aggregate of \$500 or more to the following buncil 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	
knowledge. I und subject to verifica	ereby affirm that the information provided in this disclosure form is true and accurate to the best of my erstand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is ation by the city authorities. Further, I understand that upon submission of this form, I must disclosure from the control of this form, I must disclosure from the control of this form, I must disclosure from the control of this form, I must disclosure from the control of the control of this form, I must disclosure form that the control of the contro
(	Date: 3/6/2025

Disclosure Affirmation: Please check the appropriate box below to indicate whether you have made campaign

### DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with <u>Title 2, Chapter 2.92, Section 2.92.080</u>

#### 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
Donation	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
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#### **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.

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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	110/188/280	
District 1		
District 2		S
District 3	143	88 0
District 4	1 300000	5/,//
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:	
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#### **Contributor / Donor Information:**

Full Name	Jaime Rojas
Business Name	CQC Testing and Engineering, LLC
Agenda Item Type	Geotechnical and Material Testing On-Call
Relevant Department	Capital Improvements

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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City Council member(s) during their campaign(s) or term(s) of City office:

OFFICE	CURRENT COUNCIL MEMBER NAME AMOUNT (\$)
Mayor	1/0/08/201
District 1	(A) (B) (B) (D)
District 2	正為一器的
District 3	1 1 3 S S S S S S S S S S S S S S S S S
District 4	11 3800000000000000000000000000000000000
District 5	
District 6	MAY AS
District 7	
District 8	

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	/ /			/ /	
	/ /			2/1/	7/17/
Signatura:	( //	1 1	Jaime Rojas, P.E. <sub>Date:</sub>	5/4/	2023
Signature:	-/Un		dairio regas, r.L. Date.	2/ 1	
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### **Contributor / Donor Information:**

Full Name	Ruben Solis-Hernandez
Business Name	Terracon Consultants, Inc.
Agenda Item Type	
Relevant Department	

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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	1/0/18/2			
District 1	(D) (B)			
District 2		26		
District 3				
District 4	1 30000	95		
District 5				

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District 6

District 7

District 8

Signature:	A:	Date: 3/4/2025

# DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

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Full Name	
Business Name	
Agenda Item Type	
Relevant Department	

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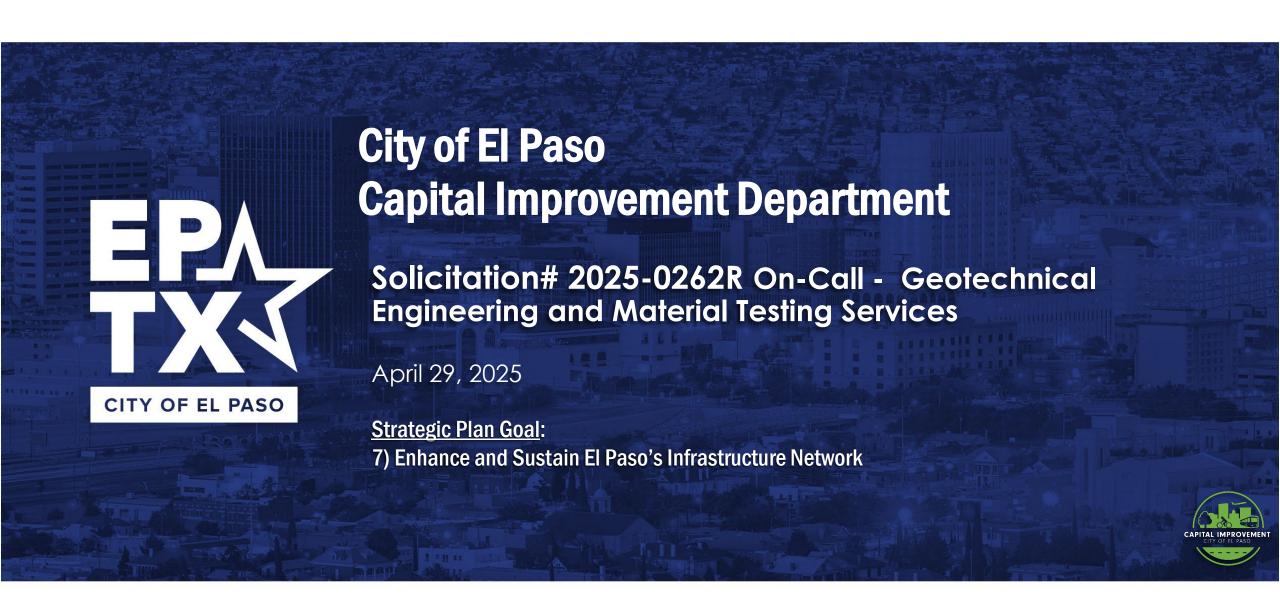
OR

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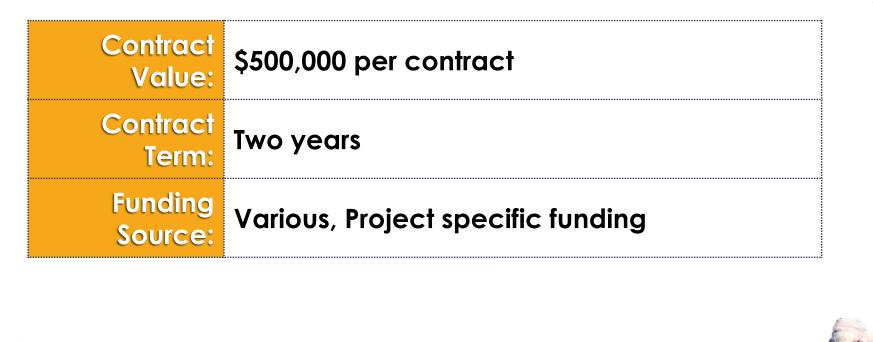
OFFICE	CURRENT COUNCIL MEMBER NAME	AMOUNT (\$)
Mayor	1/0/280/280	
District 1		
District 2		
District 3		2/0/
District 4	1 300000	5/,//
District 5	11 (625)	
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District 8		

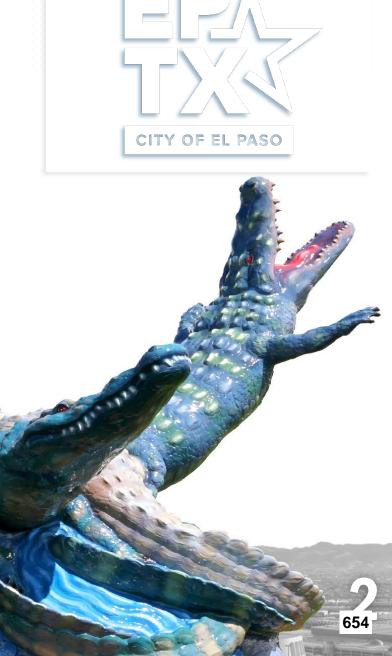
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knowledge. I understand that this disclosure is required by Title 2, Chapter 2.92 of the El Paso Municipal Code and is
<b>Declaration:</b> I hereby affirm that the information provided in this disclosure form is true and accurate to the best of my

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Signature:	1	Ι,	Date:	



# **Project Details**







# **Contract Scope of Work**

This contract will be used on an on-call basis for geotechnical engineering and material testing services and may include, but are not limited to:

- Geotechnical laboratory testing
- Reviewing existing geotechnical data and background information
- Providing geotechnical recommendations for the expansion of existing facilities and new facility construction
- Developing conceptual design or layout in support of the geotechnical recommendations
- Installing soil borings and collecting soil and groundwater samples
- Locating utilities and underground structures
- Evaluating site materials
- Installing and monitoring geotechnical instrumentation
- Soil slope stability analyses
- Identifying trench safety considerations for ground vibration and movement monitoring during construction
- Identifying of considerations for the construction of structures in areas of shallow groundwater, dewatering, and short and long-term groundwater monitoring





# **Procurement Summary**

- Request for Qualification advertised on January 24, 2025
  - 6 firms submitted statements of qualifications, all with local offices
- Recommended Actions
  - To award contract to the following consultants:
    - Atlas Technical Consultants, LLC
    - CQC Testing and Engineering, LLC
    - LEC Engineering, Inc. DBA LOI Engineers
    - Terracon Consultants, Inc.
    - WSP USA, Inc.





# **Recommended Council Action**

That the City Manager be authorized to sign a two year On-Call Agreement for Professional Services to perform geotechnical engineering and materials testing services on a task by task basis by and between the by City of El Paso and each of the following five (5) consultants:



- 1. Atlas Technical Consultants, LLC
- 2. CQC Testing and Engineering, LLC
- 3. LEC Engineering, Inc. DBA LOI Engineers
- 4. Terracon Consultants, Inc.
- 5. WSP USA, Inc.

Each On-Call Agreement will be for an amount not to exceed \$500,000.00, and each agreement will include authorization for the City Engineer to approve additional Basic Services and Reimbursables for an amount not to exceed \$50,000.00 and authorization for the City Engineer to approve Additional Services for an amount not to exceed \$50,000.00 if the identified services are necessary for proper execution of the identified project and if the increased amounts are within the appropriate budget identified for the project.



# MISSION



Deliver exceptional services to support a high quality of life and place for our community.

# VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, Respect, Excellence, Accountability, People



# MISIÓN



Brindar servicios excepcionales para respaldar una vida y un lugar de alta calidad para nuestra comunidad

# VISIÓN



Desarrollar una economía regional vibrante, vecindarios seguros y hermosos y oportunidades recreativas, culturales y educativas excepcionales impulsadas por un gobierno de alto desempeño



VALORES

Integridad, Respeto, Excelencia, Responsabilidad, Personas



# El Paso, TX

# Legislation Text

File #: 25-512, 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**

El Paso Water, Arturo Duran, (915) 594-5549

#### AGENDA LANGUAGE:

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

An Ordinance authorizing the issuance of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds in an aggregate amount not to exceed \$339,400,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters.

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

**DEPARTMENT:** El Paso Water Utilities Public Service Board

AGENDA DATE: Introduction and Public Hearing- April 29, 2025

CONTACT PERSON/PHONE: Arturo Duran, El Paso Water Utilities Chief Financial Officer

(915) 594-5549

**DISTRICT(S) AFFECTED: All Districts** 

**SUBJECT: APPROVE the following Ordinance** 

Consider and adopt an Ordinance authorizing the issuance of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds in an aggregate amount not to exceed \$339,400,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters. (All Districts) [Arturo Duran (915) 594-5549] [Public Hearing Date: April 29, 2025]

# **BACKGROUND / DISCUSSION:**

EPWater is requesting the City Council of the City of El Paso to authorize the issuance of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds in an aggregate amount not to exceed \$339,400,000 to refund certain previously issued obligations of the City.

EPWater finds that it is in the best interest of the ratepayers to pursue this financing.

# **PRIOR COUNCIL ACTION:**

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

Yes, on May 7 2024, City Council approved up to \$303,000,000 of City of El Paso, Texas Water and Sewer System Revenue Refunding Bonds, to refund certain system extendable commercial paper notes, and interest and issuance costs. Also, City Council approved the issuance of up to \$40,480,000 of City of El Paso, Texas Water and Sewer System Revenue Refunding Bonds, to refund certain previously issued obligations and issuance cost.

# **AMOUNT AND SOURCE OF FUNDING:**

This item will be funded through the sale of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds.

### **BOARD / COMMISSION ACTION:**

The El Paso Water Utilities Public Service Board approved two Resolutions on March 12, 2025:

- Requesting that the City Council authorize the issuance of up to \$302,300,000 of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds to pay off up to \$300,000,000 of outstanding Water and Sewer Utility System Extendable Commercial Paper Notes, and to fund interest and related transaction costs provided that certain pricing parameters outlined in such ordinance are met.
- Requesting that the City Council authorize the issuance of up \$37,100,000 of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds to refund up to \$36,570,000 of the currently outstanding Water and Sewer Revenue Improvement and Refunding Bonds, Series 2016, and to fund interest and related transaction costs provided that certain pricing parameters outlined in such ordinance are met.

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT ART DURAN TO PICK UP THE DOCUMENTS AT (915) 594-5549. THANK YOU.

ORDINANCE NO
AUTHORIZING THE ISSUANCE OF
CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE REFUNDING BONDS
Adopted:, 2025

# TABLE OF CONTENTS

# ARTICLE 1

	DEFINITIONS, FINDINGS AND INTERPRETATION	
Section 1.01	Definitions	2
Section 1.02	Findings	8
Section 1.03	Table of Contents, Titles and Headings	8
Section 1.04	Interpretation	8
	ARTICLE 2	
	SECURITY FOR THE BONDS	
Section 2.01	Security for the Bonds	8
Section 2.02	Limited Obligations	8
Section 2.03	Security Interest	8
	ARTICLE 3	
	AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS	
Section 3.01	Authorization	9
Section 3.02	Delegation of Authority to Pricing Officer	9
Section 3.03	Date, Denomination, Maturities, Numbers and Interest	0
Section 3.04	Medium, Method and Place of Payment	1
Section 3.05	Execution and Initial Registration	2
Section 3.06	Ownership	2
Section 3.07	Registration, Transfer and Exchange	3
Section 3.08	Cancellation and Authentication1	4
Section 3.09	Temporary Bonds1	5
Section 3.10	Replacement Bonds	5
Section 3.11	Book-Entry-Only System1	6
Section 3.12	Successor Securities Depository; Transfer Outside Book-Entry Only System	7
Section 3.13	Payments to Cede & Co	7
	ARTICLE 4	
	REDEMPTION OF BONDS BEFORE MATURITY	
Section 4.01	Limitation on Redemption	7

# TABLE OF CONTENTS (continued)

	ARTICLE 5	<u>Page</u>
	PAYING AGENT/REGISTRAR	
Section 5.01	Appointment of Initial Paying Agent/Registrar	17
Section 5.02	Qualifications of Paying Agent/Registrar	17
Section 5.03	Maintaining Paying Agent/Registrar.	
Section 5.04	Termination of Paying Agent/Registrar	
Section 5.05	Notice of Change of Paying Agent/Registrar to Owners	18
Section 5.06	Agreement of Paying Agent/Registrar to Perform Duties and Function	ıs 18
Section 5.07	Delivery of Records to Successor	18
	ARTICLE 6	
	FORM OF THE BONDS	
Section 6.01	Form Generally.	18
Section 6.02	Form of the Bonds	19
Section 6.03	CUSIP Registration.	19
Section 6.04	Legal Opinion	19
Section 6.05	Statement of Insurance	19
	ARTICLE 7	
	PUBLIC SERVICE BOARD	
Section 7.01	Public Service Board	19
	ARTICLE 8	
	FUNDS; FLOW OF FUNDS	
Section 8.01	Special Funds.	21
Section 8.02	Revenue Fund	21
Section 8.03	Investment of Funds	23
Section 8.04	Contributions in Aid of Construction	23
	ARTICLE 9	
DE	POSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS	
Section 9.01	Deposit of Proceeds.	24
Section 9.02	Control and Delivery of Bonds.	24
	ARTICLE 10	
	PARTICULAR REPRESENTATIONS AND COVENANTS	
Section 10.01	Insurance	24

# TABLE OF CONTENTS

(continued)

Section 10.02	Books and Records	Page 24
Section 10.02	Additional Covenants	
Section 10.03		
	Covenants to Maintain Tax Exempt Status  Continuing Obligation	
Section 10.05	ARTICLE 11	30
	ARTICLE II	
	DEFAULT AND REMEDIES	
Section 11.01	Remedies in Event of Default	30
Section 11.02	Remedies Not Exclusive	31
	ARTICLE 12	
	DISCHARGE	
Section 12.01	Discharge	31
	ARTICLE 13	
Š	SALE AND DELIVERY OF BONDS; OFFICIAL STATEMENT	
Section 13.01	Sale of Bonds-Official Statement.	32
	ARTICLE 14	
	CONTINUING DISCLOSURE UNDERTAKING	
Section 14.01	Annual Reports.	33
Section 14.02	Notice of Certain Events.	33
Section 14.03	Filings with the MSRB	35
Section 14.04	Limitations, Disclaimers and Amendments.	35
	ARTICLE 15	
REDEM	IPTION AND PAYMENT OF REFUNDED OBLIGATIONS; ESCROW AGREEMENT	
Section 15.01	Redemption of Refunded Bonds.	36
Section 15.02	Payment of Refunded ECP Notes	36
Section 15.03	Escrow Agreement.	37
	ARTICLE 16	
	MISCELLANEOUS	
Section 16.01	Amendment to Ordinance	38
Section 16.02	Further Procedures	39
Section 16.03	Effectiveness	40

iii

# TABLE OF CONTENTS (continued)

Page

Exhibit A PAYING AGENT/REGISTRAR AGREEMENT Exhibit B FORM OF BOND

AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE REFUNDING BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$339,400,000 TO REFUND CERTAIN PREVIOUSLY ISSUED OBLIGATIONS OF THE CITY; AND RESOLVING MATTERS WHICH ARE NECESSARY TO EFFECT SUCH ISSUANCE, INCLUDING THE DELEGATION OF MATTERS RELATING TO THE SALE AND ISSUANCE OF THE BONDS TO AN AUTHORIZED CITY OFFICER OR EMPLOYEE WITHIN CERTAIN SPECIFIED PARAMETERS

WHEREAS, in accordance with the Constitution and the laws of the State of Texas, specifically Texas Government Code, Chapter 1502, as amended, the City of El Paso, Texas (the "City"), has previously issued waterworks and sewer system revenue bonds (the "Previously Issued Senior Lien Bonds") payable from and secured by a first and superior lien on and pledge of the net revenues of the City's combined waterworks and sewer system (the "System"); and

WHEREAS, pursuant to an Ordinance Establishing a City of El Paso, Texas, Water and Sewer Utility System Extendable Commercial Paper Program, the City has authorized to be outstanding the following described obligations secured by revenues of the System: City of El Paso, Texas, Water and Sewer Utility System Extendable Commercial Paper Notes, Series A (Tax-Exempt) in an aggregate principal amount not to exceed \$300,000,000 outstanding at any one time (collectively, the "ECP Notes"); and

WHEREAS, there has been filed with the City Council one or more resolutions adopted and approved by the Public Service Board (hereinafter defined as the "Board") requesting the City Council to approve the issuance and sale of the City's revenue bonds for the purposes of (1) refunding certain outstanding obligations secured by revenues of the System and (2) paying the costs of issuing the revenue bonds authorized by this Ordinance (the "Bonds") as described in the Ordinance; and

WHEREAS, the City has issued the following Previously Issued Senior Lien Bonds (hereinafter referred to as the "Refundable Bonds"): City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2016, authorized by an ordinance duly adopted on June 28, 2016; the Refundable Bonds refunded in accordance with the terms hereof are referred to as the "Refunded Bonds"; and

WHEREAS, the City Council hereby finds and determines that it is in the best interest of the City and the System to adopt this Ordinance to authorize the refunding of ECP Notes which are from time to time outstanding (the "Refunded ECP Notes") (the Refunded Bonds and the Refunded ECP Notes are hereinafter referred to collectively as the "Refunded Obligations"); and

WHEREAS, the City by this Ordinance and in accordance with the provisions of Texas Government Code, Chapter 1207, as amended ("Chapter 1207"), and Texas Government Code, Chapter 1371, as amended ("Chapter 1371"), is delegating to the Pricing Officer (hereinafter defined) the authority to establish the terms and details related to the issuance and sale of the Bonds including: (i) the principal amount of the Refunded Obligations to be refunded, (ii) the form and designation of one or more series of Bonds; (iii) the principal amount of each series of the Bonds and the amount of the Bonds of each series to mature in each year; (iv) the dates, price, interest

rates, interest payment dates, principal payment dates, and redemption features of each series of the Bonds; and (v) any other details relating to the issuance, sale, delivery, and/or exchange of the Bonds, all within certain specified parameters set forth herein; and

WHEREAS, the City Council hereby finds and determines that it is a public purpose and in the best interests of the City to refund the Refunded Bonds in order to achieve a present value debt service savings, with such savings, among other information and terms to be included in one or more pricing certificates (each, a "Pricing Certificate") to be executed by the Pricing Officer, all in accordance with the provisions of Chapter 1207 and Chapter 1371; and

WHEREAS, the City Council hereby finds and determines that the refunding of the Refunded ECP Notes for the purposes of making such debt long-term fixed rate debt of the City and restructuring the debt payable from the revenues of the System is in the best interest of the City, and the manner in which such refunding is being executed does not make it practicable to make the determinations otherwise required by Texas Government Code, Section 1207.008(a)(2), as amended; and

WHEREAS, in the ordinances authorizing the Previously Issued Senior Lien Bonds, the City reserved the right and option to issue, under certain conditions, "Additional Bonds" on a parity as to lien and right with such bonds; and

WHEREAS, a public hearing was held, following proper publication of notice thereof, before the City Council with respect to the adoption of this Ordinance; and

WHEREAS, the City Council has found and determined that the bonds herein authorized should be issued on a parity with its Previously Issued Senior Lien Bonds, for the purposes aforesaid, pursuant to this Ordinance and as permitted by the General Laws of the State of Texas, particularly Chapter 1207 and Chapter 1371; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of such meeting was given as required by Texas Government Code, Chapter 551, as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THAT:

### ARTICLE 1

# DEFINITIONS, FINDINGS AND INTERPRETATION

<u>Section 1.01</u> <u>Definitions</u>. Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance, the following terms shall have the meanings specified below:

"Additional Bonds" means the additional revenue bonds permitted to be issued on a parity with the Bonds and the Previously Issued Senior Lien Bonds by Section 10.03(a) of this Ordinance.

2

"Board" or "Board of Trustees" means that certain board of trustees known as the "Public Service Board" heretofore established for the purpose of managing the System, and other water utilities of the City, as represented by the various persons appointed from time to time.

"Bond" means any of the Bonds.

"Bond Counsel" means a firm of nationally recognized attorneys experienced in the issuance of bonds and acceptable to the City, initially Norton Rose Fulbright US LLP.

"Bonds" means the "City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds" authorized to be issued by this Ordinance, with such additional or different series or designation specified in an applicable Pricing Certificate.

"Business Day" means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located in the State of Texas are generally authorized or obligated by law or executive order to close.

"Chapter 1207" means Texas Government Code, Chapter 1207, as amended.

"Chapter 1371" means Texas Government Code, Chapter 1371, as amended.

"City" means the City of El Paso, Texas, and with respect to those matters requiring action regarding the authority and control of management and operation of the System or the expenditure and application of the System's revenues, "City" shall mean the Board acting on behalf of the City.

"City Council" means the governing body of the City of El Paso, Texas.

"Closing Date" means the date of the initial delivery of and payment for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Commercial Paper Notes" means the City of El Paso, Texas, Water and Sewer System Commercial Paper Notes, Series A, authorized by Ordinance No. 13349 adopted by the City Council of the City on October 14, 1997, as amended by Ordinance No. 017069 adopted on February 3, 2009, Ordinance No. 18395 adopted on July 28, 2015, and Ordinance No. 019210 adopted on August 3, 2021.

"Depository Bank" means any financial institution duly designated by the Board to serve as a depository for funds controlled by the Board.

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar, its designated office specified in the Pricing Certificate, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"ECP Notes" means the extendable commercial paper notes authorized to be issued in accordance with the terms of the ordinance establishing the City of El Paso, Texas, Water and Sewer Utility System Extendable Commercial Paper Program.

"Escrow Agent" means the deposit or escrow agent, if any, appointed and approved in the Pricing Certificate.

"Escrow Agreement" means any deposit or escrow agreement between the City and the Escrow Agent designated in the Pricing Certificate.

"Financial Advisor" means a registered "municipal advisor" under Section 15B of the Securities Exchange Act of 1934, as amended, selected by the City to provide advice to the City in the area of municipal financial products or the issuance of municipal securities, initially Hilltop Securities Inc.

"Financial Obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"Fiscal Year" means the twelve month financial accounting period used by the Board in connection with the operation of the System which may be any twelve consecutive month period established by the Board.

"Government Obligations," unless otherwise provided in the Pricing Certificate, means (i) direct, noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

"Gross Revenues" means all of the revenues of every nature received through the operation of the System.

"Improvement Fund" means the fund by such name described in Section 8.01(a)(iv) hereof.

"Initial Bond" means the Initial Bond authorized by Section 3.04 of this Ordinance.

"Initial Date" means the date designated as the Initial Date in the Pricing Certificate.

"Interest and Sinking Fund" means the fund by that name described in Section 8.01(a)(ii) hereof.

"Interest Payment Date" means the date or dates on which interest on the principal of the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1, commencing on the date specified in the Pricing Certificate.

"MSRB" means the Municipal Securities Rulemaking Board.

"Net Revenues" means the Gross Revenues less the Operation and Maintenance Expenses.

"Note Payment Fund" means, collectively, the "City of El Paso, Texas Water and Sewer System Note Payment Fund," heretofore created by the ordinance authorizing the Commercial Paper Notes, and the "City of El Paso, Texas, Water and Sewer Utility System ECP Note Series A (Tax-Exempt) Interest and Sinking Fund" heretofore created by the ordinance authorizing the ECP Notes, which are reaffirmed in Section 8.01(b) hereof.

"Operation and Maintenance Expenses" means the reasonable and proper expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions as are necessary to keep the System in operation or which are necessary to meet some physical accident or condition that would otherwise impair the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds shall be included as Operation and Maintenance Expenses.

"Owner" means the person who is the registered owner of a Bond or Bonds.

"Paying Agent/Registrar" means the entity or banking association designated by the Pricing Officer in the Pricing Certificate to serve as paying agent/registrar for the Bonds, or any successor thereto or replacement therefor as provided in this Ordinance.

"Previously Issued Senior Lien Bonds" means the outstanding bonds of the following issues of the City (such bonds being designated as "Previously Issued Bonds" in ordinances adopted prior to March 1, 1993):

- (1) Water and Sewer Revenue Refunding Bonds, Series 2015, authorized by ordinance duly passed and adopted on December 2, 2014;
- (2) Water and Sewer Revenue Bonds, Series 2015B, authorized by ordinance duly passed and adopted on October 27, 2015;
- (3) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2016, authorized by ordinance duly passed and adopted on June 28, 2016;

- (4) Water and Sewer Revenue Bonds, Series 2016A, authorized by ordinance duly passed and adopted on October 18, 2016;
- (5) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2017, authorized by ordinance duly passed and adopted on September 5, 2017;
- (6) Water and Sewer Revenue Bonds, Series 2017A, authorized by ordinance duly passed and adopted on October 31, 2017;
- (7) Water and Sewer Revenue Refunding Bonds, Series 2018, authorized by ordinance duly passed and adopted on October 30, 2018;
- (8) Water and Sewer Revenue Bonds, Series 2019, authorized by ordinance duly passed and adopted on March 19, 2019;
- (9) Water and Sewer Revenue Refunding Bonds, Series 2019A, authorized by ordinance duly passed and adopted on August 6, 2019;
- (10) Water and Sewer Revenue Refunding Bonds, Series 2019B, authorized by ordinance duly passed and adopted on August 6, 2019;
- (11) Water and Sewer Revenue Refunding Bonds, Series 2020, authorized by ordinance duly passed and adopted on August 4, 2020;
- (12) Water and Sewer Revenue Refunding Bonds, Taxable Series 2020A, authorized by ordinance duly passed and adopted on August 4, 2020;
- (13) Water and Sewer Revenue Refunding Bonds, Series 2021, authorized by ordinance duly passed and adopted on March 2, 2021;
- (14) Water and Sewer Revenue Refunding Bonds, Taxable Series 2021A, authorized by ordinance duly passed and adopted on March 2, 2021;
- (15) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022, authorized by ordinance duly passed and adopted on March 29, 2022;
- (16) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022A, authorized by ordinance duly passed and adopted on August 2, 2022;
- (17) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2023, authorized by ordinance duly passed and adopted on April 25, 2023;
- (18) Water and Sewer Revenue Bonds, Series 2023A, authorized by ordinance duly passed and adopted on October 24, 2023; and
- (19) Water and Sewer Revenue Refunding Bonds, Series 2025, authorized by two ordinances duly passed and adopted on May 7, 2024.

"Pricing Certificate" means collectively one or more pricing certificates that set forth the terms of one or more series of Bonds in accordance with Section 3.02 of this Ordinance and executed by the Pricing Officer, all in accordance with the provisions of Chapter 1207 and Chapter 1371.

"Pricing Officer" means the President/Chief Executive Officer of the System, or in the absence thereof, any Vice President of the System or the Chief Financial Officer of the System, each acting in such capacity severally and not jointly.

"Purchaser" means collectively the initial purchasers of each series of Bonds issued hereunder as named in the Pricing Certificate(s).

"Record Date" means with respect to each interest payment date the fifteenth day of the month next preceding such interest payment date.

"Refundable Bonds" shall have the meaning set forth in the recitals to this Ordinance.

"Refunded Bonds" means those Refundable Bonds actually refunded in accordance with the terms hereof, as further described in a Pricing Certificate.

"Refunded ECP Notes" means the extendable commercial paper notes actually refunded in accordance with the terms hereof, as further described in the Pricing Certificate.

"Refunded Obligations" means the Refunded Bonds and the Refunded ECP Notes identified in the preamble of this Ordinance and further described in the Pricing Certificate.

"Register" means the Register specified in Section 3.07(a) of this Ordinance.

"Reserve Fund" means the fund by that name described in Section 8.01(a)(iii) hereof.

"Reserve Fund Requirement" means the amount which is equal to the average annual principal and interest requirements on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time outstanding.

"Revenue Fund" means the Waterworks and Sewage Fund established in Section 8.01(a)(i) hereof.

"Rule" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"SEC" means the United States Securities and Exchange Commission.

"Subordinate Lien Obligations" means each series of bonds, notes and other debt obligations payable from and secured by a lien on and pledge of the Net Revenues of the System, junior and subordinate in rank and dignity to the lien and pledge securing the payment of the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds.

"System" means the complete waterworks plant and system of the City as they now exist and may be improved, added to, or extended hereafter, and the complete sewer system of the City as it now exists and may hereafter be improved, added to, or extended, there being included in such term all water and sewer facilities now or hereafter owned or operated by the City, lying within and without the boundaries of the City, and including all real estate and real and personal property of every kind and nature comprising any part of or used or useful in the operation of the water and sewer facilities of the City.

<u>Section 1.02</u> <u>Findings</u>. The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings. The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

# Section 1.04 Interpretation.

- (a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.
- (b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance.

### ARTICLE 2

# SECURITY FOR THE BONDS

- <u>Section 2.01</u> <u>Security for the Bonds</u>. The Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, both principal and interest, are and shall be equally and ratably secured by and payable from an irrevocable first lien on and pledge of the Net Revenues.
- <u>Section 2.02</u> <u>Limited Obligations</u>. The Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, are special obligations of the City, payable solely from the Net Revenues, and do not constitute a prohibited indebtedness of the City. Neither the Bonds, the Previously Issued Senior Lien Bonds, nor the Additional Bonds shall ever be payable out of funds raised or to be raised by taxation.
- Section 2.03 Security Interest. The City represents that, under Chapter 1208.002, Texas Government Code, a security interest in property, other than real property, that is created by the City is valid and effective according to the terms of the security agreement and is perfected from the time the security agreement is entered into or adopted continuously through the termination of the security interest, without physical delivery or transfer of control of the property, filing of a

document, or another act. The City covenants that, if Chapter 1208.002 is amended at any time while the Bonds, the Previously Issued Senior Lien Bonds or Additional Bonds are outstanding and unpaid, the City shall take all actions required in order to preserve for the Owners of the Bonds, the Previously Issued Senior Lien Bonds or Additional Bonds a perfected security interest in the property in which such security interest is granted pursuant to Section 2.01 hereof.

### **ARTICLE 3**

# AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

# Section 3.01 Authorization.

- (a) Revenue bonds of the City are hereby authorized to be issued, in one or more series, in an amount not to exceed the maximum aggregate principal amount set forth in Section 3.02 hereof. As specified in a Pricing Certificate, such revenue bonds shall be designated and bear the title the "City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds" with such series designation to reflect the year in which they are sold and each series within a year may have a letter designation following the year as determined by the Pricing Officer. The final style of the Bonds, with such additional or different series or designations as specified by the Pricing Officer, shall be set forth in the applicable Pricing Certificate.
- (b) The Bonds shall be issued for the purposes of (i) refunding the Refunded ECP Notes, and/or (ii) refunding all or a portion of the Refunded Bonds, and (iii) paying the costs of issuing the Bonds, all as provided in the applicable Pricing Certificate and in accordance with the Constitution and laws of the State of Texas, particularly Chapter 1207, Chapter 1371, and the Charter of the City.

# Section 3.02 Delegation of Authority to Pricing Officer.

(a) As authorized by Chapter 1207 and Chapter 1371, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering the Bonds, in one or more series, and carrying out the other procedures specified in this Ordinance, including selection of the specific maturities or series (whole or part) of the Refunded Obligations to be refunded, determining the aggregate original principal amount of each series of the Bonds, the Initial Date of each series of Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds of each series will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds of each series will mature, the terms of any bond insurance applicable to each series of the Bonds, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment dates, the price and terms upon and at which the Bonds of each series shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the designation of a paying agent/registrar, the designation of an escrow agent, if necessary, and all other matters relating to the issuance, sale, and delivery of the Bonds all of which shall be specified in a Pricing Certificate; provided that:

- (i) the aggregate original principal amount of Bonds issued to refund the Refunded ECP Notes shall not exceed \$302,300,000;
- (ii) the aggregate original principal amount of Bonds issued to refund the Refunded Bonds shall not exceed \$37,100,000;
- (iii) the aggregate true interest cost percentage for the Bonds issued to refund the Refunded ECP Notes shall not exceed 5.90%;
- (iv) the aggregate true interest cost percentage for the Bonds issued to refund the Refunded Bonds shall not exceed 4.50%;
- (v) the refunding of the Refunded Bonds must produce present value debt service savings of at least three percent (3.00%), net of any issuer contribution;
- (vi) the maximum maturity date for the Bonds issued to refund the Refunded ECP Notes shall not exceed December 31, 2056; and
- (vii) the maximum maturity date for the Bonds issued to refund the Refunded Bonds shall not exceed December 31, 2037.
- (b) In establishing the aggregate principal amount of each series of Bonds, the Pricing Officer shall establish an amount not exceeding the amounts authorized in Subsections (a)(i) and (a)(ii) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. Unless otherwise extended by an act of City Council, the delegation made hereby shall expire if not exercised by the Pricing Officer within 365 days from the date of the adoption of this Ordinance. The Pricing Officer may exercise such delegation on more than one occasion during such time period.
- (c) The execution of a Pricing Certificate shall evidence the sale date of the applicable series of Bonds by the City to the Purchaser.
- (d) If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company (the "Insurer") a municipal bond insurance policy in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the City to obtain a municipal bond insurance policy, for so long as such policy is in effect, the requirements of the Insurer relating to the issuance of such policies are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. Each of the City Manager of the City, the President/Chief Executive Officer of the System and the Pricing Officer shall have the authority to execute any documents to effect the issuance of such policy by the Insurer.

# Section 3.03 Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall have the Initial Date specified in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, and shall be numbered consecutively from one upward, except the Initial Bond(s), which shall be numbered as specified in Section 6.02.

- (b) The Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall mature on March 1 in the years and in the principal amounts and shall bear interest at the per annum rates set forth in the Pricing Certificate.
- (c) Interest shall accrue and be paid on each Bond respectively until its maturity or earlier redemption from the date specified in the Pricing Certificate or the most recent interest payment date to which interest has been paid or provided for at the per annum rates specified in the schedule contained in the Pricing Certificate. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing on the date specified in the Pricing Certificate, computed on the basis of a 360-day year of twelve 30-day months.

# Section 3.04 Medium, Method and Place of Payment.

- (a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.
- (b) Interest on the Bonds shall be paid to the Owners thereof as shown in the Register at the close of business on the Record Date by check (dated as of the Interest Payment Date) and sent by the Paying Agent/Registrar to the person entitled to such payment, first class United States mail, postage prepaid, to the address of such person as it appears in the Register, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements.
- (c) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.
- (d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, the date for such payment shall be the next succeeding Business Day, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in this Section.
- (e) In the event of a nonpayment of interest on a Bond on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.
- (f) Unclaimed payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which the unclaimed payments pertain. Subject to Title 6 of the Texas Property Code, payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment

or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

- Section 3.05 Execution and Initial Registration. The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem and the City Clerk or Alternate City Clerk as of the date of adoption of this Ordinance, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of such officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.
- (a) In the event any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.
- be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered on the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond of each series has been duly approved by the Attorney General of the State of Texas and that they are valid and binding special obligations of the City, and have been registered by the Comptroller of Public Accounts of the State of Texas.
- (c) On the Closing Date, one Initial Bond for each series of the Bonds, payable in stated installments to the Purchaser or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Clerk or Alternate City Clerk, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts will be delivered to the Purchaser or its designee. Upon payment for each Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Sections 3.09 and 3.11.

# Section 3.06 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal, for the further purpose of making and receiving payment

of the interest thereon (subject to the terms of this Ordinance requiring the Paying Agent/Registrar to make payments of interest to the person who is the registered owner on the Record Date or the Special Record Date), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

# <u>Section 3.07</u> <u>Registration, Transfer and Exchange.</u>

- (a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.
- (b) Registration of any Bond may be transferred in the Register only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of the Bonds, or any portion thereof in any integral multiple of \$5,000, to the assignee or assignees thereof, and the right of such assignee or assignees thereof to have the bond or any portion thereof registered in the name of such assignee or assignees. No transfer of any Bond shall be effective until entered in the Register. Upon assignment and transfer of any Bond or portion thereof, a new Bond or Bonds will be issued by the Paying Agent/Registrar in exchange for such transferred and assigned Bond. To the extent possible the Paying Agent/Registrar will issue such new Bond or Bonds in not more than three business days after receipt of the Bond to be transferred in proper form and with proper instructions directing such transfer.
- (c) Any Bond may be exchanged only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantees of signatures satisfactory to the Paying Agent/Registrar, for a Bond or Bonds of like series, of the same maturity and interest rate and in any authorized denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. If a portion of any Bond is redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds of like series, having the same maturity date, bearing interest at the same rate, in the denomination or denominations of any integral multiple of \$5,000 at the request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon surrender thereof for cancellation. To the extent possible, a new Bond or Bonds will be required to be delivered by the Paying Agent/Registrar to the registered owner of the Bond or Bonds in not more than three business days after receipt of the Bond to be exchanged in proper form and with proper instructions directing such exchange.

- (d) Each Bond issued in exchange for any Bond or portion thereof assigned or transferred shall be of like series, of the same tenor and shall have the same maturity date and bear interest at the same rate and in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange the Bonds as provided herein, and each substitute Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such substitute Bond is delivered.
- (e) The City will pay the Paying Agent/Registrar's reasonable and customary charge for the initial registration of the Bonds and the subsequent exchange of the Bonds pursuant to the provisions hereof. However, the Paying Agent/Registrar will require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond. In addition, the City hereby covenants with the Owners of the Bonds that it will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Bonds, when due, and (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer, registration and exchange of Bonds as provided herein to the extent such fees and charges are payable hereunder by the City.
- (f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, when such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the owner of the uncalled principal balance of a Bond.

# Section 3.08 Cancellation and Authentication.

- (a) All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be canceled upon the making of proper records regarding such payment, redemption, exchange or replacement.
- (b) Each substitute Bond issued in exchange for or replacement of (pursuant to the provisions of Section 3.10 hereof) any Bond or Bonds issued under this Ordinance shall have printed thereon a Paying Agent/Registrar's Authentication Certificate, in the form hereinafter set forth. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such bond, manually sign and date such Certificate, and no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person so as to accomplish the foregoing exchange or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Texas Government Code, Chapter 1201, as amended, the duty of exchange or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the above Paying Agent/Registrar's Authentication Certificate, the exchanged or replaced Bonds shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which originally were delivered pursuant to

this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

# Section 3.09 Temporary Bonds.

- (a) Pending the preparation of definitive Bonds, the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.
- (b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance. The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar, and thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

# Section 3.10 Replacement Bonds.

- (a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like series, of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.
- (b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:
  - (i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;
  - (ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the City, to save each of them harmless;
  - (iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and
  - (iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

- (c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.
- (d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, without the necessity of issuing a replacement Bond, may pay such Bond on the date on which such Bond becomes due and payable.
- (e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

# Section 3.11 Book-Entry-Only System.

- (a) Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.
- With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on, the Bonds, for the purpose of all matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance.

Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.12 Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.13 Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on the Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the blanket representation letter of the City to DTC.

# **ARTICLE 4**

# REDEMPTION OF BONDS BEFORE MATURITY

<u>Section 4.01</u> <u>Limitation on Redemption</u>. The Bonds of each series shall be subject to redemption before their scheduled maturity only as provided in the applicable Pricing Certificate.

# **ARTICLE 5**

# PAYING AGENT/REGISTRAR

# Section 5.01 Appointment of Initial Paying Agent/Registrar.

- (a) In the Pricing Certificate, the Pricing Officer shall designate an entity meeting the requirements of Section 5.02 hereof to serve as the initial Paying Agent/Registrar for the Bonds.
- (b) The Pricing Officer is authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar substantially in the form attached hereto as **Exhibit A**.
- Section 5.02 Qualifications of Paying Agent/Registrar. Each Paying Agent/Registrar shall be a commercial bank, a national banking association trust company organized under the

laws of the State of Texas, or other entity duly qualified and legally authorized to serve as, and perform the duties and services of, paying agent and registrar for the Bonds.

# Section 5.03 Maintaining Paying Agent/Registrar.

- (a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.
- (b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.
- Section 5.04 <u>Termination of Paying Agent/Registrar</u>. The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated a certified copy of a resolution of the City (i) giving notice of the termination of the appointment, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar.
- Section 5.05 Notice of Change of Paying Agent/Registrar to Owners. Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.
- Section 5.06 Agreement of Paying Agent/Registrar to Perform Duties and Functions. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby.
- Section 5.07 Delivery of Records to Successor. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

#### ARTICLE 6

### FORM OF THE BONDS

# Section 6.01 Form Generally.

(a) The Bonds of each series, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment to appear thereon, (i) shall be substantially in the form set forth in **Exhibit B** attached hereto with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds,

as evidenced by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds. The applicable Pricing Certificate shall set forth the final and controlling terms of the Bonds of each series.

- (b) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof. The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.
- Section 6.02 Form of the Bonds. The form of the Bonds of each series, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas (which shall only appear on the Initial Bond), the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds shall be substantially in the form of attached **Exhibit B**.
- Section 6.03 <u>CUSIP Registration</u>. The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving such Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.
- <u>Section 6.04</u> <u>Legal Opinion</u>. The approving legal opinion of Bond Counsel may be attached to or printed on each Bond over the certification of the City Clerk or Alternate City Clerk of the City, which certification may be executed in facsimile.
- Section 6.05 Statement of Insurance. A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

#### ARTICLE 7

## PUBLIC SERVICE BOARD

## Section 7.01 Public Service Board.

- (a) Pursuant to the authority contained in Texas Government Code, Section 1502.071, as amended, during such time as any of the Bonds herein authorized are outstanding and unpaid, the Public Service Board shall have complete authority and control of the management and operation of the System.
- (b) The Board shall consist of seven members, one of whom shall be the Mayor of the City who shall ex officio be one member of the Board. Each term of office shall be four years with no member being appointed to more than two consecutive terms. To the extent not prohibited by State law, each member shall continue to serve until his or her successor is appointed and qualified, or until 30 days have passed beyond the expiration of such term, whichever event occurs first. After that time a vacancy on the Board shall exist and the former member shall have no

power to vote or participate in Board proceedings; but such vacancy shall not serve to reduce the number of members required for a quorum.

Each vacancy in Board membership whether occasioned by expiration of office or otherwise shall be filled by the City Council from three persons eligible to serve as Board members and presented to City Council. A selection committee selected by the City Council and comprised of the Board and such additional members as appointed by City Council shall agree upon and submit to City Council the names of such three eligible persons.

Any member of the Board, other than the Mayor, who shall be continuously absent from all meetings of the Board for a period of three consecutive months shall, unless he or she shall be granted leave of absence by the unanimous vote of the remaining members of the Board, be removed from office, but only for adequate cause. As City Council appointees, members of the Board are subject to the City's ethics ordinance, Chapter 2.92 of the City Code of the City, as amended, and must comply with the applicable provisions contained therein.

(c) The Board shall elect one of its own members as Chairman and one as Vice-Chairman and appoint a Secretary and a Treasurer or a Secretary-Treasurer, who may, but need not, be a member or members of the Board. The Board may make such regulations or any by-laws for the orderly handling of its affairs as it may in its discretion see fit and shall thereafter, subject to the pertinent laws of the State of Texas, operate and manage the System with the same freedom and in the same manner as are ordinarily enjoyed by the Board of Directors of a private corporation operating properties of a similar nature.

Subject to the provisions and restrictions contained in this Ordinance, all of which shall be binding on the Board, the Board shall have complete authority and control of the management and operations of the System and the expenditure and application of its revenues.

- (d) The Board shall elect or appoint all officers and employees which it may consider desirable, including a President/Chief Executive Officer of the System. The President/Chief Executive Officer shall be responsible to appoint officers and employees that directly report to the President/Chief Executive Officer, including an attorney or attorneys, vice president(s) and such other personnel that directly report to the President/Chief Executive Officer. All other officers and employees, except members of the Board, the President/Chief Executive Officer, attorneys, vice president(s) and persons directly reporting to the President/Chief Executive Officer or vice president(s), shall serve under the City Civil Service provisions as are or may be established by the Charter of the City or the laws of Texas, and the Board shall have the same authority with respect to such officers and employees as that of the City Council with respect to other officers and other employees of the City. The Board shall obtain and keep continually in force an employers' fidelity and indemnity bond of the so-called blanket type, written by a solvent and recognized indemnity company, and covering losses to the amount not to exceed \$50,000.
- (e) The members of the Board, other than the Mayor shall, for each meeting attended, receive the sum of \$20.00, except that the amount so paid to any member of the Board in any Fiscal Year shall not exceed \$5,000. The members of the Board shall not personally be liable for any act or omission not willfully fraudulent or committed in bad faith.

#### ARTICLE 8

## FUNDS; FLOW OF FUNDS

## Section 8.01 Special Funds.

- (a) The City covenants and agrees that all revenues derived from the operation of the System shall be kept separate from other funds of the City. To that end, the following special funds heretofore established are reaffirmed and shall be maintained at the Depository Bank so long as any of the Bonds, the Previously Issued Senior Lien Bonds, or any Additional Bonds are outstanding and unpaid, to-wit:
  - (i) "City of El Paso, Texas, Water and Sewer Revenue Bonds Waterworks and Sewage Fund" (herein called the "Revenue Fund");
  - (ii) "City of El Paso, Texas, Water and Sewer Revenue Bonds Interest and Sinking Fund" (herein called the "Interest and Sinking Fund");
  - (iii) "City of El Paso, Texas, Water and Sewer Revenue Bonds Reserve Fund" (herein called the "Reserve Fund"); and
  - (iv) "City of El Paso, Texas, Water and Sewer System Improvement Fund" (herein called the "Improvement Fund").

The Interest and Sinking Fund and the Reserve Fund shall be held in trust solely for the benefits of the Owners and the Owners of the Previously Issued Senior Lien Bonds, the Bonds and any Additional Bonds.

- (b) The Note Payment Fund is hereby reaffirmed and shall be maintained for the benefit of the holders of the Subordinate Lien Obligations so long as the Commercial Paper Notes and ECP Notes are outstanding and unpaid.
- Section 8.02 Revenue Fund. All Gross Revenues shall be deposited from day to day as collected into the Revenue Fund. Moneys on deposit in the Revenue Fund shall first be used to pay all Operation and Maintenance Expenses. The revenues of the System not actually required to pay Operation and Maintenance Expenses (the "Net Revenues") shall be transferred from the Revenue Fund to the other Funds in this Ordinance, in the order of priority, in the manner, and in the amounts set forth below:
- (a) <u>Interest and Sinking Fund</u>. In addition to the deposits required by ordinances authorizing the Previously Issued Senior Lien Bonds, there shall be deposited into the Interest and Sinking Fund the following:

21

(i) such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the interest scheduled to come due on the Bonds on the next interest payment date, less any amounts already on deposit therein for such purpose derived from the proceeds of the Bonds or from any other lawfully available source; and

(ii) such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the next maturing principal of the Bonds, including any scheduled mandatory redemption of Bonds.

The Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds as such principal matures and such interest becomes due.

(b) Reserve Fund. So long as the funds on deposit in the Reserve Fund created for the benefit of the Bonds, the Previously Issued Senior Lien Bonds, and all Additional Bonds are equal to the Reserve Fund Requirement, no deposits need to be made to the credit of the Reserve Fund; but should the Reserve Fund at any time contain less than the Reserve Fund Requirement, then, subject and subordinate to making the required deposits to the credit of the Interest and Sinking Fund, the City shall transfer from the Net Revenues in the Revenue Fund and deposit to the credit of the Reserve Fund, on the first day of each month, such amounts in equal monthly installments to accumulate within at least five years and one month a sum equal to the Reserve Fund Requirement. The money on deposit in the Reserve Fund may be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time there are not sufficient funds on deposit in the Interest and Sinking Fund for such purpose.

In accordance with the procedures specified in the preceding paragraph, the City hereby directs that the deposits, if any, being made to the Reserve Fund be increased to accumulate in the Reserve Fund within five years and one month from the date of the Bonds an amount equal to the Reserve Fund Requirement.

- (c) <u>Note Payment Fund</u>. In addition to the foregoing deposits, in order to provide for the payment of and security for any Subordinate Lien Obligations there shall be deposited to the Note Payment Fund amounts sufficient to pay when due the principal of and interest on the Subordinate Lien Obligations.
- (d) Payment to the City's General Fund. At the end of each month there shall be paid to the City Treasurer for deposit to the City's General Fund from any money which may remain in the Revenue Fund after all payments required to be paid from such Fund in such month have been made and all deficiencies accumulated from prior months have been remedied, such amounts as will result in there having been paid to the City during each Fiscal Year, ten percent (10%) of the total received by the Board from the sale of water during the Fiscal Year.
- (e) <u>Improvement Fund</u>. All money remaining in the Revenue Fund at the end of each month after all payments required to be made therefrom in such month have been made and all deficiencies accumulated from prior months have been remedied shall continue to be paid to the Improvement Fund established in connection with the System, and shall be held in and paid out from such Fund for the following purposes:
  - (i) To pay the cost of any special or extraordinary repairs or replacements to or of the properties comprising the System, properly payable with such money under the laws of the State of Texas, necessitated by reason of some emergency; and

(ii) To the extent permitted by law, for the making of extensions, improvements, and betterments of the System.

## Section 8.03 <u>Investment of Funds</u>.

- (a) Revenue Fund and Interest and Sinking Fund. The Funds hereinabove created shall be invested and secured in the manner required by State or federal law, including specifically the Public Funds Investment Act, Texas Government Code, Chapter 2256, as appropriate. Moneys on deposit in the Interest and Sinking Fund and the Revenue Fund shall be continually secured by the deposit of collateral securities having a market value at all times not less than the amount in such Fund. The money in the Interest and Sinking Fund and the Reserve Fund shall be held as a trust fund for the benefit of the Owners of the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, the beneficial interest in which shall be regarded as existing in such owners. The Secretary of the Board shall require arrangements to be made with the Paying Agent/Registrar as will, to the extent of money in the Interest and Sinking Fund, and, if necessary, in the Reserve Fund, assure the prompt payment of principal of and interest on the Bonds herein authorized as such principal and interest become due, except that by agreement with the Owners of any Bonds purchased on the open market for retirement, payment of principal and interest thereon due by reason of such purchase, may be made by the Paying Agent/Registrar to the Owners thereof upon surrender of Bonds. All Bonds so paid, redeemed or purchased shall be canceled and shall not be subject to reissuance.
- (b) <u>Investment of Reserve Fund</u>. To the extent permitted by applicable law, including specifically the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, moneys on deposit in the Reserve Fund may be invested and reinvested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by the United States Government, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, Banks for Cooperatives, or certificates of deposit, the payment of which are insured in full by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, which shall mature, or which shall be subject to redemption by the Owner thereof at the option of such Owner, not later than ten years after the date of investment. Any obligations in which money is so invested shall be kept in escrow and shall be promptly sold and the proceeds of sale applied to the making of payments required to be made from the Reserve Fund whenever such payments are necessary to be made under this Section. The deposits into the Reserve Fund shall be subordinate to those required to be made into the bond funds for the Previously Issued Senior Lien Bonds, the Bonds, and any Additional Bonds.

Section 8.04 Contributions in Aid of Construction. Any moneys that may be received by the Board that shall represent contributions in aid of construction shall be deposited in a separate account at the Depository Bank. Such contributions shall not be considered as part of the Gross Revenues of the System. Payments from such bank account shall be made only for the purposes for which the contributions were made, including any refunds that may become due to any contributor.

#### ARTICLE 9

## DEPOSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS

## Section 9.01 Deposit of Proceeds.

- (a) The proceeds of sale of each series of Bonds shall be disbursed by the Paying Agent/Registrar on the Closing Date pursuant to written instructions from the City's Financial Advisor.
- (b) All amounts, if any, received on the Closing Date as accrued interest on the Bonds shall be deposited to the Interest and Sinking Fund.
- (c) Bond proceeds, less the accrued interest, if any, referenced in the preceding paragraph, amounts to pay costs of issuance and amounts to pay municipal bond insurance premium, if any, shall be deposited as provided in the applicable Pricing Certificate.

## Section 9.02 Control and Delivery of Bonds.

- (a) The Mayor, or in his absence, the Mayor Pro Tem, is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.
- (b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision of the City Manager of the City or the President/Chief Executive Officer of the System against receipt by the City of all amounts due the City under the terms of the sale.

## ARTICLE 10

## PARTICULAR REPRESENTATIONS AND COVENANTS

Section 10.01 <u>Insurance</u>. The City hereby agrees that it will carry at all times for the benefit of the Owners of the Bonds, such insurance on the System that is reasonably obtainable of the kinds and in the amounts which are usually carried by private companies operating similar properties. Such insurance may be provided by means of a self-insurance fund in which event deposits to such fund shall be a maintenance and operating expense of the System.

Section 10.02 Books and Records. The City hereby covenants and agrees that complete and proper books of records and account will be kept and that the Owners of any of the Bonds, or any duly authorized agent or agents of such Owners, shall have the right to inspect such records at all reasonable times. The Board will within sixty (60) days following the close of each Fiscal Year, cause an audit of the books and accounts to be made by an independent firm of certified public accountants and that such audit will be available for inspection by the Owners of any of the Bonds.

## Section 10.03 Additional Covenants.

- (a) <u>Additional Bonds</u>. The City may issue "Additional Bonds" if the following conditions are met:
  - (i) the City is not then in default as to any covenant, condition or obligation prescribed by an ordinance authorizing the issuance of any bonds payable from and secured by a first lien on and pledge of the Net Revenues;
  - (ii) the Additional Bonds are made to mature on March 1 or September 1 in each of the years in which they are scheduled to mature;
  - (iii) the net earnings of the System for any consecutive period of 12 months of the 15 months next preceding the month of the date of the Additional Bonds then to be issued, or for the City's completed Fiscal Year next preceding the date of such Additional Bonds, are equal to at least 1.25 times the maximum annual principal and interest requirements of all bonds to be outstanding after the issuance of the Additional Bonds, as such net earnings are shown by a report by a certified public accountant; and
  - (iv) the amount to be accumulated and maintained in the Reserve Fund shall be increased to an amount not less than the average annual requirements for the payment of principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and the Additional Bonds, such additional amount to be accumulated in equal monthly installments during a period not to exceed five years and one month.
- (b) <u>Maintain and Operate System Efficiently</u>. The City and the Board hereby covenant, respectively, that they will maintain and operate the System with all possible efficiency while any of the Bonds remain outstanding and faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State.
- (c) <u>Rate Covenant</u>. The Board hereby covenants that it will establish and maintain rates for water and sewer services supplied by the System which shall produce or yield revenues sufficient to pay maintenance and operating expenses of the System and an additional amount equal to 150% of the aggregate amount required to be paid in such year for principal and interest on all outstanding Previously Issued Senior Lien Bonds, the Bonds, and any Additional Bonds.
- (d) <u>Charges for Water and Sewer Service</u>. The City and the Board hereby covenant that charges for sewer services will be made jointly with charges made for the sale of water and water services. Such charges shall be required to be paid by the customer at the same time. Water connections shall be permitted only on a metered basis.

## (e) <u>Enforcement</u>.

(i) The City and the Board hereby respectively covenant, acting in the exercise of their respective police powers, to take all necessary action to require every owner, tenant or occupant of each lot or parcel of land in the City which abuts upon a street or other public way containing a sewer line and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use to connect such building with the System and to cease using any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with the rules

and regulations of the City and the Board, as may be adopted from time to time, which rules and regulations may provide for an inspection charge to assure the proper making of such connections.

- (ii) The City and the Board hereby further covenant, respectively, to require the occupant of any premises, the owner or occupant of which shall be delinquent for more than thirty (30) days in the payment of sewer charges imposed hereunder, to cease to dispose of sewage or industrial or commercial wastes originating from or on such premises by discharge thereof into the System until such delinquent charges, together with all penalties relating thereto, shall have been paid. In order to enforce the provisions of this covenant and to prevent the creation of a health hazard, in the event any such occupant shall not cease such disposal, the supply and sale of water to such premises shall cease until such time as all delinquencies have been removed.
- (iii) The Board will proceed immediately with a suit in assumpsit or similar action against such owner or occupant to recover the amount of any delinquent charges, together with penalties and with interest computed thereon at the rate of six percent (6%) per annum.
- (iv) The Board will shut off the supply of water to any premises the owner or occupant of which shall be delinquent for more than thirty (30) days in the payment of any charges imposed hereunder.
- (f) Nonimpairment of Lien. The City and the Board hereby covenant, respectively, to take no action or omit to take any action, or suffer to be done or omitted to be done, any matter or thing whatsoever whereby the lien of the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds on the revenues of the System might or could be lost or impaired, and that the Board will pay or cause to be paid, or will make adequate provision for the satisfaction and discharge of all lawful claims and demands for labor, materials, supplies, or other objects which, if unpaid, might by law be given precedence to, or an equality with the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds as a lien or charge upon the revenues of the System or any part thereof; provided that nothing in this subsection (f) shall be construed to require the Board to pay, discharge or make provision for any such lien, charge, claim or demand so long as the validity thereof shall be by it in good faith contested.
- (g) No Sale or Encumbrance of System. The City and the Board hereby covenant, respectively, that they will not in any manner dispose of the System or any substantial part thereof, including any and all extensions and additions that may be made thereto, until the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds shall have been paid in full as to both principal and interest; provided, however, that this covenant shall not be construed to prevent the disposal by the City of property, which in the Board's judgment has become inexpedient to use in connection with the System, when other property of equal value is substituted therefor or when the proceeds of such disposition of such property are placed in the Interest and Sinking Fund, in addition to all other amounts required to be placed in the Interest and Sinking Fund in the current Fiscal Year, and are used for the retirement of Bonds, Previously Issued Senior Lien Bonds, and any Additional Bonds in advance of their respective maturities.

- (h) <u>Payment to City from Sale of Land</u>. An amount equal to five percent (5%) of the net proceeds from the sale of lands of the System shall be paid as received to the General Fund of the City and used for any lawful purpose.
- (i) <u>No Competing Systems</u>. The City hereby covenants that it will not grant a franchise for the operation of any competing water or sewer system in the City until all Bonds, Previously Issued Senior Lien Bonds and any Additional Bonds have been paid in full with respect to principal and interest.
- (j) <u>No Free Service</u>. The Board hereby covenants that it will not permit free water or services to be supplied to the City or to any other user, and the City hereby agrees that it will pay from its general fund the reasonable value of all water and services obtained from the System by the City and all departments and agencies thereof.

## Section 10.04 Covenants to Maintain Tax Exempt Status.

(a) <u>Definitions</u>. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

- (b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause interest on any Bond issued hereunder to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.
- (c) <u>No Private Use or Private Payments</u>. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last stated maturity of the Bonds:
  - (i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and
  - (ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations) or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.
- (d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.
- (e) <u>Not to Invest at Higher Yield</u>. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final stated maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the

Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

- (f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.
- (g) <u>Information Report</u>. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.
- (h) <u>Rebate of Arbitrage Profits</u>. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:
  - (i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.
  - (ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.
  - (iii) As additional consideration for the purchase of the Bonds by the Purchaser and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.
  - (iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time

thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148 3(h) of the Regulations.

- (i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the stated maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.
- (j) <u>Elections</u>. The City hereby directs and authorizes the City Manager, the President/Chief Executive Officer of the System, the Vice President of Financial and Management Services of the System and/or the Chief Financial Officer of the System, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.
- (k) <u>Bonds Not Hedge Bonds</u>. (1) At the time the original obligations refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such original obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.
- (1) <u>Current Refunding</u>. The payment and discharge of the Refunded Obligations will occur within ninety (90) days after the issuance of the Bonds and, therefore, the Bonds are a current refunding.

<u>Section 10.05</u> <u>Continuing Obligation</u>. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Article 10 shall survive the defeasance and discharge of the Bonds.

#### ARTICLE 11

## **DEFAULT AND REMEDIES**

Section 11.01 Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Sinking Fund or the Reserve Fund as required by the Ordinance, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in the Ordinance, the Owner or Owners of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in the Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, nor shall such delay or omission be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.02 Remedies Not Exclusive. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

#### ARTICLE 12

#### **DISCHARGE**

<u>Section 12.01</u> <u>Discharge</u>. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of Net Revenues of the System under this Ordinance and all covenants, agreements, and other obligations of the City to the Owners shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations shall mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the stated maturity thereof. In the event of a defeasance of the Bonds, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, an independent certified public accountant, or another qualified third party concerning the sufficiency of the deposit of cash and/or Government Obligations to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Bonds. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use will be made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or the regulations adopted pursuant thereto.

All moneys so deposited with the Paying Agent/Registrar or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section, which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after

the stated maturity of the Bonds such moneys were deposited and are held in trust to pay shall upon request of the City be remitted to the City against a written receipt therefor. The provisions of this paragraph are subject to the applicable unclaimed property law of the State of Texas.

The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Obligations for the Government Obligations originally deposited, to reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the City moneys in excess of the amount required for such defeasance.

Upon such deposit as described above, such Bonds shall no longer be regarded to be outstanding or unpaid. Provided, however, the City has reserved the option, to be exercised at the time of the defeasance of the Bonds, to call for redemption, at an earlier date, those Bonds which have been defeased to their maturity date, if the City: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Bonds for redemption; (ii) gives notice of the reservation of that right to the Owners immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

#### ARTICLE 13

## SALE AND DELIVERY OF BONDS; OFFICIAL STATEMENT

## Section 13.01 Sale of Bonds-Official Statement.

(a) The Bonds authorized by this Ordinance are to be sold by the City to the Purchaser by (i) negotiated sale, in accordance with one or more bond purchase agreements (each, a "Purchase Contract"), (ii) private placement, in accordance with one or more agreements to purchase or other agreement, or (iii) competitive bidding, in accordance with the successful bids submitted therefor, as determined by the Pricing Officer, in accordance with Section 3.02 hereof. In the event the Bonds are sold by negotiated sale, the Pricing Officer shall designate and identify the Purchaser in the applicable Pricing Certificate. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract, agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable, for and on behalf of the City and as the act and deed of this City Council.

The Mayor and City Clerk or Alternate City Clerk of the City are further authorized and directed to manually or electronically execute and deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Purchaser, in final form as may be required by the Purchaser, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by such officials shall be deemed to be approved by the City Council of the City and constitute the Official Statement authorized for distribution and use by the Purchaser.

(b) The City Manager, the President/Chief Executive Officer of the System, the Vice President of Financial and Management Services of the System, the Chief Financial Officer of the System or any other officer of the City are each authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Bonds, as they

may deem appropriate in order to consummate the delivery of the Bonds in accordance with the provisions and terms of this Ordinance and the Pricing Certificate.

(c) The obligation of the Purchaser to accept delivery of the Bonds is subject to the Purchaser being furnished with the final, approving opinion of Norton Rose Fulbright US LLP as Bond Counsel for the City, which opinion shall be dated and delivered the Closing Date. The prior engagement of such firm as Bond Counsel to the City in connection with the issuance of its System revenue bonds is hereby approved and confirmed.

#### ARTICLE 14

#### CONTINUING DISCLOSURE UNDERTAKING

## Section 14.01 Annual Reports.

- (a) The City shall cause the Board to provide annually to the MSRB (1) within six months after the end of each Fiscal Year (beginning with the Fiscal Year stated in the Pricing Certificate) financial information and operating data with respect to the System of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate, and (2) if not provided as part of such financial information and operating data, audited financial statements of the System, when and if available, and in any case within 12 months after the end of each Fiscal Year (beginning with the Fiscal Year stated in the Pricing Certificate). Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation, and audited, if the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the Board will provide unaudited financial statements by the required time and audited financial statements when and if such audited financial statements become available.
- (b) If the Board changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new Fiscal Year end) prior to the next date by which the Board otherwise would be required to provide financial information and operating data pursuant to this Article.
- (c) The financial information and operating data to be provided pursuant to this Article may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's internet website or filed with the SEC.

## Section 14.02 Notice of Certain Events.

- (a) The City will cause the Board to provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:
  - (i) principal and interest payment delinquencies;
  - (ii) non-payment related defaults, if material;
  - (iii) unscheduled draws on debt service reserves reflecting financial difficulties;

- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
  - (vii) modifications to rights of Owners of the Bonds, if material;
  - (viii) Bond calls, if material, and tender offers;
  - (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
  - (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership, or similar event of the Board or City, which shall occur as described below;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Board or City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (xv) incurrence of a Financial Obligation of the Board, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Board, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Board, any of which reflect financial difficulties.

For these purposes, (a) any event described above in Section 14.02(a)(xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Board or City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Board or City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Board or City, and (b) the City intends the words used in the immediately preceding subsections (a)(xv) and (a)(xvi) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

(b) The City hereby instructs the Board to notify the MSRB, in a timely manner, of any failure by the Board to provide financial information or operating data in accordance with this Article by the time required by this Article.

<u>Section 14.03</u> <u>Filings with the MSRB</u>. All financial information, operating data, financial statements, notices, and other documents provided to the MSRB in accordance with this Article shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

## Section 14.04 Limitations, Disclaimers and Amendments.

- (a) The City, acting through the Board, shall be obligated to observe and perform the covenants specified in this Article with respect to the City, the Board and the Bonds while, but only while, the City or the Board remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City will cause the Board in any event to give notice required by Section 14.02 hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."
- (b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the financial results, condition, or prospects of the City or the State of Texas or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BOARD OR THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

- (c) No default by the Board or the City in observing or performing its obligations under this Article shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.
- (d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the Board or the City under federal and state securities laws.
- (e) Notwithstanding anything herein to the contrary, the provisions of this Article may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of

operations of the City or the Board, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Order that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. The provisions of this Article may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

#### **ARTICLE 15**

# REDEMPTION AND PAYMENT OF REFUNDED OBLIGATIONS; ESCROW AGREEMENT

Section 15.01 Redemption of Refunded Bonds (a) In order to provide for the refunding, discharge, and retirement of the Refunded Bonds, the Refunded Bonds, identified, described, and in the amounts set forth in the Pricing Certificate, are called for redemption on the first date such Refunded Bonds are subject to redemption or such other date specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption date, and notice of such redemption shall be given in accordance with the applicable provisions of the ordinance adopted by the City Council of the City which authorized the issuance of the Refunded Bonds. The Pricing Officer is hereby authorized and directed to issue or cause to be issued a Notice of Redemption for the Refunded Bonds in substantially the form set forth as an exhibit to the Pricing Certificate, to the paying agent/registrar for the Refunded Bonds, in accordance with the redemption provisions applicable to the Refunded Bonds.(b)

The paying agent/registrar for the Refunded Bonds is hereby directed to make appropriate arrangements so that the Refunded Bonds may be redeemed on the redemption date.

(c) The source of funds for payment of the principal of and interest on the Refunded Bonds on their respective maturity or redemption date shall be from the funds deposited with the paying agent/registrar for the Refunded Bonds or with the Escrow Agent pursuant to the Escrow Agreement finalized by the Pricing Officer and approved in Section 15.03 of this Ordinance and by the Pricing Officer in the Pricing Certificate, if applicable.

<u>Section 15.02</u> Payment of Refunded ECP Notes. Following the deposit of funds to the credit of the Note Payment Fund for the ECP Notes or as otherwise specified in the Pricing

Certificate, the Refunded ECP Notes shall be payable solely from and secured by such deposits and shall cease to be payable from Net Revenues.

Section 15.03 Escrow Agreement. One or more deposit or escrow agreements (each, an "Escrow Agreement") by and between the City and one or more deposit or escrow agents designated in the Pricing Certificate (each, an "Escrow Agent"), if any such Escrow Agreement is required in connection with the refunding of the Refunded Obligations, shall be attached to and approved in the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of this City Council; and such Escrow Agreement as executed by such Pricing Officer shall be deemed approved by this City Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, the Pricing Officer is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

- 1. The identification of the Refunded Obligations;
- 2. The creation and funding of the Escrow Fund or Funds; and
- 3. The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agents' charges relating to the Refunded Obligations.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement (the "Escrowed Securities"), if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchaser for deposit to the credit of the "CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE REFUNDING BONDS ESCROW FUND" (referred to herein as the "Escrow Fund"), or such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, the Ordinance, the Pricing Certificate and the Escrow Agreement. To the extent permitted by the Escrow Agreement and if the Pricing Officer determines such an arrangement is in the City's best interest, the Pricing Officer is authorized to direct the Escrow Agent to reinvest cash balances representing receipts from the Escrowed Securities, make substitutions of the Escrowed Securities or sell or redeem the Escrowed Securities and reinvest the proceeds thereof in substituted Escrowed Securities and authorize the Escrow Agent to enter into any associated contract with a provider of such Escrowed Securities as long as any such substituted Escrowed Securities mature on the dates and in the amounts specified in a verification report as sufficient to pay the principal of and redemption premium, if any, and interest on the Refunded Obligations when due. All Escrowed Securities delivered under such an arrangement shall be delivered to the Escrow Agent on a "delivery versus payment" basis. To the extent the Pricing Officer determines such an arrangement is in the City's best interest, the Pricing Officer is authorized to sign any associated contract, agreement, certificate or instruction letter with respect to such arrangement.

On or immediately prior to the date of the delivery of the Bonds to the Purchaser, the Pricing Officer, or other authorized City official, shall also cause to be deposited (and is hereby authorized to cause to be deposited) with the Escrow Agent from moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Obligations an amount which, together

with the proceeds of sale of the Bonds, and the investment earnings thereon, will be sufficient to pay in full the Refunded Obligations (or the amount of accrued interest due thereon) on their scheduled maturity date(s) (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Pricing Certificate, of the amount of accrued interest due thereon).

#### ARTICLE 16

#### **MISCELLANEOUS**

## Section 16.01 Amendment to Ordinance.

- (a) <u>Amendments Without Consent</u>. This Ordinance, the Pricing Certificate and the rights and obligations of the City and of the owners of the Bonds may be modified or amended at any time without notice to or the consent of any owner of the Bonds or any other Previously Issued Senior Lien Bonds, solely for any one or more of the following purposes:
  - (i) To add to the covenants and agreements of the City contained in this Ordinance or the Pricing Certificate, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Ordinance or the Pricing Certificate;
  - (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ordinance or the Pricing Certificate, upon receipt by the City of an opinion of nationally recognized bond counsel, that the same is needed for such purpose, and will more clearly express the intent of this Ordinance or the Pricing Certificate;
  - (iii) To supplement the security for the Bonds, replace or provide additional credit facilities, or change the form of the Bonds or make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Bonds;
  - (iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Previously Issued Senior Lien Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Previously Issued Senior Lien Bonds; or
  - (v) To make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of outstanding Previously Issued Senior Lien Bonds.

Notice of any such amendment may be published by the City in the manner described in subsection (c) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory resolution and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory resolution.

- (b) Amendments With Consent. Subject to the other provisions of this Ordinance, the owners of outstanding Bonds aggregating a majority in outstanding principal amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Ordinance or the Pricing Certificate which may be deemed necessary or desirable by the City; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the outstanding Bonds, the amendment of the terms and conditions in this Ordinance, in the Pricing Certificate or in the Bonds so as to:
  - (i) Make any change in the maturity of the outstanding Bonds;
  - (ii) Reduce the rate of interest borne by outstanding Bonds;
  - (iii) Reduce the amount of the principal payable on outstanding Bonds;
  - (iv) Modify the terms of payment of principal of or interest on the outstanding Bonds, or impose any conditions with respect to such payment;
    - (v) Affect the rights of the owners of less than all Bonds then outstanding; or
  - (vi) Change the minimum percentage of the outstanding principal amount of Bonds necessary for consent to such amendment.
- (c) <u>Notice</u>. If at any time the City shall desire to amend this Ordinance or the Pricing Certificate other than pursuant to subsection (a) of this Section, the City shall cause written notice of the proposed amendment to be given by certified mail to each registered owner of the Bonds affected at the address shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file with the City Clerk for inspection by all owners of Bonds.
- (d) <u>Consent Irrevocable</u>. Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of eighteen (18) months from the date of mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after eighteen (18) months from the date of mailing by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the owners of a majority in outstanding principal amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.
- (e) <u>Ownership</u>. For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the registration books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

<u>Section 16.02</u> <u>Further Procedures</u>. The Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the System, the Vice President of Financial and Management Services of the System, and/or the Chief Financial Officer of the System and all other officers, employees and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to

time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the seal of the City and on behalf of the City all agreements, instruments, or such other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Bonds, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the System, the Vice President of Financial and Management Services of the System or the Chief Financial Officer of the System and the City's Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance: (i) in order to cure any technical ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such ministerial changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Additionally, the Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the Chief Financial Officer of the City or the Pricing Officer may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with such officer's facsimile signature instead of the officer's manual signature any written agreement, including a contract, purchase order or surety bond, and any related document, including an application, certificate, or approval. For purposes of this Ordinance, "facsimile signature" means a reproduction of the manual signature of an authorized officer that is made by any method.

<u>Section 16.03</u> <u>Effectiveness</u>. This Ordinance shall take effect and be in force from and after its passage and approval.

[The remainder of this page intentionally left blank.]

297096553.3 40

APPROVED AND ADOPTED this	_ day of, 2025.
	Renard U. Johnson Mayor, City of El Paso, Texas
ATTEST:	
Laura D. Prine City Clerk, City of El Paso, Texas	
(SEAL)	
APPROVED AS TO FORM:  Paul A. Braden Bond Counsel	Karla Nieman City Attorney City of El Paso, Texas
APPROVED AS TO CONTENT:	
Arturo Duran	

Chief Financial Officer El Paso Water Utilities

## **EXHIBIT A**

PAYING AGENT/REGISTRAR AGREEMENT

297096553.3 A-1

# **EXHIBIT B**

## FORM OF BOND

(a) Form of Bond.

· /			
REGISTERED No			REGISTERED \$
	UNITED STATES OF THE		
	COUNTY OF E	L PASO	
	CITY OF EL PASO	O, TEXAS,	
WATER	R AND SEWER REVENU SERIES 20		,
	MATURITY DATE: March 1, 20		CUSIP NO.:
The City of El Pareceived, hereby promises	so (the "City"), in the Co to pay to	ounty of El Paso, State o	of Texas, for value
or registered assigns, but a Maturity Date specified at	solely from the sources and bove, the sum of	d in the manner hereinaft	er provided, on the
		DOLLARS	
principal hereof shall have from the later of the date of been paid or provided for at the per annum rate of int 30-day months, such intercommencing or collection charges in I	ve been sooner called for been paid or provided for, f delivery or the most recenuntil payment of such princerest specified above, compest to be paid semiannually 1, 20 The principal of awful money of the Unite the designated payment/tra	and to pay interest on such tinterest payment date to cipal amount has been payed on the basis of a 360 y on March 1 and Septem this Bond shall be payabled States of America upo	ch principal amount o which interest has aid or provided for, -day year of twelve ber 1 of each year, e without exchange n presentation and
at the Designated Paymer payable by check, dated at the registered owner at Agent/Registrar or by su Agent/Registrar and the pe bear all risk and expense of payment of interest on this is registered at the close of	the designated payment/transfer Office") of	successor thereto. Intereste, mailed by the Paying he registration books keing arrangements acceptated; provided, however, thanking arrangements. For shall be the person in who Date," which shall be the	est on this Bond is Agent/Registrar to ept by the Paying able to the Paying at such person shall the purpose of the ose name this Bond fifteenth day of the

scheduled payment date, and for thirty days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which date shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof, dated as of \_\_\_\_\_\_\_, 20\_\_\_\_, issued in the aggregate principal amount of \$\_\_\_\_\_\_\_\_ (herein referred to as the "Bonds"), and issued pursuant to the authority provided by Texas Government Code, Chapters 1207 and 1371, as amended, and a certain ordinance of the City (the "Ordinance"), for the purposes of (i) refunding the Refunded ECP Notes, and/or (ii) refunding all or a portion of the Refunded Bonds, and (iii) paying the costs of issuing the Bonds as described in the Ordinance. Capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Ordinance.

The Bonds, together with the City's previously issued and presently outstanding water and sewer senior lien revenue bonds, are payable from and secured by a first lien on and pledge of the Net Revenues of the City's combined waterworks and sewer system. The City has reserved the right, subject to the restrictions stated in the Ordinance, to issue additional revenue bonds that may be secured in the same manner and on a parity with the Bonds and the Previously Issued Senior Lien Bonds.

The City reserves the option to redeem Bonds maturing on or after March 1, 20\_\_\_\_, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof, before their respective scheduled maturity dates, on \_\_\_\_\_\_, 20\_\_ or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each \$5,000 portion of the Bonds and select the portion or portions of the Bond to be redeemed by lot or by any other customary method that results in a random selection.

The Bonds stated to mature on March 1, 20\_\_ and March 1, 20\_\_ (the "Term Bonds") are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the following schedule:

Term Bonds Maturing March 1, 20						
Redemption Date	Principal Amount					
March 1, 20	\$ ,000					
March 1, 20 (maturity)	\$ ,000					

Term Bonds Maturing March 1, 20

$\boldsymbol{\varepsilon}$	, - <u></u>
Redemption Date	Principal Amount
March 1, 20	\$ ,000
March 1, 20	\$ ,000
March 1, 20	\$ ,000
March 1, 20 (maturity)	\$ ,000

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

As provided in the Ordinance and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar, and, thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption when such redemption is to occur within 45 calendar

days after the transfer or exchange date. However, such limitations of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that such redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City, the Paying Agent/Registrar, nor any such agent shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; and that the interest on and principal of this Bond and the series of which it is a part, together with certain outstanding senior lien revenue bonds of the City, are secured by and payable from an irrevocable first lien on and pledge of the Net Revenues of the System, as provided in Ordinance, and not from any other revenues, funds or assets of the City.

This Bond shall not be deemed to constitute a debt of the City or a pledge of its faith and credit; nor shall the Owners hereof ever have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Clerk or Alternate City Clerk, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

City Clerk	Mayor
City of El Paso, Texas	City of El Paso, Texas
(SEAL)	

[to be	prin	ted on Initial Bond only]
OFFICE OF THE COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS	§ § §	REGISTER NO
General of the State of Texas to the effect law, that he finds that it has been issued of Texas, and that it is a valid and binding	et that in co g speat	d of record in my office a certificate of the Attorney this Bond has been examined by him as required by informity with the Constitution and laws of the State cial obligation of the City of El Paso, Texas, payable and in the ordinance authorizing same and that such
Witness my hand and seal of offi	ce at	Austin, Texas, on this date:
		Comptroller of Public Accounts of the State of Texas
(SEAL)		
(c) Form of Certificate of Pa	ying .	Agent/Registrar.
CERTIFICATE O	F PA	YING AGENT/REGISTRAR
mentioned Ordinance; the bond or bond delivered having been approved by the	ds of Attor	nd registered under the provisions of the within- the above entitled and designated series originally ney General of the State of Texas and registered by a by the records of the Paying Agent/Registrar.
The designated office of the Pay Designated Payment/Transfer Office for	ving A	Agent/Registrar in,, is the Bond.
		as Paying Agent/Registrar
Dated:	]	Ву:
		Authorized Signature

Form of Comptroller's Registration Certificate.

(b)

(d) Form of Assignment.

## **ASSIGNMENT**

or	FOR V		RECEIVE name,	D, the undersign address	gned hereby so and Zip	_	nd transf	
right attor	s hereun	der and insfer th	d hereby ne within B	irrevocably co	onstitutes and	appoints		Bond and all full power of
Dat	ed:							
Signature Guaranteed By:		NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the						
Aut	chorized S	ngnator	у		Paying Aş	gent/Registrar		
exce	(e) pt for the		nitial Bond ng alteratio	shall be in the	e form set for	th in subsecti	on (a) of	f this Exhibit,
		•		ely under the n completed wi leted.			_	
	be inse		n of on March 1	paragraph of t In each of the state of the s	OOLLARS" sl years, in the pr	hall be deleted rincipal amour	and the	
		Yes	a <u>r</u>	Principal .	Amount	Inter	rest Rate	
			(Inform	ation to be inse	erted from the	Pricing Certif	icate)	
		(iii)	the Initial	Bond shall be	numbered T-1	l <b>.</b>		
Bono	(f) ds if such		-	's Registration Initial Bond is		•	ed from	the definitive



## RESOLUTION

A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE OF UP TO \$302,300,000 OF CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE REFUNDING BONDS TO PAY OFF UP TO \$300,000,000 OF EXTENDABLE COMMERCIAL PAPER NOTES, AND TO FUND RELATED TRANSACTION COSTS, PROVIDED THAT CERTAIN PARAMETERS ARE MET.

**WHEREAS**, the El Paso Water Utilities Public Service Board ("Board") was established on May 22, 1952, by Ordinance No. 752 of the City of El Paso for the purpose of the Board having complete authority and control of the management and operation of the water and wastewater system (the "System"); and

**WHEREAS**, on May 7, 2024, the El Paso City Council authorized the establishment of the City of El Paso, Texas, Water and Sewer Utility System Extendable Commercial Paper Program (the "Extendable Commercial Paper Program") to allow for the issuance of tax-exempt extendable commercial paper notes (the "ECP Notes"), in an amount not to exceed \$300,000,000, to provide interim funding to support the Capital Improvement Program for the System; and

**WHEREAS**, on May 7, 2024, the El Paso City Council authorized the issuance of up to \$303,000,000 of City of El Paso, Texas Water and Sewer Utility System Revenue Refunding Bonds to pay off up to \$300,000,000 of outstanding ECP Notes and fund related transaction costs, provided that certain parameters set forth in the ordinance were met; and

**WHEREAS**, the Board hereby finds and determines that it is in the best interests of the System and the City to refund the City's outstanding ECP Notes for the purpose of making such debt long-term fixed rate debt of the City; and

**WHEREAS**, the Board requests the El Paso City Council to authorize the issuance of up to \$302,300,000 of City of El Paso, Texas, Water and Sewer Utility System Revenue Refunding Bonds to refund the outstanding ECP Notes and to fund related transaction costs.

# NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

Section 1. That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board ("Board") and made a part of this Resolution for all purposes.

Section 2. That the Board hereby requests the El Paso City Council to authorize the issuance of up to \$302,300,000 of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds to (i) pay off up to \$300,000,000 of outstanding Extendable Commercial Paper Notes and (ii) fund related transaction costs, provided that certain pricing parameters set forth in the ordinance authorizing such Bonds are met.

(Signatures on the Following Page)

PASSED AND APPROVED at the regular meeting of the Public Service Board, this 12th day of March, 2025, at which meeting a quorum was present and which was held in accordance with the provisions of Texas Government Code, Sections 551.001, et. seq.

ATTEST

Stefanie Block Uribarri, Secretary/Treasurer

EL PASO WATER UTILITIES

PMBLIC SERVICE BOARD

Bryan Morris, Chair

APPROVED AS TO CONTENT:

Arturo Duran

Chief Financial Officer

APPROVED AS TO FORM:

Daniel Ortiz

General Counsel

## RESOLUTION

A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE OF UP TO \$37,100,000 OF CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE REFUNDING BONDS TO REFUND UP TO \$36,570,000 OF THE CURRENTLY OUTSTANDING EL PASO, TEXAS, WATER AND SEWER REVENUE, IMPROVEMENT, AND REFUNDING BONDS SERIES 2016 BONDS ("REFUNDED BONDS") AND TO FUND RELATED TRANSACTION COSTS, PROVIDED THAT CERTAIN PARAMETERS ARE MET.

**WHEREAS**, the El Paso Water Utilities Public Service Board ("Board") was established on May 22, 1952, by Ordinance No. 752 of the City of El Paso for the purpose of the Board having complete authority and control of the management and operation of the water and wastewater system (the "System"); and

**WHEREAS**, on May 7, 2024, the El Paso City Council authorized the issuance of up to \$40,480,000 City of El Paso, Texas, Water and Sewer Revenue Bonds, to refund Series 2015A and 2015C; and

**WHEREAS**, the Board hereby finds and determines that it is in the best interests of the System and the City to refund all or a portion of the Refunded Bonds in order to achieve a present value debt service savings; and

**WHEREAS**, in order to take advantage of such potential savings, the Board requests the El Paso City Council to approve the issuance of up to \$37,100,000 of City of El Paso, Texas, Water and Sewer and Revenue Refunding Bonds and fund related transaction costs.

# NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

<u>Section 1.</u> That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the El Paso Water Utilities Public Service Board hereby requests the El Paso City Council to authorize the issuance of up to \$37,100,000 of City of El Paso, Texas, Water and Sewer Revenue Refunding Bonds to refund up to \$36,570,000 of the Refunded Bonds and to fund related transaction costs, provided that certain pricing parameters as set forth in the City's bond ordinance are met.

(Signatures on the Following Page)

PASSED AND APPROVED at the regular meeting of the Public Service Board, this 12th day of March, 2025, at which meeting a quorum was present and which was held in accordance with the provisions of Texas Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Bryan Morris, Chair

ATTEST:

Stefanie Block Uribarri, Secretary/Treasurer

APPROVED AS TO CONTENT:

Arturo Duran

Chief Financial Officer

APPROVED AS TO FORM:

Daniel Ortiz General Counsel



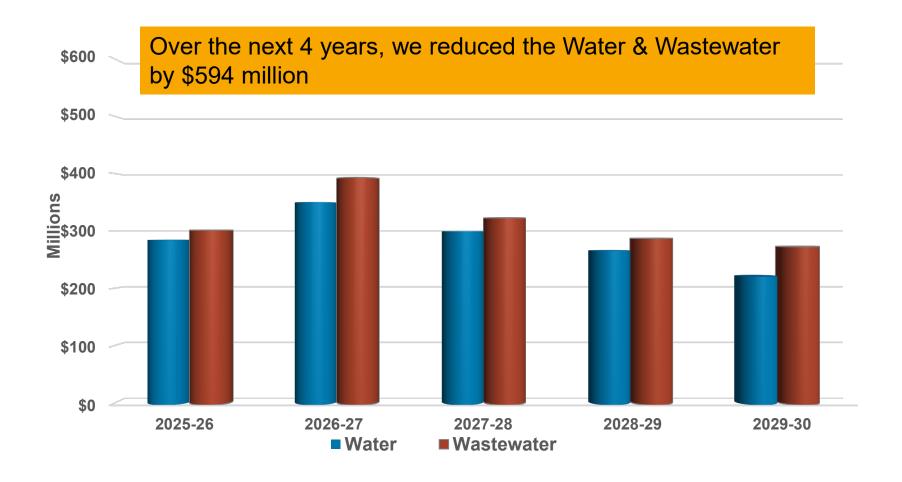
Extendable Commercial Paper Program: Parameter Authorization for Water & Sewer Utility Refunding Bonds \$302.3 Million

#### **Transaction Overview**

#### **Extendable Commercial Paper Fix-Out**

- City of El Paso created the Extendable Commercial Paper ("ECP") Program for the Water
   & Sewer Utility on May 7, 2024. Funding capacity of the ECP Program: \$300,000,000
- As part of the ECP Program, the City is required to approve a parameter ordinance to issue refunding bonds, for the maximum capacity of funds, within 12 months of approval of the ordinance.
- To continue using the ECP Program, staff requests approval of a new parameter authorization to refund up-to \$300 million of ECP notes for the NEXT 12 months.
- Utility Bonds and ECP are budgeted annually and funded fully by EPWater's system
   revenues. No tax revenue is used to pay for EPWater's CIP financing.

### Five-Year Combined Projected CIP Budget



## Water & Sewer ECP Funded Current and Future Projects

ECP Major Expenditures to Date Fred Hervey WRP Headworks (\$13.2M)

Manhole Rehabilitation (\$6.3M)

Franklin East 24" Waterline Extension (\$5.2M)

Montana Waterline Replacement (\$5.0M)

Roberto R. Bustamante WWTP Headworks (\$4.6M)

ECP Funded Future Projects

Roberto R. Bustamante WWTP Upgrades and Rehabilitation (\$398.2M)

Advanced Water Purification Facility (\$152.1M)

State Senate Bill 3 Energy System Upgrades (\$35M)

Frontera Force Main Rehabilitation (\$23.5M)



#### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Water & Sewer Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 5.90%
  - Not-to-Exceed Par of Bonds \$302,300,000
  - Final Maturity Date December 31, 2056
  - Expiration of Delegated Authority 12 months
- ☐ Pricing Officer can only approve sale if all Council parameters are met.

<sup>\*</sup>Current market rates as of April 14, 2025, would price a bond amortized over 30 years for a "AA" utility revenue bond at approximately <u>5.00%</u>. Actual interest rates are set at prevailing market rates when bonds are finally priced and sold.

#### **Extendable Commercial Paper Refunding Summary**

#### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES	
Bond Proceeds	
Par Amount & Premium	\$302,300,000
Total Sources	\$302,300,000

Uses of Funds	
Refunding Deposit	\$300,000,000 (1)
Costs of Issuance	900,000 (2)
Underwriter's Fees	1,400,000 (3)
Total Uses of Funds	\$302,300,000

- (1) Assumes the Utility Refunds the maximum capacity of ECP notes for a total of \$300 million.
- (2) Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.
- (3) Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses.

NOTE: Analysis is preliminary and subject to change.

#### Conclusion

## **QUESTIONS & ANSWERS**



Water & Sewer Utility Refunding Bonds \$37.1 Million

#### **Bond Refinancing Overview**

#### Water & Sewer Utility System Revenue Refunding Bonds

#### **Existing Refinancing Candidates**

#### W&S Revenue Improvement & Refunding Bonds, Series 2016

Call Date: 3/1/2026

Callable Principal: \$36,570,000 (Maturities 2027-2037)

• Coupon Range: 4.00 - 5.00%

Final Maturity: 3/1/2037

\*Current Refunding: The IRS allows for tax-exempt bonds to be refinanced only under certain circumstances. The Series 2016 Bonds, with their call date occurring on March 1, 2026, will meet that criteria.

#### **Refinancing "Refunding" Summary**

#### Water & Sewer Utility System Revenue Refunding Bonds

Key Bond Statistics*	
Total Savings	\$1,394,000
Net Present Value Savings (\$)	\$1,110,000
Net Present Value Savings (%)	3.03%
Average Annual Savings	\$125,000
Estimated Borrowing Cost (TIC)	4.03%



\*Note: This analysis is preliminary and subject to change. Actual results will be based on market conditions at the time of pricing.

For presentation purposes, refunding summary assumes a minimum Net Present Value (NPV) scenario of 3.00%. Current market rates as of April 14, 2025 show a refunding with NPV savings of 2.23%.

#### **Refinancing Summary**

#### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES	
Bond Proceeds	
Par Amount & Premium	\$37,100,000
Total Sources	\$37,100,000

Uses of Funds	
Refunding Deposit	\$36,570,000
Costs of Issuance	235,000 (1)
Underwriter's Fees & Other Misc.	295,000 <sup>(2)</sup>
Total Uses of Funds \$37,100,000	

NOTE: Analysis is preliminary and subject to change.

<sup>(1)</sup> Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.

<sup>(2)</sup> Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses. Other Miscellaneous includes any other expenses that may be incurred prior to closing.

#### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Water & Sewer Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 4.50%
  - Not-to-Exceed Principal Amount \$37,100,000
  - Minimum Present Value Savings 3.00%
  - Final Maturity Date December 31, 2037
  - Expiration of Delegated Authority 12 months (from City Council Approval)
- ☐ Pricing Officer can only approve sale if all Council parameters are met.



## Final Pricing Numbers for Water & Sewer Utility Bonds Series 2025

#### 2025 Water & Sewer Utility Bond Results

**Priced March 4, 2025:** Pricing for Tax Exempt Refunding Bonds, Series 2025

## Council approved in May 2024 the parameters for the Extendable Commercial Paper (ECP) for the Water & Sewer Utility to finance CIP projects

- Series 2025 (Refunding ECP Notes of \$280 million for the Water & Sewer Utility)
- **□**Council approved parameters:
  - Maximum True Interest Cost 5.15%: ACTUAL: 4.26%
  - Aggregate Not-to-Exceed Principal Amount for all bonds \$303,000,000:
     ACTUAL: \$260,775,000
  - Final Maturity Date December 31, 2050: ACTUAL: March 1, 2050
  - Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

#### 2025 Water & Sewer Utility Bond Results

 Series 2025 (Current Refunding of \$39,335,000 of 2015A & 2015C Water & Sewer Utility Refunding Bonds) Resulted in \$3.1 million of interest savings

#### **□** Council approved parameters:

- Maximum True Interest Cost 4.00%: ACTUAL: 3.04%
- Aggregate Not-to-Exceed Principal Amount for all bonds \$40,480,000:
   ACTUAL: \$36,030,000
- Final Maturity Date December 31, 2035: ACTUAL: March 1, 2035
- Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council



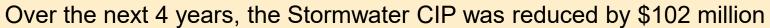
Extendable Commercial Paper Program:
Parameter Authorization for Municipal Drainage
Utility Refunding Bonds

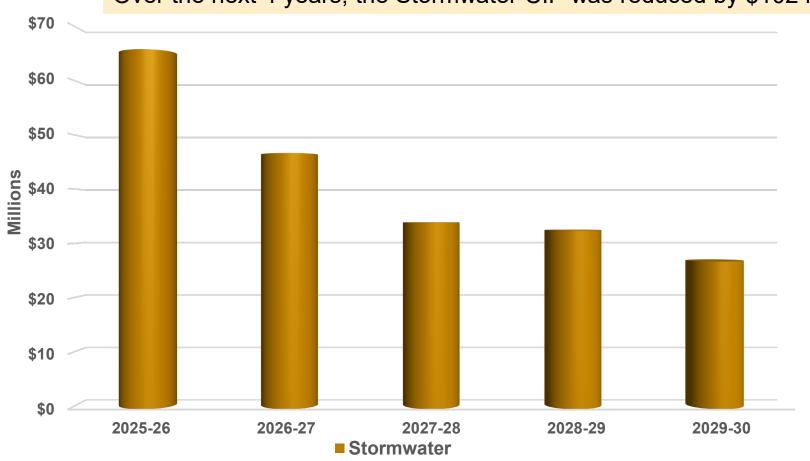
#### **Transaction Overview**

#### **Extendable Commercial Paper Fix-Out**

- City of El Paso created the Extendable Commercial Paper ("ECP") Program for the Municipal Drainage Utility on May 9, 2023. Funding capacity of the ECP Program: \$60,000,000
- As part of the ECP Program, the City is required to approve a parameter ordinance to issue refunding bonds, for the maximum capacity of funds, within 12 months of approval of the ordinance. City Council last approved the ordinance in May 2024.
- To continue using the ECP Program, staff requests approval of a new parameter authorization to refund up-to \$60 million of ECP notes for the NEXT 12 months.

### Five-Year Combined Projected CIP Budget





## Municipal Drainage ECP Funded Current and Future Projects

ECP Major
Expenditures to
Date

Stormwater Land Acquisition (\$9.8M)

SAC 2 Land Acquisition (\$9M)

Arroyo 1 Dam Detention Improvements (\$5.6M)

Pico Norte Slope Restoration (\$5M)

ECP Funded Future Projects

Will Ruth Pond (\$46.2M)

Hondo Pass Drive Drainage Improvements (\$400K)



#### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Municipal Drainage Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 5.75%
  - Not-to-Exceed Par of Bonds \$60,600,000
  - Final Maturity Date December 31, 2051
  - Expiration of Delegated Authority 12 months
- ☐ Pricing Officer can only approve sale if all Council parameters are met.

<sup>\*</sup>Current market rates as of April 14, 2025, would price a bond amortized over 25 years for a "AA+" utility revenue bond at approximately 4.87%. Actual interest rates are set at prevailing market rates when bonds are finally priced and sold.

#### **Extendable Commercial Paper Refunding Summary**

#### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES	
Bond Proceeds	
Par Amount & Premium	\$60,600,000
Total Sources	\$60,600,000

Uses of Funds	
Refunding Deposit	\$60,000,000 (1)
Costs of Issuance	252,000 <sup>(2)</sup>
Underwriter's Fees	348,000 <sup>(3)</sup>
Total Uses of Funds	\$60,600,000

- (1) Assumes the Utility Refunds the maximum capacity of ECP notes for a total of \$60 million.
- (2) Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.
- (3) Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses.

NOTE: Analysis is preliminary and subject to change.



Municipal Drainage Utility Refunding Bonds \$13 Million

#### **Bond Refinancing Overview**

#### Municipal Utility Drainage System Revenue Refunding Bonds

#### **Existing Refinancing Candidates**

#### Municipal Drainage System Revenue Bonds, Series 2016

• Call Date: 3/1/2026

Callable Principal: \$12,645,000 (Maturities 2027-2036)

• Coupon: 5.00%

Final Maturity: 3/1/2036

\*Current Refunding: The IRS allows for tax-exempt bonds to be refinanced only under certain circumstances. The Series 2016 Bonds, with their call date occurring on March 1, 2026, will meet that criteria.

#### **Refinancing "Refunding" Summary**

#### **Municipal Utility Drainage System Revenue Refunding Bonds**

Key Bond Statistics*	
<b>Total Savings</b>	\$567,000
Net Present Value Savings (\$)	\$458,000
Net Present Value Savings (%)	3.62%
Average Annual Savings	\$58,000
Estimated Borrowing Cost (TIC)	4.06%



<sup>\*</sup>Note: This analysis is preliminary and subject to change. Actual results will be based on market conditions at the time of pricing. For presentation purposes, rates assume underlying ratings by S&P "AA+" and Fitch "AA+" as of April 14, 2025.

#### **Refinancing Summary**

#### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES	
Bond Proceeds	
Par Amount & Premium	\$13,000,000
Total Sources	\$13,000,000

Uses of Funds	
Refunding Deposit	\$12,645,000
Costs of Issuance	135,000 (1)
Underwriter's Fees & Other Misc.	220,000 (2)
Total Uses of Funds \$13,000,000	

NOTE: Analysis is preliminary and subject to change.

<sup>(1)</sup> Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.

<sup>(2)</sup> Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses. Other Miscellaneous includes any other expenses that may be incurred prior to closing.

#### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Municipal Drainage Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 4.50%
  - Not-to-Exceed Principal Amount \$13,000,000
  - Minimum Present Value Savings 3.00%
  - Final Maturity Date December 31, 2036
  - Expiration of Delegated Authority 12 months (from City Council Approval)
- ☐ Pricing Officer can only approve sale if all Council parameters are met.



# Final Pricing Numbers for Bonds Drainage Utility Series 2025

#### **2025 Drainage Utility Bond Results**

**Priced March 18, 2025:** Pricing for Tax Exempt Refunding Bonds, Series 2025

## Council approved the parameters for the Extendable Commercial Paper (ECP) for the Drainage Utility to finance Stormwater projects

- Series 2025 (Refunding ECP Notes of \$20 million for the Drainage Utility)
- **□**Council approved parameters:
  - Maximum True Interest Cost 5.15%: ACTUAL: 4.38%
  - Aggregate Not-to-Exceed Principal Amount for all bonds \$61,200,000:
     ACTUAL: \$19,215,000
  - Final Maturity Date December 31, 2050: ACTUAL: March 1, 2050
  - Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

#### **2025 Drainage Utility Bond Results**

Series 2025 (Current Refunding of \$13,490,000 of 2015
 Drainage Utility Refunding Bonds Resulted in \$1.3 million of interest savings

#### **□**Council approved parameters:

- Maximum True Interest Cost 4.00%: ACTUAL: 3.31%
- Aggregate Not-to-Exceed Principal Amount for all bonds \$14,000,000:
   ACTUAL: \$12,575,000
- Final Maturity Date December 31, 2035: ACTUAL: March 1, 2035
- Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

#### Conclusion

## **QUESTIONS & ANSWERS**

#### El Paso, TX

#### **Legislation Text**

File #: 25-513, 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**

El Paso Water, Arturo Duran, (915) 594-5549

#### AGENDA LANGUAGE:

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

An Ordinance authorizing the issuance of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds in an aggregate amount not to exceed \$73,600,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters.

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

**DEPARTMENT:** El Paso Water Utilities Public Service Board

AGENDA DATE: Introduction and Public Hearing- April 29, 2025

CONTACT PERSON/PHONE: Arturo Duran, El Paso Water Utilities Chief Financial Officer

(915) 594-5549

**DISTRICT(S) AFFECTED: All Districts** 

**SUBJECT: APPROVE the following Ordinance** 

Consider and adopt an Ordinance authorizing the issuance of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds in an aggregate amount not to exceed \$73,600,000 to refund certain previously issued obligations of the City; and resolving matters which are necessary to effect such issuance, including the delegation of matters relating to the sale and issuance of the bonds to an authorized City officer or employee within certain specified parameters. (All Districts) [Arturo Duran (915) 594-5549] [Public Hearing Date: April 29, 2025]

#### **BACKGROUND / DISCUSSION:**

EPWater is requesting the City Council of the City of El Paso to authorize the issuance of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds in an aggregate amount not to exceed \$73,600,000 to refund certain previously issued obligations of the City.

EPWater finds that it is in the best interest of the ratepayers to pursue this financing.

#### **PRIOR COUNCIL ACTION:**

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

Yes, on May 7, 2024, City Council approved \$75,200,000 of City of El Paso, Texas Municipal Drainage Utility System Revenue Refunding Bonds, to refund certain previous obligations including issuance costs.

#### AMOUNT AND SOURCE OF FUNDING:

This item will be funded through the sale of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds.

#### **BOARD / COMMISSION ACTION:**

The El Paso Water Utilities Public Service Board approved two Resolutions on March 12, 2025:

- Requesting that the City Council authorize the issuance of up to \$60,600,000 of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds to pay off up to \$60,000,000 of outstanding ECP Notes, and to fund interest and related transaction costs provided that certain pricing parameters outlined in such ordinance are met.
- Requesting that the City Council authorize the issuance of up \$13,000,000 of City of El Paso, Texas,
  Municipal Drainage Utility System Revenue Refunding Bonds to refund up to \$12,645,000 of the
  currently outstanding Municipal Drainage Utility Revenue System Bonds, Series 2016, and to fund
  interest and related transaction costs provided that certain pricing parameters outlined in such ordinance
  are met.

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT ART DURAN TO PICK UP THE DOCUMENTS AT (915) 594-5549. THANK YOU.

ORDINANCE NO
AUTHORIZING THE ISSUANCE OF
CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE REFUNDING BONDS
Adopted:, 2025

#### TABLE OF CONTENTS

		<u>Page</u>
ARTICLE 1 DEFINIT	IONS, FINDINGS AND INTERPRETATION	3
Section 1.01	Definitions	3
Section 1.02	Findings	9
Section 1.03	Table of Contents, Titles and Headings	9
Section 1.04	Interpretation	9
ARTICLE 2 SECURIT	ΓΥ FOR THE BONDS	10
Section 2.01	Security for the Bonds	10
Section 2.02	Limited Obligations	10
Section 2.03	Security Interest	10
	RIZATION; GENERAL TERMS AND PROVISIONS GARDING THE BONDS	10
Section 3.01	Authorization	10
Section 3.02	Delegation of Authority to Pricing Officer.	10
Section 3.03	Date, Denomination, Maturities, Numbers and Interest	12
Section 3.04	Medium, Method and Place of Payment	12
Section 3.05	Execution and Initial Registration	13
Section 3.06	Ownership.	14
Section 3.07	Registration, Transfer and Exchange.	14
Section 3.08	Cancellation and Authentication.	15
Section 3.09	Temporary Bonds	16
Section 3.10	Replacement Bonds.	16
Section 3.11	Book-Entry Only System.	17
Section 3.12	Successor Securities Depository; Transfer Outside Book-Entry Only System	
Section 3.13	Payments to Cede & Co	18
ARTICLE 4 REDEMP	PTION OF BONDS BEFORE MATURITY	18
Section 4.01	Limitation on Redemption	18
ARTICLE 5 PAYING	AGENT/REGISTRAR	19
Section 5.01	Appointment of Initial Paying Agent/Registrar	19
Section 5.02	Qualifications of Paying Agent/Registrar	19
Section 5.03	Maintaining Paying Agent/Registrar.	19
Section 5.04	Termination of Paying Agent/Registrar	19
Section 5.05	Notice of Change of Paying Agent/Registrar to Owners	19

i

#### TABLE OF CONTENTS

(continued)

		Page
Section 5.06	Agreement of Paying Agent/Registrar to Perform Duties and Functions	19
Section 5.07	Delivery of Records to Successor	19
ARTICLE 6 FORM OF	THE BONDS	20
Section 6.01	Form Generally.	20
Section 6.02	Form of the Bonds	20
Section 6.03	CUSIP Registration	20
Section 6.04	Legal Opinion	20
Section 6.05	Statement of Insurance	20
ARTICLE 7 PUBLIC SI	ERVICE BOARD	21
Section 7.01	Public Service Board	21
ARTICLE 8 FUNDS; FI	LOW OF FUNDS	22
Section 8.01	Special Funds.	22
Section 8.02	Revenue Fund	22
Section 8.03	Investment of Funds	24
Section 8.04	Contributions in Aid of Construction	24
ARTICLE 9 DEPOSIT	OF PROCEEDS; CONTROL AND DELIVERY OF BONDS	25
Section 9.01	Deposit of Proceeds.	25
Section 9.02	Control and Delivery of Bonds.	25
ARTICLE 10 PARTICU	LAR REPRESENTATIONS AND COVENANTS	25
Section 10.01	Insurance	25
Section 10.02	Books and Records	25
Section 10.03	Additional Covenants	26
Section 10.04	Payment of Bonds	28
ARTICLE 11 COVENA	NTS TO MAINTAIN TAX EXEMPT STATUS	28
Section 11.01	Covenants to Maintain Tax Exempt Status	28
Section 11.02	Continuing Obligation	32
ARTICLE 12 DEFAUL	T AND REMEDIES	32
Section 12.01	Remedies in Event of Default	32
Section 12.02	Remedies Not Exclusive	32
ARTICLE 13 DISCHAF	RGE	32
Section 13.01	Discharge	32

#### TABLE OF CONTENTS

(continued)

		Page
ARTICLE 14 SALE A	ND DELIVERY OF BONDS; OFFICIAL STATEMENT	34
Section 14.01	Sale of Bonds - Official Statement	34
ARTICLE 15 CONTIN	UING DISCLOSURE UNDERTAKING	34
Section 15.01	Annual Reports.	34
Section 15.02	Notice of Certain Events.	35
Section 15.03	Filings with the MSRB	36
Section 15.04	Limitations, Disclaimers and Amendments	36
	PTION AND PAYMENT OF REFUNDED OBLIGATIONS; ROW AGREEMENT	38
Section 16.01	Redemption of Refunded Bonds.	38
Section 16.02	Payment of Refunded ECP Notes	38
Section 16.03	Escrow Agreement.	38
ARTICLE 17 MISCEL	LANEOUS	40
Section 17.01	Amendment to Ordinance	40
Section 17.02	Further Procedures	41
Section 17.03	Inconsistent Provisions	42
Section 17.04	Governing Law	42
Section 17.05	Effectiveness	42
EXHIBIT A PAYING	G AGENT/REGISTRAR AGREEMENT	

EXHIBIT B FORM OF BOND

AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE REFUNDING BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$73,600,000 TO REFUND CERTAIN PREVIOUSLY ISSUED OBLIGATIONS OF THE CITY; AND RESOLVING MATTERS WHICH ARE NECESSARY TO EFFECT SUCH ISSUANCE, INCLUDING THE DELEGATION OF MATTERS RELATING TO THE SALE AND ISSUANCE OF THE BONDS TO AN AUTHORIZED CITY OFFICER OR EMPLOYEE WITHIN CERTAIN SPECIFIED PARAMETERS

WHEREAS, in accordance with the Constitution and the laws of the State of Texas, specifically Chapter 552 of the Texas Local Government Code, as amended, formerly known as Subchapter C of Chapter 402 of the Texas Local Government Code (the "Act"), the City of El Paso, Texas (the "City") held public hearings on the creation of a municipal drainage utility system and adopted Ordinance No. 016668 on June 19, 2007, establishing and declaring the creation of the City's Municipal Drainage Utility System (the "System") within the municipal boundaries and unincorporated extraterritorial jurisdiction of the City; and

WHEREAS, in accordance with the Constitution and the laws of the State of Texas, specifically Texas Government Code, Chapter 1502, as amended, the City has previously issued municipal drainage utility system revenue bonds (the "Previously Issued Bonds") payable from and secured by a first and superior lien on and pledge of the net revenues of the System; and

WHEREAS, pursuant to an Ordinance Establishing a City of El Paso, Texas, Municipal Drainage Utility System Extendable Commercial Paper Program, adopted on May 9, 2023, the City has authorized to be outstanding its Municipal Drainage Utility System Extendable Commercial Paper Notes, Series A (Tax-Exempt), in an aggregate principal amount not to exceed \$60,000,000 outstanding at any one time (collectively, the "ECP Notes"), secured by revenues of the System; and

WHEREAS, there has been filed with the City Council one or more resolutions adopted and approved by the Public Service Board (hereinafter defined as the "Board") requesting the City Council to approve the issuance and sale of the City's revenue bonds for the purposes of (1) refunding certain outstanding obligations secured by revenues of the System and (2) paying the costs of issuing the revenue bonds authorized by this Ordinance (the "Bonds"); and

WHEREAS, the City has issued the following Previously Issued Bonds (hereinafter referred to as the "Refundable Bonds"): City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2016, authorized by an ordinance duly adopted on March 22, 2016; the Refundable Bonds refunded in accordance with the terms hereof are referred to as the "Refunded Bonds"; and

WHEREAS, the City Council hereby finds and determines that it is in the best interest of the City and the System to adopt this Ordinance to authorize the refunding of ECP Notes which are from time to time outstanding (the "Refunded ECP Notes") (the Refunded Bonds and the Refunded ECP Notes are hereinafter referred to collectively as the "Refunded Obligations"); and

WHEREAS, the City by this Ordinance and in accordance with the provisions of Texas Government Code, Chapter 1207, as amended ("Chapter 1207"), and Texas Government Code, Chapter 1371, as amended ("Chapter 1371"), is delegating to the Pricing Officer (hereinafter defined) the authority to establish the terms and details related to the issuance and sale of the Bonds including: (i) the principal amount of the Refunded Obligations to be refunded, (ii) the form and designation of one or more series of Bonds; (iii) the principal amount of each series of the Bonds and the amount of the Bonds of each series to mature in each year; (iv) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of each series of the Bonds; and (v) any other details relating to the issuance, sale, delivery, and/or exchange of the Bonds, all within certain specified parameters set forth herein; and

WHEREAS, the City Council hereby finds and determines that it is a public purpose and in the best interests of the City to refund the Refunded Bonds in order to achieve a present value debt service savings, with such savings, among other information and terms to be included in one or more pricing certificates (each, a "Pricing Certificate") to be executed by the Pricing Officer, all in accordance with the provisions of Chapter 1207 and Chapter 1371; and

WHEREAS, the City Council hereby finds and determines that the refunding of the Refunded ECP Notes for the purposes of making such debt long-term fixed rate debt of the City and restructuring the debt payable from the revenues of the System is in the best interest of the City, and the manner in which such refunding is being executed does not make it practicable to make the determinations otherwise required by Texas Government Code, Section 1207.008(a)(2), as amended; and

WHEREAS, in the ordinances authorizing the Previously Issued Bonds, the City reserved the right and option to issue, under certain conditions, "Additional Bonds" on a parity as to lien and right with such bonds; and

WHEREAS, a public hearing was held, following proper publication of notice thereof, before the City Council with respect to the adoption of this Ordinance; and

WHEREAS, the City Council has found and determined that the bonds herein authorized should be issued on a parity with its Previously Issued Bonds, for the purposes aforesaid, pursuant to this Ordinance and as permitted by the General Laws of the State of Texas, particularly Chapter 1207 and Chapter 1371; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of such meeting was given as required by Texas Government Code, Chapter 551, as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THAT:

2

## DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.01 <u>Definitions</u>. Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance, the following terms shall have the meanings specified below:

"Act" means Chapter 552 of the Texas Local Government Code, as amended.

"Additional Bonds" means the additional revenue bonds permitted to be issued on a parity with the Bonds and the Previously Issued Bonds by Section 10.03(a) of this Ordinance.

"Average Annual Debt Service" means an amount which, at the time of computation, is derived by dividing the total amount of Debt Service to be paid over a period of years as the same is scheduled to become due and payable by the number of years taken into account in determining the total Debt Service. Capitalized interest payments provided from bond proceeds shall be excluded in making the aforementioned computation.

"Board" or "Board of Trustees" means that certain board of trustees known as the "Public Service Board" heretofore established for the purpose of managing the System and other water utilities of the City, as represented by the various persons appointed from time to time, and any successors thereto.

"Bond" means any of the Bonds.

"Bond Counsel" means a firm of nationally recognized attorneys experienced in the issuance of bonds and acceptable to the City, initially Norton Rose Fulbright US LLP.

"Bonds" means the City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds authorized by Section 3.01 of this Ordinance, with any additional or different series or designation specified in an applicable Pricing Certificate.

"Bonds Similarly Secured" means collectively, the Previously Issued Bonds, the Bonds and Additional Bonds.

"Bullet Obligation" means all Bonds Similarly Secured of a series maturing in any single year in a principal amount that totals at least 15% of the initial aggregate principal amount of the entire series of such Bonds Similarly Secured.

"Business Day" means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located in the State of Texas are generally authorized or obligated by law or executive order to close.

"Chapter 1207" means Texas Government Code, Chapter 1207, as amended.

"Chapter 1371" means Texas Government Code, Chapter 1371, as amended.

"City" means the City of El Paso, Texas, and with respect to those matters requiring action regarding the authority and control of management and operation of the System or the expenditure and application of the System's revenues, "City" shall mean the Board acting on behalf of the City.

"City Council" means the governing body of the City of El Paso, Texas.

"Closing Date" means the date of the initial delivery of and payment for each series of Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Debt Service" means as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of premium if any, and interest (to the extent not capitalized) on such obligations; <u>provided</u>, <u>however</u>, that in making such calculation the following rules shall apply:

- (1) For any series of Bonds Similarly Secured issued at a variable rate, that such obligations bear, or would have borne, interest at the highest rate of (i) the actual rate on the date of calculation, or if the indebtedness is not yet outstanding, the initial rate (if established and binding), (ii) if the indebtedness has been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation and (iii) (A) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Internal Revenue Code, the most recently published Bond Buyer "Revenue Bond Index" (or comparable index if no longer published) plus 50 basis points, or (B) if interest is not so excludable, the interest rate on direct United States Treasury Obligations with comparable maturities plus 50 basis points; provided, however, that for purposes of any rate covenant measuring actual debt service during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period; and
- Obligations, Demand Obligations, or Bullet Obligations, Debt Service may be computed on the assumption that the principal amount shall be refinanced at maturity (or an earlier date on which principal thereof is payable on demand) by fixed rate Bonds Similarly Secured bearing interest at (a) if the interest on such obligations is excludable from gross income of the owners thereof for federal income tax purposes, a Revenue Bond Index published by the Bond Buyer or any successor publication or (b) if the interest on such obligations is not excludable from gross income of the owners thereof for federal income tax purposes, the yield on the Treasury Constant Maturity Series as reported in Federal Reserve Statistical Release H.15, Selected Interest Rates of the Board of Governors of the Federal Reserve System, or any successor publication as certified by the City's financial advisor, in both cases (a) and (b) within 30 days prior to the date of such calculation (or the gross fixed or capped rate payable by the City under an interest rate swap or

cap agreement that substantially hedges the rate of interest on such Bonds Similarly Secured) and maturing in substantially equal annual payments of principal and interest over a term of 25 years (or such longer period as a nationally recognized financial advisor or investment banker certifies is then reasonably attainable) or less; and

(3) For any series of Bonds Similarly Secured for which the City is entitled to receive payments from the federal or state government in such period on account of, and substantially contemporaneously with, interest paid on such Bonds Similarly Secured, the amount to be received in such period shall be deducted from such interest in computing Debt Service.

"Demand Obligations" means any Bonds Similarly Secured the principal of which is payable by the City on demand of the owner or holder thereof.

"Depository Bank" means any financial institution duly designated by the Board to serve as a depository for funds controlled by the Board.

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar named herein, its designated office specified in the Pricing Certificate, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"ECP Notes" means the extendable commercial paper notes authorized to be issued in accordance with the terms of the ordinance establishing the City of El Paso, Texas, Municipal Drainage Utility System Extendable Commercial Paper Program, adopted by the City Council of the City on May 9, 2023.

"EPWU" means the El Paso Water Utilities, a component unit of the City of El Paso and any successors thereto.

"Escrow Agent" means the deposit or escrow agent, if any, appointed and approved in the Pricing Certificate.

"Escrow Agreement" means the deposit or escrow agreement, if any, by and between the City and the Escrow Agent appointed and approved in the Pricing Certificate.

"Financial Advisor" means a registered "municipal advisor" under Section 15B of the Securities Exchange Act of 1934, as amended, selected by the City to provide advice to the City

in the area of municipal financial products or the issuance of municipal securities, initially Hilltop Securities Inc.

"Financial Obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"Fiscal Year" means the twelve month financial accounting period used by the Board in connection with the operation of the System which may be any twelve consecutive month period established by the Board.

"Government Obligations" means, unless otherwise provided in the Pricing Certificate, (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

"Improvement Fund" means the fund by such name described in Section 8.01(a)(iv) hereof.

"Initial Bond" means the Initial Bond authorized by Section 3.03 of this Ordinance.

"Initial Date" means the date designated as the Initial Date in the Pricing Certificate.

"Interest and Sinking Fund" means the fund by that name described in Section 8.01(a) hereof.

"Interest Payment Date" means the date or dates on which interest on the principal of the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1, commencing on the date specified in the Pricing Certificate.

"Issue Price" has the meaning stated in section 1.148-1(b) of the Regulations.

"MSRB" means the Municipal Securities Rulemaking Board.

"Net Revenues" shall mean Revenues of the System, with respect to any period, after deducting the System's Operating and Maintenance Expenses during such period.

"Note Payment Fund" means the fund so designated in Section 8.01(b) hereof.

"Operating and Maintenance Expenses" shall mean all current expenses of operating and maintaining the System not paid from the proceeds of any Debt, including all salaries, labor, materials and administrative costs, allocable under generally accepted accounting principles, to the System. Depreciation charges and other costs and disbursements which may be capitalized under generally accepted accounting principles shall not be considered Operating and Maintenance Expenses.

"Outstanding" means when used in this Ordinance with respect to Bonds or Bonds Similarly Secured, as the case may be, means, as of the date of determination, all Bonds and Bonds Similarly Secured theretofore sold, issued and delivered by the City, except:

- (1) Bonds or Bonds Similarly Secured canceled or delivered to the transfer agent or registrar for cancellation in connection with the exchange or transfer of such obligations;
- (2) Bonds or Bonds Similarly Secured paid or deemed to be paid in accordance with applicable law; and
- (3) Bonds or Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement bonds have been registered and delivered in lieu thereof.

"Owner" means the person who is the registered owner of a Bond or Bonds.

"Paying Agent/Registrar" means the entity or banking association designated by the Pricing Officer in the Pricing Certificate to serve as paying agent/registrar for the Bonds, or any successor thereto or replacement therefor as provided in this Ordinance.

"Previously Issued Bonds" means the outstanding bonds of the following issues: (1) City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2009A, (2) City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2016, (3) City of El Paso, Texas, Municipal Drainage Utility System Revenue Improvement and Refunding Bonds, Series 2017, (4) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Taxable Series 2021, (5) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2021A, (6) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2022A, (8) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2023, (9) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2024, and (10) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2024, and (10) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2025.

"Pricing Certificate" means collectively one or more pricing certificates that set forth the terms of one or more series of Bonds in accordance with Section 3.02 of this Ordinance and executed by the Pricing Officer, all in accordance with the provisions of Chapter 1207 and Chapter 1371.

"Pricing Officer" means the President/Chief Executive Officer of the EPWU, or in the absence thereof, any Vice President of the EPWU, or the Chief Financial Officer of the EPWU, each acting in such capacity severally and not jointly.

"Purchaser" means the initial purchaser of each series of Bonds issued hereunder as named in the applicable Pricing Certificate.

"Record Date" means with respect to each interest payment date the fifteenth day of the month next preceding such interest payment date.

"Refundable Bonds" shall have the meaning set forth in the recitals to this Ordinance.

"Refunded Bonds" means those Refundable Bonds actually refunded in accordance with the terms hereof, as further described in a Pricing Certificate.

"Refunded ECP Notes" means the extendable commercial paper notes actually refunded in accordance with the terms hereof, as further described in a Pricing Certificate.

"Refunded Obligations" means the Refunded Bonds and the Refunded ECP Notes identified in the preamble of this Ordinance and further described in the Pricing Certificate.

"Register" means the Register specified in Section 3.07 of this Ordinance.

"Reserve Fund" means the fund by that name described in Section 8.01(a)(iii) hereof.

"Reserve Fund Requirement" means the amount which is equal to the lesser of (i) the Average Annual Debt Service (calculated on a Fiscal Year basis) for all Bonds Similarly Secured then Outstanding, as determined on the date each series of Additional Bonds are delivered or incurred, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

"Revenue Fund" means the Drainage Utility System Revenue Fund established in Section 8.01(a)(i) hereof.

"Revenues" shall mean all income, receipts and revenues of every nature derived or received from the operation and ownership (excluding restricted gifts, grants in aid of construction and any amounts received from drainage charges specifically provided by ordinance for contribution to the funding of future drainage system construction) of the System, including earnings and income derived from the investment or deposit of moneys in any special funds or accounts created and established for the payment and security of the Bonds Similarly Secured and other obligations payable solely from and secured only by a lien on and pledge of the Net Revenues of the System, and excluding those amounts subject to payment to the United States of America as rebate pursuant to section 148 of the Code and any federal subsidies received pursuant to section 6431 of the Code.

"Rule" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"SEC" means the United States Securities and Exchange Commission.

"Short Term Obligations" means each series of bonds, notes and other debt obligations issued pursuant to a commercial paper or other similar financing program, the payment of principal of which is scheduled to be payable within one year from the date of issuance and is contemplated at the time of issuance to be refinanced through the issuance of Additional Bonds.

"Subordinate Lien Obligations" means each series of bonds, notes and other debt obligations payable from and secured by a lien on and pledge of the Net Revenues of the System, junior and subordinate in rank and dignity to the lien and pledge securing the payment of the Bonds Similarly Secured.

"System" or "Municipal Drainage Utility System" shall mean all land, easements and interest in land, together with all structures, equipment and facilities used in draining benefitted property (within the meaning of the Act), including, but not limited to, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses (but excluding City parks, roads, streets and bridges in existence on June 19, 2007) and excluding the property or entities exempted from the Act pursuant to Section 552.053 of the Act.

Section 1.02 <u>Findings</u>. The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 <u>Table of Contents, Titles and Headings</u>. The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

# Section 1.04 Interpretation.

Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance.

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#### SECURITY FOR THE BONDS

Section 2.01 <u>Security for the Bonds</u>. The Bonds Similarly Secured, both principal and interest, are and shall be equally and ratably secured by and payable from an irrevocable first lien on and pledge of the Net Revenues.

Section 2.02 <u>Limited Obligations</u>. The Bonds Similarly Secured are special obligations of the City, payable solely from the Net Revenues, and do not constitute a prohibited indebtedness of the City. The Bonds Similarly Secured shall never be payable out of funds raised or to be raised by taxation.

Section 2.03 Security Interest. The City represents that, under Chapter 1208.002, Texas Government Code, a security interest in property, other than real property, that is created by the City is valid and effective according to the terms of the security agreement and is perfected from the time the security agreement is entered into or adopted continuously through the termination of the security interest, without physical delivery or transfer of control of the property, filing of a document, or another act. The City covenants that, if Chapter 1208.002 is amended at any time while the Bonds Similarly Secured are Outstanding, the City shall take all actions required in order to preserve for the Owners of the Previously Issued Bonds, the Bonds or Additional Bonds a perfected security interest in the property in which such security interest is granted pursuant to Section 2.01 hereof.

#### ARTICLE 3

# AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 <u>Authorization</u>. Revenue bonds of the City are hereby authorized to be issued, in one or more series, in the maximum aggregate principal amount set forth in Section 3.02 hereof. Unless otherwise specified in a Pricing Certificate, such revenue bonds shall be designated and bear the title the "City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds." The Bonds shall be designated by the year in which they are issued, and each series within a year may have a letter designation following the year as determined by the Pricing Officer. The title of the Bonds may also be revised by the Pricing Officer as reflected in the applicable Pricing Certificate. The Bonds shall be issued for the purposes of (i) refunding the Refunded ECP Notes, and/or (ii) refunding all or a portion of the Refunded Bonds, and (iii) paying the costs of issuing the Bonds, all as provided in each Pricing Certificate and in accordance with the Constitution and laws of the State of Texas, particularly Chapter 1207, Chapter 1371, and the Charter of the City.

# Section 3.02 <u>Delegation of Authority to Pricing Officer</u>.

(a) As authorized by Chapter 1207 and Chapter 1371, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering the Bonds, in one or more series, and carrying out the other procedures specified in this Ordinance, including selection of the

specific maturities or series (whole or part) of the Refunded Obligations to be refunded, determining the aggregate original principal amount of each series of Bonds, the Initial Date of each series of Bonds, any additional or different designation or title by which the Bonds shall be known, the manner of sale (negotiated, privately placed or competitively bid), the price at which the Bonds of each series will be sold, the years in which the Bonds of each series will mature, the terms of any bond insurance applicable to a series of Bonds, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment dates, the price and terms upon and at which the Bonds of each series shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the designation of a paying agent/registrar, the designation of an escrow agent, if necessary, and all other matters relating to the issuance, sale, and delivery of the Bonds all of which shall be specified in the Pricing Certificate; provided that:

- (i) the aggregate original principal amount of Bonds issued to refund the Refunded ECP Notes shall not exceed \$60,600,000;
- (ii) the aggregate original principal amount of Bonds issued to refund the Refunded Bonds shall not exceed \$13,000,000;
- (iii) the aggregate true interest cost percentage for the Bonds issued to refund the Refunded ECP Notes shall not exceed 5.75%;
- (iv) the aggregate true interest cost percentage for the Bonds issued to refund the Refunded Bonds shall not exceed 4.50%;
- (v) the refunding of the Refunded Bonds must produce present value debt service savings of at least three percent (3.00%), net of any issuer contribution;
- (vi) the maximum maturity date for the Bonds issued to refund the Refunded ECP Notes shall not exceed December 31, 2051; and
- (vii) the maximum maturity date for the Bonds issued to refund the Refunded Bonds shall not exceed December 31, 2036.
- (b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amounts authorized in Subsections (a)(i) and (a)(ii) above, which shall be sufficient in amounts to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. Unless otherwise extended by an act of City Council, the delegation made hereby shall expire if not exercised by the Pricing Officer within 365 days from the date hereof. The Pricing Officer may exercise such delegation on more than one occasion during such time period.
- (c) The execution of the Pricing Certificate shall evidence the sale date of the applicable series of Bonds by the City to the Purchaser.
- (d) If the Pricing Officer determines that insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company (the "Insurer") a municipal bond insurance policy in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the City to obtain a municipal bond insurance policy, for so long as such policy is in effect, the requirements of the Insurer relating to the issuance

of such policies are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. Each of the City Manager of the City, the President/Chief Executive Officer of the EPWU and the Pricing Officer shall have the authority to execute any documents to effect the issuance of such policy by the Insurer.

## Section 3.03 Date, Denomination, Maturities, Numbers and Interest.

- (a) The Bonds shall have the Initial Date specified in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, and shall be numbered consecutively from one upward, except the Initial Bond, which shall be numbered as specified in Section 6.02.
- (b) The Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall mature on March 1 or September 1 in the years and in the principal amounts and shall bear interest at the per annum rates as specified in the Pricing Certificate.
- (c) Interest shall accrue and be paid on each Bond respectively until its maturity or earlier redemption from the date specified in the Pricing Certificate or the most recent interest payment date to which interest has been paid or provided for at the per annum rates specified in the schedule contained in the Pricing Certificate. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing on the date specified in the Pricing Certificate, computed on the basis of a 360-day year of twelve 30-day months.

# Section 3.04 Medium, Method and Place of Payment.

- (a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.
- (b) Interest on the Bonds shall be paid to the Owners thereof as shown in the Register at the close of business on the Record Date by check (dated as of the Interest Payment Date) and sent by the Paying Agent/Registrar to the person entitled to such payment by United States mail, first-class, postage prepaid, to the address of such person as it appears in the Register, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements.
- (c) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.
- (d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, the date for such payment shall be the next succeeding Business Day, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in this Section.
- (e) In the event of a nonpayment of interest on a Bond on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record

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Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

- (f) Unclaimed payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which the unclaimed payments pertain. Subject to Title 6 of the Texas Property Code, payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.
- Section 3.05 Execution and Initial Registration. The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem and the City Clerk or Alternate City Clerk as of the date of adoption of this Ordinance, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of such officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.
- (a) In the event any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.
- be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered on the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond of each series has been duly approved by the Attorney General of the State of Texas and that they are valid and binding special obligations of the City, and have been registered by the Comptroller of Public Accounts of the State of Texas.

(c) On the Closing Date, one Initial Bond for each series of Bonds, payable in stated installments to the Purchaser or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Clerk or Alternate City Clerk, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts will be delivered to the Purchaser or its designee. Upon payment for each Initial Bond, the Paying Agent/Registrar shall cancel such Initial Bond and deliver registered definitive Bonds to DTC in accordance with Sections 3.09 and 3.11.

# Section 3.06 Ownership.

- (a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal, for the further purpose of making and receiving payment of the interest thereon (subject to the terms of this Ordinance requiring the Paying Agent/Registrar to make payments of interest to the person who is the registered owner on the Record Date or the Special Record Date), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.
- (b) All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

# Section 3.07 Registration, Transfer and Exchange.

- (a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.
- (b) Registration of any Bond may be transferred in the Register only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of the Bonds, or any portion thereof in any integral multiple of \$5,000, to the assignee or assignees thereof, and the right of such assignee or assignees thereof to have the Bond or any portion thereof registered in the name of such assignee or assignees. No transfer of any Bond shall be effective until entered in the Register. Upon assignment and transfer of any Bond or portion thereof, a new Bond or Bonds will be issued by the Paying Agent/Registrar in exchange for such transferred and assigned Bond. To the extent possible the Paying Agent/Registrar will issue such new Bond or Bonds in not more than three business days after receipt of the Bond to be transferred in proper form and with proper instructions directing such transfer.
- (c) Any Bond may be exchanged only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantees of signatures satisfactory to the

Paying Agent/Registrar, for a Bond or Bonds of like series, of the same maturity and interest rate and in any authorized denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. If a portion of any Bond is redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds of like series, having the same maturity date, bearing interest at the same rate, in the denomination or denominations of any integral multiple of \$5,000 at the request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon surrender thereof for cancellation. To the extent possible, a new Bond or Bonds will be required to be delivered by the Paying Agent/Registrar to the registered owner of the Bond or Bonds in not more than three business days after receipt of the Bond to be exchanged in proper form and with proper instructions directing such exchange.

- (d) Each Bond issued in exchange for any Bond or portion thereof assigned or transferred shall be of like series, of the same tenor and shall have the same maturity date and bear interest at the same rate and in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange the Bonds as provided herein, and each substitute Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such substitute Bond is delivered.
- (e) The City will pay the Paying Agent/Registrar's reasonable and customary charge for the initial registration of the Bonds and the subsequent exchange of the Bonds pursuant to the provisions hereof. However, the Paying Agent/Registrar will require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond. In addition, the City hereby covenants with the Owners of the Bonds that it will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Bonds, when due, and (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer, registration and exchange of Bonds as provided herein to the extent such fees and charges are payable hereunder by the City.
- (f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, when such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the owner of the uncalled principal balance of a Bond.

## Section 3.08 Cancellation and Authentication.

- (a) All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be canceled upon the making of proper records regarding such payment, redemption, exchange or replacement.
- (b) Each substitute Bond issued in exchange for or replacement of (pursuant to the provisions of Section 3.10 hereof) any Bond or Bonds issued under this Ordinance shall have

printed thereon a Paying Agent/Registrar's Authentication Certificate, in the form hereinafter set forth. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such bond, manually sign and date such Certificate, and no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person so as to accomplish the foregoing exchange or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Texas Government Code, Chapter 1201, as amended, the duty of exchange or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the above Paying Agent/Registrar's Authentication Certificate, the exchanged or replaced Bonds shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which originally were delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

## Section 3.09 <u>Temporary Bonds</u>.

- (a) Pending the preparation of definitive Bonds, the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.
- (b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance. The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar, and thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

## Section 3.10 Replacement Bonds.

- (a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like series, of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.
- (b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall

authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

- (i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the City, to save each of them harmless;
- (iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and
- (iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.
- (c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.
- (d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, without the necessity of issuing a replacement Bond, may pay such Bond on the date on which such Bond becomes due and payable.
- (e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

# Section 3.11 Book-Entry Only System.

- (a) Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.
- (b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or

(iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on, the Bonds, for the purpose of all matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.12 Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.13 Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on the Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the blanket representation letter of the City to DTC.

## **ARTICLE 4**

## REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 <u>Limitation on Redemption</u>. The Bonds of each series shall be subject to redemption before their scheduled maturity only as provided in the applicable Pricing Certificate.

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#### PAYING AGENT/REGISTRAR

# Section 5.01 Appointment of Initial Paying Agent/Registrar.

- (a) In the Pricing Certificate, the Pricing Officer shall designate an entity meeting the requirements of Section 5.02 hereof to serve as the initial Paying Agent/Registrar for the Bonds.
- (b) The Pricing Officer is authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar substantially in the form attached hereto as **Exhibit A**.
- Section 5.02 <u>Qualifications of Paying Agent/Registrar</u>. Each Paying Agent/Registrar shall be a commercial bank, a national banking association trust company organized under the laws of the State of Texas, or other entity duly qualified and legally authorized to serve as, and perform the duties and services of, paying agent and registrar for the Bonds.

# Section 5.03 Maintaining Paying Agent/Registrar.

- (a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.
- (b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.
- Section 5.04 <u>Termination of Paying Agent/Registrar</u>. The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated a certified copy of a resolution of the City (i) giving notice of the termination of the appointment, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar.
- Section 5.05 <u>Notice of Change of Paying Agent/Registrar to Owners</u>. Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first-class, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.
- Section 5.06 <u>Agreement of Paying Agent/Registrar to Perform Duties and Functions</u>. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby.
- Section 5.07 <u>Delivery of Records to Successor</u>. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

## FORM OF THE BONDS

# Section 6.01 Form Generally.

- (a) The Bonds of each series, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in **Exhibit B** attached hereto with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any applicable statement of insurance and any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof. Each Pricing Certificate shall set forth the final and controlling terms of the respective series of Bonds. Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.
- (b) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof. The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.
- Section 6.02 <u>Form of the Bonds</u>. The form of each series of Bonds, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas (which shall only appear on the Initial Bond), the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on each series of Bonds shall be substantially in the form of attached **Exhibit B**.
- Section 6.03 <u>CUSIP Registration</u>. The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving such Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.
- Section 6.04 <u>Legal Opinion</u>. The approving legal opinion of Bond Counsel may be attached to or printed on each Bond over the certification of the City Clerk or Alternate City Clerk of the City, which certification may be executed in facsimile.
- Section 6.05 <u>Statement of Insurance</u>. A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

#### PUBLIC SERVICE BOARD

## Section 7.01 Public Service Board.

- (a) Pursuant to the authority contained in Texas Government Code, Section 1502.070, as amended, during such time as any of the Bonds herein authorized are outstanding and unpaid, the Board shall have complete authority and control of the management and operation of the System.
- (b) The Board shall consist of seven members, one of whom shall be the Mayor of the City who shall ex officio be one member of the Board. Each term of office shall be four years with no member being appointed to more than two consecutive terms. To the extent not prohibited by State law or in conflict with the ordinances authorizing the Bonds Similarly Secured, each member shall continue to serve until his or her successor is appointed and qualified, or until 30 days have passed beyond the expiration of such term, whichever event occurs first. After that time a vacancy on the Board shall exist and the former member shall have no power to vote or participate in Board proceedings; but such vacancy shall not serve to reduce the number of members required for a quorum.

Each vacancy in Board membership whether occasioned by expiration of office or otherwise shall be filled by the City Council from three persons eligible to serve as Board members and presented to City Council. A selection committee selected by the City Council and comprised of the Board and such additional members as appointed by City Council shall agree upon and submit to City Council the names of such three eligible persons.

Any member of the Board, other than the Mayor, who shall be continuously absent from all meetings of the Board for a period of three consecutive months shall, unless he or she shall be granted leave of absence by the unanimous vote of the remaining members of the Board, be removed from office, but only for adequate cause. As City Council appointees, members of the Board are subject to the City's ethics ordinance, Chapter 2.92 of the City Code of the City, as amended, and must comply with the applicable provisions contained therein.

(c) The Board shall elect one of its own members as Chairman and one as Vice-Chairman and appoint a Secretary and a Treasurer or a Secretary-Treasurer, who may, but need not, be a member or members of the Board. The Board may make such regulations or any by-laws for the orderly handling of its affairs as it may in its discretion see fit and shall thereafter, subject to the pertinent laws of the State of Texas, operate and manage the System with the same freedom and in the same manner as are ordinarily enjoyed by the Board of Directors of a private corporation operating properties of a similar nature.

Subject to the provisions and restrictions contained in this Ordinance, all of which shall be binding on the Board, the Board shall have complete authority and control of the management and operations of the System and the expenditure and application of its revenues.

(d) The Board shall elect or appoint all officers and employees which it may consider desirable, including a President/Chief Executive Officer of the EPWU. The President/Chief

Executive Officer shall be responsible to appoint officers and employees that directly report to the President/Chief Executive Officer, including, an attorney or attorneys, vice president(s) and such other personnel that directly report to the President/Chief Executive Officer. All other officers and employees, except members of the Board, the President/Chief Executive Officer, attorneys, vice president(s) and persons directly reporting to the President/Chief Executive Officer or vice president(s) shall serve under the City Civil Service provisions as are or may be established by the Charter of the City or the laws of Texas, and the Board shall have the same authority with respect to such officers and employees as that of the City Council with respect to other officers and other employees of the City. The Board shall obtain and keep continually in force an employers' fidelity and indemnity bond of the so-called blanket type, written by a solvent and recognized indemnity company, and covering losses to the amount not to exceed \$50,000.

(e) The members of the Board, other than the Mayor shall, for each meeting attended, receive the sum of \$20.00, except that the amount so paid to any member of the Board in any Fiscal Year shall not exceed \$5,000. The members of the Board shall not personally be liable for any act or omission not willfully fraudulent or committed in bad faith.

#### ARTICLE 8

## FUNDS; FLOW OF FUNDS

# Section 8.01 Special Funds.

- (a) The City covenants and agrees that all revenues derived from the operation of the System shall be kept separate from other funds of the City. To that end, the following special funds heretofore established are hereby reaffirmed and shall be maintained at the Depository Bank so long as any of the Bonds Similarly Secured are Outstanding, to-wit:
  - (i) "City of El Paso, Texas, Municipal Drainage Utility System Revenue Fund" (herein called the "Revenue Fund");
  - (ii) "City of El Paso, Texas, Municipal Drainage Utility System Bonds Interest and Sinking Fund" (herein called the "Interest and Sinking Fund");
  - (iii) "City of El Paso, Texas, Municipal Drainage Utility System Bonds Reserve Fund" (herein called the "Reserve Fund"); and
  - (iv) "City of El Paso, Texas, Municipal Drainage Utility System Improvement Fund" (herein called the "Improvement Fund").

The Interest and Sinking Fund and the Reserve Fund shall be held in trust solely for the benefit of the Owners and the Owners of the Bonds Similarly Secured.

(b) The "City of El Paso, Texas, Municipal Drainage Utility System ECP Note Series A Interest and Sinking Fund" (the "Note Payment Fund") heretofore created by prior City Ordinance is hereby reaffirmed and shall be maintained for the benefit of the holders of the Subordinate Lien Obligations.

Section 8.02 <u>Revenue Fund</u>. All Revenues shall be deposited from day to day as collected into the Revenue Fund. Moneys on deposit in the Revenue Fund shall first be used to

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pay all Operating and Maintenance Expenses. The Revenues of the System not actually required to pay Operating and Maintenance Expenses (the "Net Revenues") shall be transferred from the Revenue Fund to the other Funds in this Ordinance, in the order of priority, in the manner, and in the amounts set forth below:

- (a) <u>Interest and Sinking Fund</u>. In addition to the deposits required by ordinances authorizing the Previously Issued Bonds, there shall be deposited into the Interest and Sinking Fund the following:
  - (i) such amounts, in equal monthly installments, commencing on the first day of the month next following the Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the interest scheduled to come due on the Bonds on the next interest payment date, less any amounts already on deposit therein for such purpose derived from the proceeds of the Bonds or from any other lawfully available source; and
  - (ii) such amounts, in equal monthly installments, commencing on the first day of the month next following the Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the next maturing principal of the Bonds, including any scheduled mandatory redemption of Bonds.

The Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds Similarly Secured as such principal matures and such interest becomes due.

(b) Reserve Fund. So long as the funds on deposit in the Reserve Fund created for the benefit of the Bonds Similarly Secured are equal to the Reserve Fund Requirement, no deposits need to be made to the credit of the Reserve Fund; but should the Reserve Fund at any time contain less than the Reserve Fund Requirement, then, subject and subordinate to making the required deposits to the credit of the Interest and Sinking Fund, the City shall transfer from the Net Revenues in the Revenue Fund and deposit to the credit of the Reserve Fund, on the first day of each month, such amounts in equal monthly installments to accumulate within sixty (60) months a sum equal to the Reserve Fund Requirement. The money on deposit in the Reserve Fund may be used to pay the principal of and interest on the Bonds Similarly Secured at any time there are not sufficient funds on deposit in the Interest and Sinking Fund for such purpose.

In accordance with the procedures specified in the preceding paragraph, the City hereby directs that the deposits, if any, being made to the Reserve Fund be increased to accumulate in the Reserve Fund within sixty (60) months from the date of the Bonds an amount equal to the Reserve Fund Requirement.

Notwithstanding anything herein to the contrary, the City retains the right, with respect to the Bonds and subsequent issues of Additional Bonds to fund the Reserve Fund Requirement in whole or in part with a surety bond or insurance policy issued by an insurance company or other entity that is rated either for the long term unsecured debt of the issuer of such surety bond or for obligations insured, secured or guaranteed by such issuer have a rating in the highest letter category by two major municipal securities rating or evaluation services, and money deposited to the credit of the Reserve Fund may be used to make any payments required to satisfy the City's repayment obligation to the issuer of such surety bond or insurance policy in the same manner and with like

effect as if such payments were being used to accumulate, maintain or restore the Reserve Fund Requirement in cash or with authorized investments.

- (c) <u>Note Payment Fund</u>. In addition to the foregoing deposits, in order to provide for the payment of and security for any Subordinate Lien Obligations there shall be deposited to the Note Payment Fund amounts sufficient to pay when due the principal of and interest on the Subordinate Lien Obligations.
- (d) <u>Improvement Fund</u>. All money remaining in the Revenue Fund at the end of each month after all payments required to be made therefrom in such month have been made and all deficiencies accumulated from prior months have been remedied shall continue to be paid to the Improvement Fund established in connection with the System, and shall be held in and paid out from such Fund for the following purposes:
  - (i) To pay the cost of any special or extraordinary repairs or replacements to or of the properties comprising the System, properly payable with such money under the laws of the State of Texas, necessitated by reason of some emergency; and
    - (ii) To the extent now or hereafter permitted by law, any lawful purpose.

# Section 8.03 Investment of Funds.

(a) Money deposited to the credit of any Fund referenced in this Ordinance may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act" (Texas Government Code, Chapter 2256, as amended) relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from such Funds will be available at the proper time or times. Such investments (except State and Local Government Series investments held in book entry form, which shall at all times be valued at cost) shall be valued in terms of current market value within 45 days of the close of each Fiscal Year and, with respect to investments held for the account of the Reserve Fund, within 30 days of the date of passage of each ordinance authorizing the issuance of Additional Bonds. All interest and income derived from deposits and investments in the Interest and Sinking Fund immediately shall be credited to, and any losses debited to, the Interest and Sinking Fund. All interest and interest income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 8.02(b) hereof, be credited to and deposited in the Revenue Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

All moneys on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds.

Section 8.04 <u>Contributions in Aid of Construction</u>. Any moneys that may be received by the Board that shall represent contributions in aid of construction shall be deposited in a separate account at the Depository Bank. Such contributions shall not be considered as part of the Revenues

of the System. Payments from such bank account shall be made only for the purposes for which the contributions were made, including any refunds that may become due to any contributor.

#### ARTICLE 9

## DEPOSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS

# Section 9.01 <u>Deposit of Proceeds</u>.

- (a) The proceeds of sale of each series of Bonds shall be disbursed by the Paying Agent/Registrar on the Closing Date pursuant to written instructions from the City's Financial Advisor.
- (b) All amounts, if any, received on the Closing Date as accrued interest on the Bonds shall be deposited to the Interest and Sinking Fund.
- (c) Bond proceeds, less the accrued interest, if any, referenced in the preceding paragraph, amounts to pay costs of issuance and amounts to pay municipal bond insurance premium, if any, shall be deposited as provided in the applicable Pricing Certificate.

# Section 9.02 Control and Delivery of Bonds.

- (a) The Mayor, or in his absence, the Mayor Pro-Tem, is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.
- (b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision of the City Manager of the City or the President/Chief Executive Officer of the EPWU against receipt by the City of all amounts due the City under the terms of the sale.

#### ARTICLE 10

#### PARTICULAR REPRESENTATIONS AND COVENANTS

Section 10.01 <u>Insurance</u>. The City hereby agrees that it will carry at all times for the benefit of the Owners of the Bonds, such insurance on the System that is reasonably obtainable of the kinds and in the amounts which are usually carried by private companies operating similar properties. Such insurance may be provided by means of a self-insurance fund in which event deposits to such fund shall be a maintenance and operating expense of the System.

Section 10.02 <u>Books and Records</u>. The City hereby covenants and agrees that complete and proper books of records and account will be kept and that the Owners of any of the Bonds, or any duly authorized agent or agents of such Owners, shall have the right to inspect such records at all reasonable times. The Board will within sixty (60) days following the close of each Fiscal Year, cause an audit of the books and accounts to be made by an independent firm of certified

public accountants and that such audit will be available for inspection by the Owners of any of the Bonds.

## Section 10.03 <u>Additional Covenants</u>.

- (a) <u>Additional Bonds</u>. The City may issue "Additional Bonds" if the following conditions are met:
  - (i) the City is not then in default as to any covenant, condition or obligation prescribed by an ordinance authorizing the issuance of any bonds payable from and secured by a first lien on and pledge of the Net Revenues;
  - (ii) the Additional Bonds are made to mature on March 1 or September 1 in each of the years in which they are scheduled to mature;
  - the City has secured a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Net Revenues for the last completed Fiscal Year, or for 12 consecutive months out of the 15 months, immediately preceding the date of issuance of the Additional Bonds (the date of issuance being the date of delivery of all or a portion of the Additional Bonds to the initial purchasers) are at least equal to 1.25 times the Average Annual Debt Service for all Outstanding Bonds Similarly Secured after giving effect to the issuance of the Additional Bonds then being issued. In making a determination of the Net Revenues, the Accountant may take into consideration a change in the charges for services afforded by the System that became effective at least sixty (60) days prior to the last day of the period for which Revenues are determined and, for purposes of satisfying the above Revenues test, make a pro forma determination of the Net Revenues of the System for the period of time covered by his certification or opinion based on such change in charges being in effect for the entire period covered by the certificate or opinion of the Accountant; and
  - (iv) the Reserve Fund Requirement shall be increased as necessary and any such additional amount shall be accumulated in equal monthly installments during a period not to exceed sixty (60) months.
- (b) Refunding Bonds. The City reserves the right to issue refunding bonds to refund all or any part of the Bonds Similarly Secured (pursuant to any law then available) upon such terms and conditions as the City Council of the City may deem to be in the best interest of the City and its inhabitants, and if less than all such Bonds Similarly Secured then Outstanding are refunded, the conditions precedent prescribed (for the issuance of Additional Bonds) set forth in subparagraph (a)(iii) of this Section shall be satisfied and the certificate of the Accountant required in subparagraph (a)(iii) shall give effect to the Debt Service requirements of the Bonds Similarly Secured being refunded following their cancellation or provision being made for their payment).
- (c) <u>Obligations of Inferior Lien and Pledge</u>. The City hereby reserves the right to issue obligations payable from and secured by a lien on and pledge of the Net Revenues of the System,

junior and subordinate in rank and dignity to the lien and pledge securing the payment of the Bonds Similarly Secured, as may be authorized by the laws of the State of Texas.

- (d) <u>Maintain and Operate System Efficiently</u>. The City and the Board hereby covenant, respectively, that they will maintain and operate the System with all possible efficiency, in good working order and at a reasonable cost while any of the Bonds remain Outstanding and faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State.
- (e) <u>Rate Covenant</u>. The Board hereby covenants that it will establish and maintain rates for services supplied by the System which shall produce or yield Net Revenues equal to 1.25 times the Average Annual Debt Service requirements of all Bonds Similarly Secured.
- (f) <u>Debt Service Coverage Ratio</u>. The Board hereby covenants that each Fiscal Year while the Bonds are Outstanding, it will operate the System in a manner that results in the Net Revenues equaling 1.25 times the Average Annual Debt Service requirements of all Bonds Similarly Secured.
- (g) <u>Charges for Water and Sewer and Drainage Service</u>. The City and the Board hereby covenant that charges for drainage services will be made jointly with charges made for the sale of water and sewer services. Such charges shall be required to be paid by the customer at the same time.
- (h) <u>Enforcement</u>. To exercise and pursue with due diligence available remedies provided by law for the collection of delinquent drainage charges, including the power under Section 552.050 of the Act to discontinue all utility services, particularly water and sewer services provided by the City to a user of benefited property who is delinquent in the payment of drainage charges.
- (i) Nonimpairment of Lien. The City and the Board hereby covenant, respectively, to take no action or omit to take any action, or suffer to be done or omitted to be done, any matter or thing whatsoever whereby the lien of the Bonds Similarly Secured on the Net Revenues of the System might or could be lost or impaired, and that the Board will pay or cause to be paid, or will make adequate provision for the satisfaction and discharge of all lawful claims and demands for labor, materials, supplies, or other objects which, if unpaid, might by law be given precedence to, or an equality with the Bonds Similarly Secured as a lien or charge upon the revenues of the System or any part thereof; provided that nothing in this subsection (i) shall be construed to require the Board to pay, discharge or make provision for any such lien, charge, claim or demand so long as the validity thereof shall be by it in good faith contested.
- (j) No Sale or Encumbrance of System. The City and the Board hereby covenant, respectively, that they will not in any manner dispose of the System or any substantial part thereof, including any and all extensions and additions that may be made thereto, until the Bonds Similarly Secured shall have been paid in full as to both principal and interest; provided, however, that this covenant shall not be construed to prevent the disposal by the City of property, which in the Board's judgment has become inexpedient to use in connection with the System, when other property of equal value is substituted therefor or when the proceeds of such disposition of such

property are placed in the Interest and Sinking Fund, in addition to all other amounts required to be placed in the Interest and Sinking Fund in the current Fiscal Year, and are used for the retirement of Bonds Similarly Secured in advance of their respective maturities.

- (k) <u>No Competing Systems</u>. The City hereby covenants that it will not grant a franchise for the operation of any competing drainage system in the City until all Bonds Similarly Secured have been paid in full with respect to principal and interest.
- (l) No Free Service. The Board hereby covenants that it will not permit free drainage to be supplied to the City or to any other user (other than those persons exempt under the Act and/or applicable law) and the City hereby agrees that it will pay from its general fund the reasonable value of all drainage services obtained from the System by the City and all departments and agencies thereof.

Section 10.04 <u>Payment of Bonds</u>. While any of the Bonds are Outstanding, the Chief Financial Officer of the EPWU shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Interest and Sinking Fund, and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the business day next preceding the date of payment for the Bonds.

#### ARTICLE 11

## COVENANTS TO MAINTAIN TAX EXEMPT STATUS

## Section 11.01 Covenants to Maintain Tax Exempt Status.

(a) <u>Definitions</u>. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

- (b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause interest on any Bond issued hereunder to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.
- (c) <u>No Private Use or Private Payments</u>. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last stated maturity of the Bonds:
  - (i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and
  - (ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations) or any property the acquisition, construction or improvement of which

- is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.
- (d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.
- (e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final stated maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.
- (f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.
- (g) <u>Information Report</u>. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.
- (h) <u>Rebate of Arbitrage Profits</u>. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:
  - (i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.
  - (ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

- As additional consideration for the purchase of the Bonds by the Purchaser and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.
- (iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148 3(h) of the Regulations.
- (i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the stated maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.
- (j) <u>Elections</u>. The City hereby directs and authorizes the City Manager, the President/Chief Executive Officer of the EPWU, the Vice President of Financial and Management Services of the EPWU and/or the Chief Financial Officer of the EPWU, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.
- (k) <u>Bonds Not Hedge Bonds</u>. (1) At the time the original obligations refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such original obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(1) <u>Current Refunding</u>. The payment and discharge of the Refunded Obligations will occur within ninety (90) days after the issuance of the Bonds and, therefore, the Bonds are a current refunding.

Section 11.02 <u>Continuing Obligation</u>. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Article 11 shall survive the defeasance and discharge of the Bonds.

## ARTICLE 12

#### **DEFAULT AND REMEDIES**

Section 12.01 Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Sinking Fund or the Reserve Fund as required by the Ordinance, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in the Ordinance, the Owner or Owners of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in the Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, nor shall such delay or omission be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 12.02 <u>Remedies Not Exclusive</u>. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

#### ARTICLE 13

#### DISCHARGE

Section 13.01 <u>Discharge</u>. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of Net Revenues of the System under this Ordinance and all covenants, agreements, and other obligations of the City to the Owners shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an

authorized escrow agent or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations shall mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the stated maturity thereof. In the event of a defeasance of the Bonds, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, an independent certified public accountant, or another qualified third party concerning the sufficiency of the deposit of cash and/or Government Obligations to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Bonds. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use will be made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or the regulations adopted pursuant thereto.

All moneys so deposited with the Paying Agent/Registrar or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section, which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the stated maturity of the Bonds such moneys were deposited and are held in trust to pay shall upon request of the City be remitted to the City against a written receipt therefor. The provisions of this paragraph are subject to the applicable unclaimed property law of the State of Texas.

The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Obligations for the Government Obligations originally deposited, to reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the City moneys in excess of the amount required for such defeasance.

Upon such deposit as described above, such Bonds shall no longer be regarded to be outstanding or unpaid. Provided, however, the City has reserved the option, to be exercised at the time of the defeasance of the Bonds, to call for redemption, at an earlier date, those Bonds which have been defeased to their maturity date, if the City: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Bonds for redemption; (ii) gives notice of the reservation of that right to the Owners immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

# SALE AND DELIVERY OF BONDS; OFFICIAL STATEMENT

# Section 14.01 Sale of Bonds - Official Statement.

(a) The Bonds authorized by this Ordinance may be sold by the City to the Purchaser by (i) negotiated sale, in accordance with one or more bond purchase agreements (each, a "Purchase Contract"), (ii) private placement, in accordance with one or more agreements to purchase or other agreement, or (iii) competitive bidding, in accordance with the successful bid(s) submitted therefor, as determined by the Pricing Officer, in accordance with Article 3 hereof. In the event the Bonds are sold by negotiated sale, the Pricing Officer shall designate and identify the Purchaser in the applicable Pricing Certificate. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract, agreement(s) to purchase in the event of a private placement, or the successful bid form(s) in the event of a competitive sale, as applicable, for and on behalf of the City and as the act and deed of this City Council.

The Mayor and City Clerk or Alternate City Clerk of the City are further authorized and directed to manually or electronically execute and deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Purchaser, in final form as may be required by the Purchaser, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by such officials shall be deemed to be approved by the City Council of the City and constitute the Official Statement authorized for distribution and use by the Purchaser.

- (b) The City Manager, the President/Chief Executive Officer of the EPWU, the Vice President of Financial and Management Services of the EPWU, the Chief Financial Officer of the EPWU or any other officer of the City are each authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Bonds, as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the provisions and terms of this Ordinance and the Pricing Certificate.
- (c) The obligation of the Purchaser to accept delivery of the Bonds is subject to the Purchaser being furnished with the final, approving opinion of Norton Rose Fulbright US LLP, Bond Counsel for the City, which opinion shall be dated and delivered the Closing Date. The engagement of such firm as Bond Counsel to the City in connection with the issuance of its System revenue bonds is hereby approved and confirmed.

## ARTICLE 15

## CONTINUING DISCLOSURE UNDERTAKING

# Section 15.01 Annual Reports.

(a) The City shall cause the Board to provide annually to the MSRB (1) within six months after the end of each Fiscal Year (beginning with the Fiscal Year stated in the Pricing Certificate) financial information and operating data with respect to the System of the general type included in the final Official Statement approved by the Pricing Officer and described in the

Pricing Certificate, and (2) if not provided as part such financial information and operating data, audited financial statements of the System, when and if available, and in any case within 12 months after the end of each Fiscal Year (beginning with the Fiscal Year stated in the Pricing Certificate). Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation, and audited, if the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the Board will provide unaudited financial statements by the required time and audited financial statements when and if such audited financial statements become available.

- (b) If the Board changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new Fiscal Year end) prior to the next date by which the Board otherwise would be required to provide financial information and operating data pursuant to this Section.
- (c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

# Section 15.02 Notice of Certain Events.

- (a) The City will cause the Board to provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:
  - (i) principal and interest payment delinquencies;
  - (ii) non-payment related defaults, if material;
  - (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (v) substitution of credit or liquidity providers, or their failure to perform;
  - (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
    - (vii) modifications to rights of Owners of the Bonds, if material;
    - (viii) Bond calls, if material, and tender offers;
    - (ix) defeasances;
  - (x) release, substitution, or sale of property securing repayment of the Bonds, if material;

- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership, or similar event of the Board or City, which shall occur as described below;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Board or City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (xv) incurrence of a Financial Obligation of the Board, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Board, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Board, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (a)(xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Board or City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Board or City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Board or City, and (b) the City intends the words used in the immediately preceding subsections (a)(xv) and (a)(xvi) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

(b) The City hereby instructs the Board to notify the MSRB, in a timely manner, of any failure by the Board to provide financial information or operating data in accordance with this Section by the time required by this Section.

Section 15.03 <u>Filings with the MSRB</u>. All financial information, operating data, financial statements, notices, and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

# Section 15.04 Limitations, Disclaimers and Amendments

(a) The City, acting through the Board, shall be obligated to observe and perform the covenants specified in this Article with respect to the City, the Board and the Bonds while, but

only while, the City or the Board remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City will cause the Board in any event to give notice required by Section 15.02 hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person".

(b) The provisions of this Section are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the financial results, condition, or prospects of the City or the State of Texas or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BOARD OR THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

- (c) No default by the Board or the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.
- (d) Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Board or the City under federal and state securities laws.
- Notwithstanding anything herein to the contrary, the provisions of this Section may (e) be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City or the Board, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Order that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial

public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

# ARTICLE 16 REDEMPTION AND PAYMENT OF REFUNDED OBLIGATIONS; ESCROW AGREEMENT

Section 16.01 Redemption of Refunded Bonds. (a) In order to provide for the refunding, discharge, and retirement of the Refunded Bonds, the Refunded Bonds, identified, described, and in the amounts set forth in the Pricing Certificate, are called for redemption on the first date such Refunded Bonds are subject to redemption or such other date specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption date, and notice of such redemption shall be given in accordance with the applicable provisions of the ordinance adopted by the City Council of the City which authorized the issuance of the Refunded Bonds. The Pricing Officer is hereby authorized and directed to issue or cause to be issued a Notice of Redemption for the Refunded Bonds in substantially the form set forth as an exhibit to the Pricing Certificate, to the paying agent/registrar for the Refunded Bonds, in accordance with the redemption provisions applicable to the Refunded Bonds.

- (b) The paying agent/registrar for Refunded Bonds is hereby directed to provide the appropriate notice of redemption as required by the ordinance authorizing the Refunded Bonds and is hereby directed to make appropriate arrangements so that the Refunded Bonds may be redeemed on the redemption date.
- (c) The source of funds for payment of the principal of and interest on the Refunded Bonds on their respective maturity or redemption date shall be from the funds deposited with the paying agent/registrar for the Refunded Bonds or the Escrow Agent pursuant to the Escrow Agreement finalized by the Pricing Officer and approved in Section 16.03 of this Ordinance and by the Pricing Officer in the Pricing Certificate, if applicable.

Section 16.02 <u>Payment of Refunded ECP Notes</u>. Following the deposit of funds to the credit of the Note Payment Fund or as otherwise specified in the Pricing Certificate, the Refunded ECP Notes shall be payable solely from and secured by such deposits and shall cease to be payable from Net Revenues.

Section 16.03 Escrow Agreement. One or more deposit or escrow agreements (each, an "Escrow Agreement") by and between the City and one or more deposit or escrow agents designated in the Pricing Certificate (each, an "Escrow Agent"), if any such Escrow Agreement is required in connection with the refunding of the Refunded Obligations, shall be attached to and approved in the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of this City Council; and such Escrow Agreement as executed by such Pricing Officer shall be deemed approved by this City Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, the Pricing Officer

297089800.3/1001284881 38

is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

- 1. The identification of the Refunded Obligations;
- 2. The creation and funding of the Escrow Fund or Funds; and
- 3. The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agents' charges relating to the Refunded Obligations.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement (the "Escrowed Securities"), if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchaser for deposit to the credit of the "CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE REFUNDING BONDS ESCROW FUND" (referred to herein as the "Escrow Fund"), or such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, the Ordinance, the Pricing Certificate and the Escrow Agreement. To the extent permitted by the Escrow Agreement and if the Pricing Officer determines such an arrangement is in the City's best interest, the Pricing Officer is authorized to direct the Escrow Agent to reinvest cash balances representing receipts from the Escrowed Securities, make substitutions of the Escrowed Securities or sell or redeem the Escrowed Securities and reinvest the proceeds thereof in substituted Escrowed Securities and authorize the Escrow Agent to enter into any associated contract with a provider of such Escrowed Securities as long as any such substituted Escrowed Securities mature on the dates and in the amounts specified in a verification report as sufficient to pay the principal of and redemption premium, if any, and interest on the Refunded Obligations when due. All Escrowed Securities delivered under such an arrangement shall be delivered to the Escrow Agent on a "delivery versus payment" basis. To the extent the Pricing Officer determines such an arrangement is in the City's best interest, the Pricing Officer is authorized to sign any associated contract, agreement, certificate or instruction letter with respect to such arrangement.

On or immediately prior to the date of the delivery of the Bonds to the Purchaser, the Pricing Officer, or other authorized City official, shall also cause to be deposited (and is hereby authorized to cause to be deposited) with the Escrow Agent from moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Obligations an amount which, together with the proceeds of sale of the Bonds, and the investment earnings thereon, will be sufficient to pay in full the Refunded Obligations (or the amount of accrued interest due thereon) on their scheduled maturity date (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Pricing Certificate, of the amount of accrued interest due thereon).

297089800.3/1001284881 39

#### ARTICLE 17

#### **MISCELLANEOUS**

#### Section 17.01 Amendment to Ordinance.

- (a) *Amendments Without Consent*. This Ordinance, the Pricing Certificate, and the rights and obligations of the City and of the owners of the Bonds may be modified or amended at any time without notice to or the consent of any owner of the Bonds or any other Previously Issued Bonds, solely for any one or more of the following purposes:
  - (i) To add to the covenants and agreements of the City contained in this Ordinance or the Pricing Certificate, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Ordinance or the Pricing Certificate;
  - (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ordinance or the Pricing Certificate, upon receipt by the City of an opinion of nationally recognized bond counsel, that the same is needed for such purpose, and will more clearly express the intent of this Ordinance or the Pricing Certificate;
  - (iii) To supplement the security for the Bonds, replace or provide additional credit facilities, or change the form of the Bonds or make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Bonds;
  - (iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Bonds Similarly Secured, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Bonds Similarly Secured; or
  - (v) To make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of outstanding Previously Issued Bonds.

Notice of any such amendment may be published by the City in the manner described in subsection (c) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory resolution and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory resolution.

(b) Amendments With Consent. Subject to the other provisions of this Ordinance, the owners of outstanding Bonds aggregating a majority in outstanding principal amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Ordinance or the Pricing Certificate which may be deemed necessary or desirable by the City; provided, however, that nothing herein contained shall permit

or be construed to permit, without the approval of the owners of all of the outstanding Bonds, the amendment of the terms and conditions in this Ordinance, in the Pricing Certificate or in the Bonds so as to:

- (i) Make any change in the maturity of the outstanding Bonds;
- (ii) Reduce the rate of interest borne by outstanding Bonds;
- (iii) Reduce the amount of the principal payable on outstanding Bonds;
- (iv) Modify the terms of payment of principal of or interest on the outstanding Bonds, or impose any conditions with respect to such payment;
- (v) Affect the rights of the owners of less than all Bonds then outstanding; or
- (vi) Change the minimum percentage of the outstanding principal amount of Bonds necessary for consent to such amendment.
- (c) *Notice*. If at any time the City shall desire to amend this Ordinance or the Pricing Certificate other than pursuant to subsection (a) of this Section, the City shall cause written notice of the proposed amendment to be given by certified mail to each registered owner of the Bonds affected at the address shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file with the City Clerk or Alternate City Clerk for inspection by all owners of Bonds.
- (d) *Consent Irrevocable*. Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of eighteen (18) months from the date of mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after eighteen (18) months from the date of mailing by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the owners of a majority in outstanding principal amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.
- (e) *Ownership*. For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the registration books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 17.02 <u>Further Procedures</u>. The Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the EPWU, the Vice President of Financial and Management Services of the EPWU, and/or the Chief Financial Officer of the EPWU and all other officers, employees and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the seal of the City and on behalf of the City all agreements, instruments, or such other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and

297089800.3/1001284881 41

delivery of the Bonds, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the EPWU, the Vice President of Financial and Management Services of the EPWU or the Chief Financial Officer of the EPWU and the City's Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance: (i) in order to cure any technical ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such ministerial changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Additionally, the Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the Chief Financial Officer of the City or the Pricing Officer may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with such officer's facsimile signature instead of the officer's manual signature any written agreement, including a contract, purchase order or surety bond, and any related document, including an application, certificate, or approval. For purposes of this Ordinance, "facsimile signature" means a reproduction of the manual signature of an authorized officer that is made by any method.

Section 17.03 <u>Inconsistent Provisions</u>. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

Section 17.04 <u>Governing Law</u>. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 17.05 <u>Effectiveness</u>. This Ordinance shall take effect and be in force from and after its passage and approval.

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297089800.3/1001284881 42

APPROVED AND ADOPTED this o	day of, 2025.
	Renard U. Johnson Mayor, City of El Paso, Texas
ATTEST:	
Laura D. Prine City Clerk, City of El Paso, Texas	
(SEAL)	
APPROVED AS TO FORM:	1. 7
Ful A. Brad	X Color Marine
Paul A. Braden Bond Counsel	Karla Nieman \ City Attorney City of El Paso, Texas
APPROVED AS TO CONTENT:	
antur Duran	

Chief Financial Officer El Paso Water Utilities

### **EXHIBIT A**

### PAYING AGENT/REGISTRAR AGREEMENT

### **EXHIBIT B**

### (a) Form of Bond.

REGISTERED No			REGISTERED \$
R	UNITED STATES STATE OF COUNTY OF CITY OF EL PA MUNICIPAL DRAINAG EVENUE REFUNDING I	TEXAS EL PASO SO, TEXAS, E UTILITY SYSTEM	
INTEREST RATE:	MATURITY DATE:	INITIAL DATE:	CUSIP NO.:
	March 1, 20	, 20	
received, hereby promis	Paso (the "City"), in the es to pay to  tt solely from the sources		
Maturity Date specified		and in the manner heren	latter provided, on the
		DOLLARS	
principal hereof shall had from the later of the date been paid or provided for at the per annum rate of 30-day months, such into commencing exchange or collection collection commencing	have been sooner called we been paid or provided for of delivery or the most report until payment of such provided above, concerest to be paid semiannuated to be paid semiannuated to be paid semiannuated to be paid at the designated payment at the designated payment at the designated payment.	or, and to pay interest on cent interest payment dat rincipal amount has been mputed on the basis of a ally on March 1 and Sep ncipal of this Bond sha the United States of Ame	such principal amount te to which interest has a paid or provided for, 360-day year of twelve tember 1 of each year, Il be payable without perica upon presentation
(the "Designated P Agent/Registrar, or at the on this Bond is payable	and at the designated payment/Transfer Office of Designated Payment/Transfer by check, dated as of the egistered owner at the addr	of of any succe interest payment date,	mailed by the Paying
Paying Agent/Registrar Agent/Registrar and the bear all risk and expens payment of interest on the is registered at the close month next preceding se scheduled payment date	person to whom interest is e of such other customary person to whom interest is e of such other customary is Bond, the registered own of business on the "Recor- uch interest payment date. , and for thirty days thereaf e") will be established by the	banking arrangements as paid; provided, however banking arrangements. ner shall be the person in d Date," which shall be a In the event of a nonpage, a new record date for	that such person shall For the purpose of the whose name this Bond the fifteenth day of the syment of interest on a resuch interest payment

for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which date shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof, dated as of \_\_\_\_\_\_\_, 20\_\_\_, issued in the aggregate principal amount of \$\_\_\_\_\_\_\_ (herein referred to as the "Bonds"), and issued pursuant to the authority provided by Texas Government Code, Chapters 1207 and 1371, as amended, and a certain ordinance of the City (the "Ordinance"), for the purposes of (i) refunding the Refunded ECP Notes, and/or (ii) refunding all or a portion of the Refunded Bonds, and (iii) paying the costs of issuing the Bonds as described in the Ordinance. Capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Ordinance.

The Bonds are special obligations of the City, payable solely from and, together with the Previously Issued Bonds (identified and defined in the Ordinance), equally and ratably secured by a first lien on and pledge of the Net Revenues (as defined in the Ordinance) of the City's Municipal Drainage Utility System (as defined in the Ordinance and hereinafter referred to as the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Net Revenues. The Owner hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Net Revenues of the System, in the same manner and to the same extent as the Bonds.

The City reserves the option to redeem Bonds maturing on or after March 1, 20\_\_\_\_, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof, before their respective scheduled maturity dates, on \_\_\_\_\_\_, 20\_\_ or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each \$5,000 portion of the Bonds and select the portion or portions of the Bond to be redeemed by lot or by any other customary method that results in a random selection.

[The Bonds stated to mature on March 1, 20\_\_ and March 1, 20\_\_ (the "Term Bonds") are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the following schedule:

Term Bonds Maturing March 1, 20	
Redemption Date Principal Amou	<u>nt</u>
March 1, 20 \$ ,000	
March 1, 20 (maturity) \$,000	

Term Bonds Maturing March 1, 20\_

Redemption Date	Principal Amount
March 1, 20	\$ ,000
March 1, 20	\$ ,000
March 1, 20	\$ ,000
March 1, 20 (maturity)	\$ ,000

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]

Notice of such redemption or redemptions shall be given by United States mail, first-class, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

As provided in the Ordinance and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable

to the Paying Agent/Registrar, and, thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption when such redemption is to occur within 45 calendar days after the transfer or exchange date. However, such limitations of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that such redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City, the Paying Agent/Registrar, nor any such agent shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; and that the interest on and principal of this Bond and the series of which it is a part, together with the Previously Issued Bonds, are secured by and payable from an irrevocable first lien on and pledge of the Net Revenues of the System, as provided in Ordinance, and not from any other revenues, funds or assets of the City.

This Bond shall not be deemed to constitute a debt of the City or a pledge of its faith and credit; nor shall the Owners hereof ever have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Clerk or Alternate City Clerk, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

City Clerk City of El Pas	o. Texas		Mayor City of El Paso, Texas
(SEAL)	o, 10/145		only of Erraso, remai
(b)	Form of Comptroller's Ro	egistr	ration Certificate.
	[to be	prin	nted on Initial Bond only]
OF PUBLIC	F THE COMPTROLLER C ACCOUNTS TATE OF TEXAS	§ § §	REGISTER NO
General of the law, that he fi of Texas, and from the rever Bond has this	e State of Texas to the effect nds that it has been issued that it is a valid and binding nues pledged to its payment day been registered by me	t that in co g spe it by	and of record in my office a certificate of the Attorney to this Bond has been examined by him as required by enformity with the Constitution and laws of the State exial obligation of the City of El Paso, Texas, payable and in the ordinance authorizing same and that such a Austin, Texas, on this date:
withe	ss my nand and sear of offi	ce ai	Austin, Texas, on this date:
(SEAL)			Comptroller of Public Accounts of the State of Texas
(c)	Form of Certificate of Pa	ying .	Agent/Registrar.
	CERTIFICATE O	F PA	AYING AGENT/REGISTRAR
mentioned Or delivered hav	dinance; the bond or bonding been approved by the	ls of Attor	nd registered under the provisions of the within- the above entitled and designated series originally mey General of the State of Texas and registered by n by the records of the Paying Agent/Registrar.
	esignated office of the Pay ayment/Transfer Office for		Agent/Registrar in,, is the Bond.
			as Paying Agent/Registrar
Dated:		]	By:Authorized Signature

### (d) Form of Assignment.

#### ASSIGNMENT

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attori	ney to trans	or other identify and hereby fer the within Energies.	fying number irrevocably sond on the b	constitute	es and a	) th ppoints stration here	e within	Bond and all full power of
Date	ed:							
Sign	nature Guar	anteed By:		m re the	ust corre gistered o within E	spond with wner as it a Bond in ever	n the n appears or ry particu	Assignment name of the on the face of ular and must eptable to the
Aut	horized Sig	natory			_	nt/Registra		ptable to the
exce		the Initial Bond llowing alteration		the form	set forth	in subsecti	on (a) or	f this Exhibit,
		) Immediat d "Maturity Dat leading "CUSIP		ompleted				
	specified the follow	above, the sum wing will be in and bearing in	serted: "on N	March 1 in	_ DOLL each of	ARS" shall the years, i	be deleten the pri	ed and incipal
		<u>Year</u>	Principa	al Amoun	<u>t</u>	Inter	est Rate	
		(Inform	ation to be in	serted fro	om the Pri	cing Certif	icate)	
	(i	ii) the Initial	Bond shall b	e number	ed T-1.			
Bond		The Comptroller ertificate on the	_		-	y be delete	ed from	the definitive
if the		he Certificate o er's Registration		•		y be deleted	d from th	e Initial Bond

#### RESOLUTION

A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE OF UP TO \$60,600,000 OF CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE REFUNDING BONDS TO PAY OFF UP TO \$60,000,000 OF EXTENDABLE COMMERCIAL PAPER NOTES AND FUND RELATED TRANSACTION COSTS, PROVIDED THAT CERTAIN PARAMETERS ARE MET.

**WHEREAS,** on June 19, 2007, the City Council of the City of El Paso, Texas (the "City") established its Municipal Drainage Utility System by Ordinance Number 016668 for the management and control of stormwater drainage and infrastructure; and

**WHEREAS,** the El Paso City Council, as authorized by State law, vested the complete authority and control of the management and operation of the El Paso Texas Municipal Drainage Utility System (the "System") in the El Paso Water Utilities Public Service Board (the "Public Service Board"); and

WHEREAS, on May 9, 2023, the El Paso City Council authorized the establishment of the City of El Paso, Texas, Municipal Drainage Utility System Extendable Commercial Paper Program (the "Extendable Commercial Paper Program") to allow for the issuance of tax-exempt extendable commercial paper notes (the "ECP Notes"), in an amount not to exceed \$60,000,000, to provide interim funding to support the Capital Improvement Program for the System; and

**WHEREAS**, on May 7, 2024, the El Paso City Council authorized the issuance of up to \$61,200,000 of City of El Paso, Texas Municipal Drainage Utility System Revenue Refunding Bonds to pay off up to \$60,000,000 of outstanding ECP Notes and fund related transaction costs, provided that certain parameters set forth in the ordinance were met; and

**WHEREAS**, the Public Service Board hereby finds and determines that it is in the best interests of the System and the City to refund the City's outstanding ECP Notes for the purpose of making such debt long-term fixed rate debt of the City; and

**WHEREAS**, the Public Service Board requests the El Paso City Council to authorize the issuance of up to \$60,600,000 of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds to refund the outstanding ECP Notes and to fund related transaction costs.

# NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

<u>Section 1.</u> That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

<u>Section 2.</u> That the Public Service Board hereby requests El Paso City Council to authorize the issuance of up to \$60,600,000 of City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds to (i) pay off up to \$60,000,000 of outstanding Notes and (ii)

fund related transaction costs, provided that certain pricing parameters set forth in such ordinance are met.

PASSED AND APPROVED at the regular meeting of the Public Service Board, this 12th day of March, 2025, at which meeting a quorum was present and which was held in accordance with the provisions of Texas Government Code, Sections 551.001, et. seq.

ATTEST:

Stefanie Block Uribarri, Secretary/Treasurer

EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Bryan Morris, Chair

APPROVED AS TO CONTENT:

Arturo Duran

Chief Financial Officer

APPROVED AS TO FORM:

Darnel Ortiz

General Counsel

### RESOLUTION

A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE OF UP TO \$13,000,000 OF CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE REFUNDING BONDS (THE "REFUNDED BONDS") TO REFUND UP TO \$12,645,000 OF THE CURRENTLY OUTSTANDING SERIES 2016 BONDS AND TO FUND RELATED TRANSACTION COSTS, PROVIDED THAT CERTAIN PARAMETERS ARE MET.

**WHEREAS**, on June 19, 2007, the City Council of the City of El Paso, Texas (the "City") established its Municipal Drainage Utility System by Ordinance Number 016668 for the management and control of stormwater drainage and infrastructure; and

**WHEREAS**, the El Paso City Council, as authorized by State law, vested the complete authority and control of the management and operation of the El Paso Texas Municipal Drainage Utility System (the "System") in the El Paso Water Utilities Public Service Board (the "Public Service Board" or "Board"); and

**WHEREAS**, on May 7, 2024, the El Paso City Council authorized the issuance of up to \$14,000,000 City of El Paso, Texas, Municipal Drainage Revenue Refunding Bonds, to refund Series 2015; and

**WHEREAS**, the Board hereby finds and determines that it is in the best interests of the System and the City to refund all or a portion of the Refunded Bonds in order to achieve a present value debt service savings; and

**WHEREAS**, in order to take advantage of such potential savings, the Board requests the El Paso City Council to approve the issuance of up to \$13,000,000 of City of El Paso, Texas, Municipal Drainage Revenue Refunding Bonds and fund related transaction costs.

# NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

<u>Section 1.</u> That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the El Paso Water Utilities Public Service Board hereby requests the El Paso City Council to authorize the issuance of up to \$13,000,000 of City of El Paso, Texas, Municipal Drainage Revenue Refunding Bonds to refund up to \$12,645,000 of the Refunded Bonds and to fund related transaction costs, provided that certain pricing parameters as set forth in the City's bond ordinance are met.

(Signatures on the Following Page)

PASSED AND APPROVED at the regular meeting of the Public Service Board, this 12th day of March, 2025 at which meeting a quorum was present and which was held in accordance with the provisions of Texas Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Bryan Morris, Chair

Stefanie Block Uribarri, Secretary/Treasurer

APPROVED AS TO CONTENT:

Arturo Duran

Chief Financial Officer

APPROVED AS TO FORM:

Daniel Ortiz

General Counsel



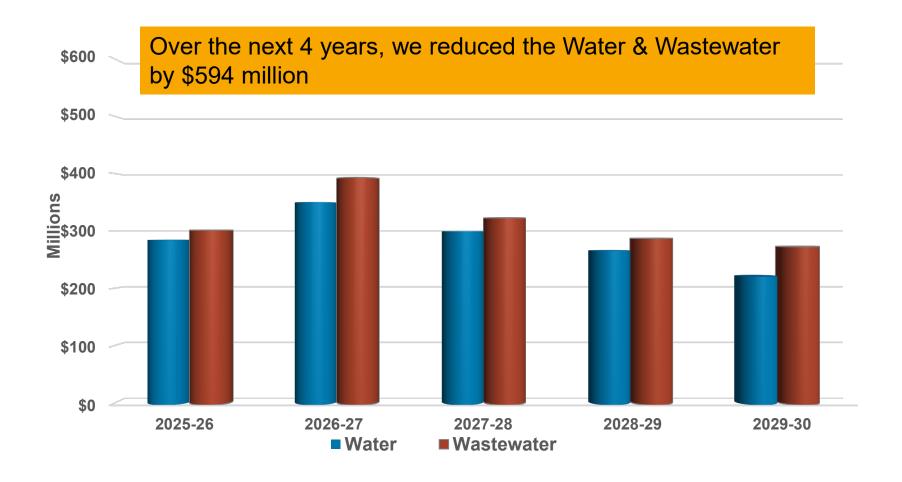
Extendable Commercial Paper Program: Parameter Authorization for Water & Sewer Utility Refunding Bonds \$302.3 Million

### **Transaction Overview**

### **Extendable Commercial Paper Fix-Out**

- City of El Paso created the Extendable Commercial Paper ("ECP") Program for the Water
   & Sewer Utility on May 7, 2024. Funding capacity of the ECP Program: \$300,000,000
- As part of the ECP Program, the City is required to approve a parameter ordinance to issue refunding bonds, for the maximum capacity of funds, within 12 months of approval of the ordinance.
- To continue using the ECP Program, staff requests approval of a new parameter authorization to refund up-to \$300 million of ECP notes for the <u>NEXT</u> 12 months.
- Utility Bonds and ECP are budgeted annually and funded fully by EPWater's system
   revenues. No tax revenue is used to pay for EPWater's CIP financing.

# Five-Year Combined Projected CIP Budget



# Water & Sewer ECP Funded Current and Future Projects

ECP Major Expenditures to Date Fred Hervey WRP Headworks (\$13.2M)

Manhole Rehabilitation (\$6.3M)

Franklin East 24" Waterline Extension (\$5.2M)

Montana Waterline Replacement (\$5.0M)

Roberto R. Bustamante WWTP Headworks (\$4.6M)

ECP Funded Future Projects

Roberto R. Bustamante WWTP Upgrades and Rehabilitation (\$398.2M)

Advanced Water Purification Facility (\$152.1M)

State Senate Bill 3 Energy System Upgrades (\$35M)

Frontera Force Main Rehabilitation (\$23.5M)



# **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Water & Sewer Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 5.90%
  - Not-to-Exceed Par of Bonds \$302,300,000
  - Final Maturity Date December 31, 2056
  - Expiration of Delegated Authority 12 months
- ☐ Pricing Officer can only approve sale if all Council parameters are met.

<sup>\*</sup>Current market rates as of April 14, 2025, would price a bond amortized over 30 years for a "AA" utility revenue bond at approximately <u>5.00%</u>. Actual interest rates are set at prevailing market rates when bonds are finally priced and sold.

# **Extendable Commercial Paper Refunding Summary**

### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES		
Bond Proceeds		
Par Amount & Premium	\$302,300,000	
Total Sources	\$302,300,000	

Uses of Funds	
Refunding Deposit	\$300,000,000 (1)
Costs of Issuance	900,000 (2)
Underwriter's Fees	1,400,000 (3)
Total Uses of Funds	\$302,300,000

- (1) Assumes the Utility Refunds the maximum capacity of ECP notes for a total of \$300 million.
- (2) Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.
- (3) Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses.

NOTE: Analysis is preliminary and subject to change.

# Conclusion

# **QUESTIONS & ANSWERS**



Water & Sewer Utility Refunding Bonds \$37.1 Million

### **Bond Refinancing Overview**

### Water & Sewer Utility System Revenue Refunding Bonds

### **Existing Refinancing Candidates**

### W&S Revenue Improvement & Refunding Bonds, Series 2016

Call Date: 3/1/2026

Callable Principal: \$36,570,000 (Maturities 2027-2037)

• Coupon Range: 4.00 - 5.00%

Final Maturity: 3/1/2037

\*Current Refunding: The IRS allows for tax-exempt bonds to be refinanced only under certain circumstances. The Series 2016 Bonds, with their call date occurring on March 1, 2026, will meet that criteria.

# **Refinancing "Refunding" Summary**

### Water & Sewer Utility System Revenue Refunding Bonds

Key Bond Statistics*		
Total Savings	\$1,394,000	
Net Present Value Savings (\$)	\$1,110,000	
Net Present Value Savings (%)	3.03%	
Average Annual Savings	\$125,000	
Estimated Borrowing Cost (TIC)	4.03%	



\*Note: This analysis is preliminary and subject to change. Actual results will be based on market conditions at the time of pricing.

For presentation purposes, refunding summary assumes a minimum Net Present Value (NPV) scenario of 3.00%. Current market rates as of April 14, 2025 show a refunding with NPV savings of 2.23%.

# **Refinancing Summary**

### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES		
Bond Proceeds		
Par Amount & Premium	\$37,100,000	
Total Sources	\$37,100,000	

Uses of Funds	
Refunding Deposit	\$36,570,000
Costs of Issuance	235,000 (1)
Underwriter's Fees & Other Misc.	295,000 (2)
Total Uses of Funds	\$37,100,000

NOTE: Analysis is preliminary and subject to change.

<sup>(1)</sup> Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.

<sup>(2)</sup> Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses. Other Miscellaneous includes any other expenses that may be incurred prior to closing.

## **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Water & Sewer Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 4.50%
  - Not-to-Exceed Principal Amount \$37,100,000
  - Minimum Present Value Savings 3.00%
  - Final Maturity Date December 31, 2037
  - Expiration of Delegated Authority 12 months (from City Council Approval)
- ☐ Pricing Officer can only approve sale if all Council parameters are met.



# Final Pricing Numbers for Water & Sewer Utility Bonds Series 2025

## 2025 Water & Sewer Utility Bond Results

**Priced March 4, 2025:** Pricing for Tax Exempt Refunding Bonds, Series 2025

# Council approved in May 2024 the parameters for the Extendable Commercial Paper (ECP) for the Water & Sewer Utility to finance CIP projects

- Series 2025 (Refunding ECP Notes of \$280 million for the Water & Sewer Utility)
- **□**Council approved parameters:
  - Maximum True Interest Cost 5.15%: ACTUAL: 4.26%
  - Aggregate Not-to-Exceed Principal Amount for all bonds \$303,000,000:
     ACTUAL: \$260,775,000
  - Final Maturity Date December 31, 2050: ACTUAL: March 1, 2050
  - Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

## 2025 Water & Sewer Utility Bond Results

 Series 2025 (Current Refunding of \$39,335,000 of 2015A & 2015C Water & Sewer Utility Refunding Bonds) Resulted in \$3.1 million of interest savings

### **□**Council approved parameters:

- Maximum True Interest Cost 4.00%: ACTUAL: 3.04%
- Aggregate Not-to-Exceed Principal Amount for all bonds \$40,480,000:
   ACTUAL: \$36,030,000
- Final Maturity Date December 31, 2035: ACTUAL: March 1, 2035
- Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council



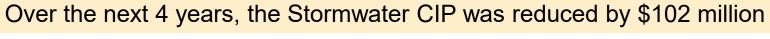
Extendable Commercial Paper Program:
Parameter Authorization for Municipal Drainage
Utility Refunding Bonds

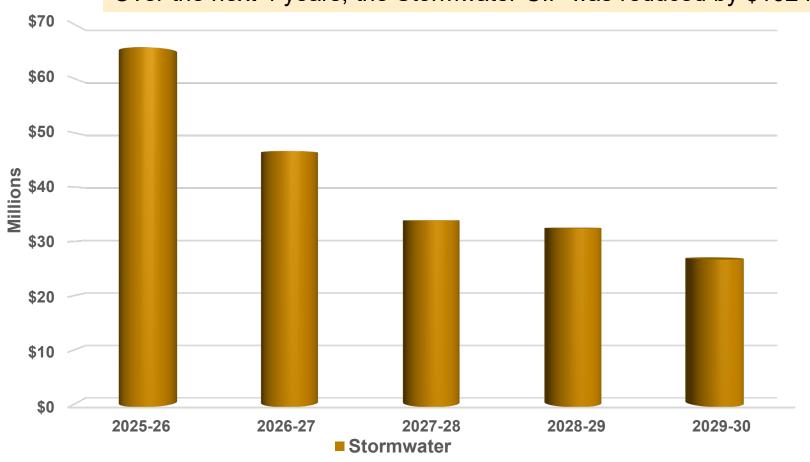
### **Transaction Overview**

### **Extendable Commercial Paper Fix-Out**

- City of El Paso created the Extendable Commercial Paper ("ECP") Program for the Municipal Drainage Utility on May 9, 2023. Funding capacity of the ECP Program: \$60,000,000
- As part of the ECP Program, the City is required to approve a parameter ordinance to issue refunding bonds, for the maximum capacity of funds, within 12 months of approval of the ordinance. City Council last approved the ordinance in May 2024.
- To continue using the ECP Program, staff requests approval of a new parameter authorization to refund up-to \$60 million of ECP notes for the <a href="NEXT">NEXT</a> 12 months.

# Five-Year Combined Projected CIP Budget





# Municipal Drainage ECP Funded Current and Future Projects

ECP Major
Expenditures to
Date

Stormwater Land Acquisition (\$9.8M)

SAC 2 Land Acquisition (\$9M)

Arroyo 1 Dam Detention Improvements (\$5.6M)

Pico Norte Slope Restoration (\$5M)

ECP Funded Future Projects

Will Ruth Pond (\$46.2M)

Hondo Pass Drive Drainage Improvements (\$400K)



### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Municipal Drainage Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 5.75%
  - Not-to-Exceed Par of Bonds \$60,600,000
  - Final Maturity Date December 31, 2051
  - Expiration of Delegated Authority 12 months
- ☐ Pricing Officer can only approve sale if all Council parameters are met.

<sup>\*</sup>Current market rates as of April 14, 2025, would price a bond amortized over 25 years for a "AA+" utility revenue bond at approximately 4.87%. Actual interest rates are set at prevailing market rates when bonds are finally priced and sold.

### **Extendable Commercial Paper Refunding Summary**

### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES & USES	
Bond Proceeds	
Par Amount & Premium	\$60,600,000
Total Sources	\$60,600,000

Uses of Funds	
Refunding Deposit	\$60,000,000 (1)
Costs of Issuance	252,000 <sup>(2)</sup>
Underwriter's Fees	348,000 <sup>(3)</sup>
Total Uses of Funds	\$60,600,000

- (1) Assumes the Utility Refunds the maximum capacity of ECP notes for a total of \$60 million.
- (2) Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.
- (3) Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses.

NOTE: Analysis is preliminary and subject to change.



Municipal Drainage Utility Refunding Bonds \$13 Million

### **Bond Refinancing Overview**

### Municipal Utility Drainage System Revenue Refunding Bonds

### **Existing Refinancing Candidates**

### Municipal Drainage System Revenue Bonds, Series 2016

• Call Date: 3/1/2026

Callable Principal: \$12,645,000 (Maturities 2027-2036)

• Coupon: 5.00%

Final Maturity: 3/1/2036

\*Current Refunding: The IRS allows for tax-exempt bonds to be refinanced only under certain circumstances. The Series 2016 Bonds, with their call date occurring on March 1, 2026, will meet that criteria.

### **Refinancing "Refunding" Summary**

### **Municipal Utility Drainage System Revenue Refunding Bonds**

Key Bond Statistics*	
<b>Total Savings</b>	\$567,000
Net Present Value Savings (\$)	\$458,000
Net Present Value Savings (%)	3.62%
Average Annual Savings	\$58,000
Estimated Borrowing Cost (TIC)	4.06%



<sup>\*</sup>Note: This analysis is preliminary and subject to change. Actual results will be based on market conditions at the time of pricing. For presentation purposes, rates assume underlying ratings by S&P "AA+" and Fitch "AA+" as of April 14, 2025.

### **Refinancing Summary**

### **TOTAL SOURCES & USES OF FUNDS**

PROJECTED SOURCES	& USES
Bond Proceeds	
Par Amount & Premium	\$13,000,000
Total Sources	\$13,000,000

Uses of Funds	
Refunding Deposit	\$12,645,000
Costs of Issuance	135,000 (1)
Underwriter's Fees & Other Misc.	220,000 (2)
Total Uses of Funds	\$13,000,000

NOTE: Analysis is preliminary and subject to change.

<sup>(1)</sup> Cost of Issuance covers fees for Financial Advisor, Bond Counsel, Attorney General, Rating Fees, Paying Agent, Escrow Agent, Bond Call Fees, and Document Preparation Fees.

<sup>(2)</sup> Underwriter Fees include Bond Takedown Fees, Underwriter's Counsel and other Underwriter Expenses. Other Miscellaneous includes any other expenses that may be incurred prior to closing.

### **Open Market: Parameter Authorization**

- ☐ Parameter authorization will enable the sale of the Bonds at optimum timing and structure:
  - Municipal Drainage Utility Revenue Refunding Bonds
- ☐ Council delegates final pricing authority to following Pricing Officer(s):
  - President/Chief Executive Officer
  - Vice President
  - Chief Financial Officer
- ☐ Council asked to approve parameters as recommended by PSB:
  - Maximum True Interest Cost 4.50%
  - Not-to-Exceed Principal Amount \$13,000,000
  - Minimum Present Value Savings 3.00%
  - Final Maturity Date December 31, 2036
  - Expiration of Delegated Authority 12 months (from City Council Approval)
- ☐ Pricing Officer can only approve sale if all Council parameters are met.



# Final Pricing Numbers for Bonds Drainage Utility Series 2025

### **2025 Drainage Utility Bond Results**

**Priced March 18, 2025:** Pricing for Tax Exempt Refunding Bonds, Series 2025

### Council approved the parameters for the Extendable Commercial Paper (ECP) for the Drainage Utility to finance Stormwater projects

Series 2025 (Refunding ECP Notes of \$20 million for the Drainage Utility)

### **□**Council approved parameters:

- Maximum True Interest Cost 5.15%: ACTUAL: 4.38%
- Aggregate Not-to-Exceed Principal Amount for all bonds \$61,200,000:
   ACTUAL: \$19,215,000
- Final Maturity Date December 31, 2050: ACTUAL: March 1, 2050
- Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

### **2025 Drainage Utility Bond Results**

Series 2025 (Current Refunding of \$13,490,000 of 2015
 Drainage Utility Refunding Bonds Resulted in \$1.3 million of interest savings

### **□**Council approved parameters:

- Maximum True Interest Cost 4.00%: ACTUAL: 3.31%
- Aggregate Not-to-Exceed Principal Amount for all bonds \$14,000,000:
   ACTUAL: \$12,575,000
- Final Maturity Date December 31, 2035: ACTUAL: March 1, 2035
- Expiration of Delegated Authority 12 months: Within 12 months from May 2024 approval from City Council

### Conclusion

### **QUESTIONS & ANSWERS**

### El Paso, TX

### Legislation Text

File #: 25-401, 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 P. 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. 10739 as amended by Ordinance Nos. 15658, 15167, 15006, 12909, and 12141, and amending the Budget Resolution Fee Schedule to revise the Overdue Fines for Materials charged by the El Paso Public Library to \$0.00 and forgive any outstanding fine balance for overdue materials.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:	
COMMUNITY AND STAKEHOLDER OUTREACH:	
PRIOR COUNCIL ACTION:	
THICK GOUNGIE ACTION.	
AMOUNT AND SOURCE OF FUNDING:	
DEPORTING OF CONTRIBUTION OF DONATION TO CITY	POLINCII -
REPORTING OF CONTRIBUTION OR DONATION TO CITY (	COUNCIL:
NAME	AMOUNT (\$)
**************************************	-HOPIZATION************************************
	HOMEAHON
Morma B. Martinez	
DEPARTMENT HEAD:	

ORDINANCE NO.	

AN ORDINANCE AMENDING ORDINANCE NO. 10739 AS AMENDED BY ORDINANCE NOS. 15658, 15167, 15006, 12909, AND 12141, AND AMENDING THE BUDGET RESOLUTION FEE SCHEDULE TO REVISE THE OVERDUE FINES FOR MATERIALS CHARGED BY THE EL PASO PUBLIC LIBRARY TO \$0.00 AND FORGIVE ANY OUTSTANDING FINE BALANCE FOR OVERDUE MATERIALS

**WHEREAS,** in 2019 the American Library Association passed a resolution encouraging libraries throughout the nation to discontinue fees for overdue library materials as a mechanism to increase library usage and expand access for all populations; and

WHEREAS, City Council desires to adopt a fine of \$0.00 for overdue materials by El Paso Public Libraries because the accumulation of overdue fines deters patrons of the Library from continuing to utilize the Library's services and deprives others of the use of such items; and

**WHEREAS,** City Council desires to forgive all outstanding fine balances to help ensure the public purpose that library resources remain accessible to everyone; and

**WHEREAS**, the amount of lost Library material exceeds the revenue collected from fines and libraries around the State have seen a positive impact on Library use as a result of forgiving and eliminating fines.

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

1. That the overdue fine charges for the El Paso Public Library currently contained in Ordinance No. 10739, as amended by Ordinance Nos. 12141, 12909, 15006, 15167, and 15658 shall be amended to read as follows:

#### **OVERDUE FINES**

All items (adult and juvenile books, paperbacks, fotonovelas, revistas, videotapes, audiocassettes, kits, and compact discs) \$0.00 per day.

- 2. That Schedule C Line Item Number 863 for Overdue Fines at the Library in the City's Budget Resolution for Fiscal Year 2025 be waived and that future Budget Resolutions also remove the charge for Overdue Fines at the Library.
- 3. That all current overdue fines be forgiven.
- 4. That the schedule of overdue fines for items described above shall become effective as of April 29, 2025.
- 5. Except as expressly herein amended, Ordinance No. 10739, as previously amended by Ordinance Nos. 12141, 12909, 15006, 15167, and 15658, shall remain in full force and effect including current fees for damaged or lost materials.

10	
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PASSED AND APPROVED this	day of,2025.
	THE CITY OF EL PASO
	Renard U. Johnson Mayor
ATTEST:	
Laura D. Prine City Clerk	
APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
Leus deintrich	Norma B. Martinez
Jesus A. Quintanilla Assistant City Attorney	Norma Martinez, Director El Paso Public Libraries

ORDINANCE NO. \_\_\_\_

### FY 2026 Department Schedule C

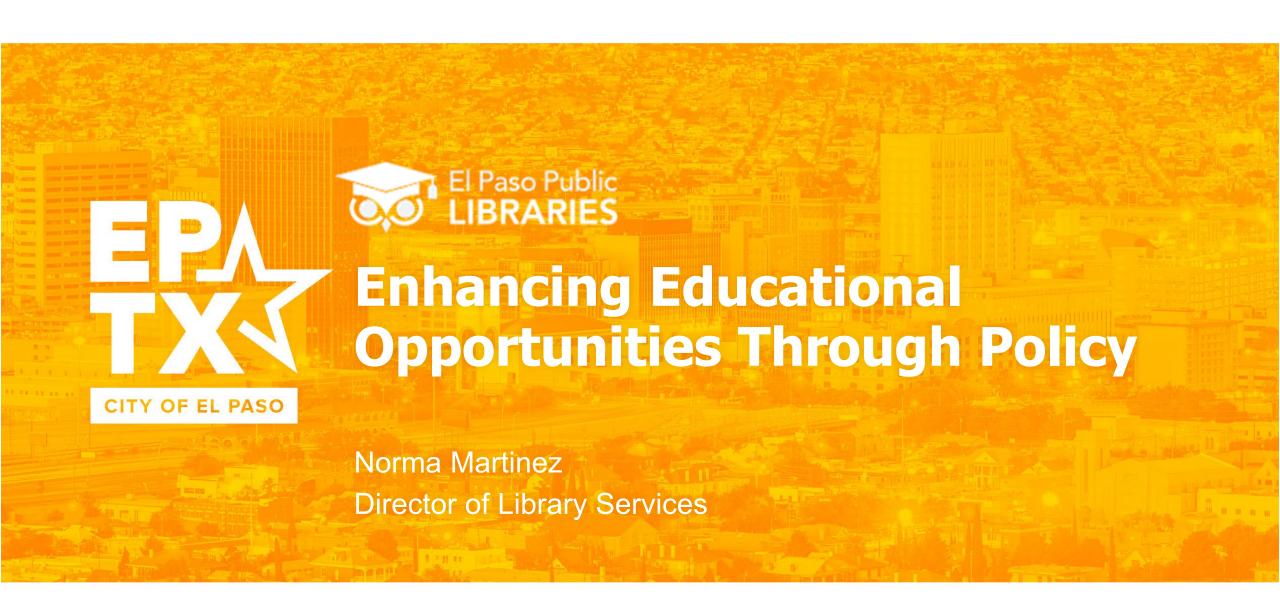
DEPARTMENT:	Library
GOAL:	4

#### Please select all that apply:

☐ New Fee	☑ Services no longer provided
☐ Fee Enhancement	☐ Existing Fee Increased Cost

FY 2025 Line #	Account	Fee Description	Detail	FY 2025 Adopted	FY 2026 Requested	Change	Comments
857	443000	Overdue Fines		\$0.15/day	\$0.00/day	Delete	It is not cost effective to charge overdue fees
893	450567	Library Fees	Scanner	\$0.10	\$0.00	Delete	Our equipment does not have the capability to charge the fee

Fee Changes Description (Mandatory)  (Briefly describe the Fee changes and its associated impact - including revenue impact)	Performance Management (Provide a listing of how the successful implementation of this request will be measured)
Overdue Fees - it is not cost effective in charging fees to the patrons, because of all the indirect costs associated in processing the fees.  Scanner Fees - Our Kiosks and scanning equipment were not able to communicate to apply the fee to the patrons. Comprise and City IT tried to make it work but were unsuccesful.	



### El Paso Public Library Proposes To Eliminate Late Fees

- Ordinance establishes late fees at the Library
- The present fine is \$.15 cents/item/day Capped out at \$5.00/item
- Patrons blocked: 39,506
- There are 177,116 overdue library items checked out by patrons
- Over the previous 5 years, the average annual revenue collected from these late fees is \$24,963





### **Purpose of Eliminating Late Fees**

- Bring back the 39,506 patrons presently blocked
- Make library services and resources more accessible to all El Pasoans
- This change would apply only to late fees
- Fees for damaged/lost materials will still apply
- Patrons can still be blocked for overdue items, but they do not accrue financial fines





## Practice that has been eliminated in many Library Systems across the County

- Research on the topic suggests that late fees have a tendency to cause people to avoid visiting library systems and may influence patrons not to return overdue library items
- Administrative efforts in collecting fines are resource-intensive for libraries, and the revenue collected is minimal compared to the replacement costs of outstanding items
- Libraries that have eliminated late fees have experienced an increase in library usage and a downward trend in lost library materials
- Fines also tend to disproportionately affect financially disadvantaged communities



### **Fine Free Libraries in Texas**

- Arlington Public Library
- Austin Public Library
- Dallas Public Library
- Ft. Worth Public Library
- Houston Public Library
- Harris County Public Library
- San Antonio Public Library
- Seguin Public Library
- Tom Green County Library
- UT System Libraries
- Others





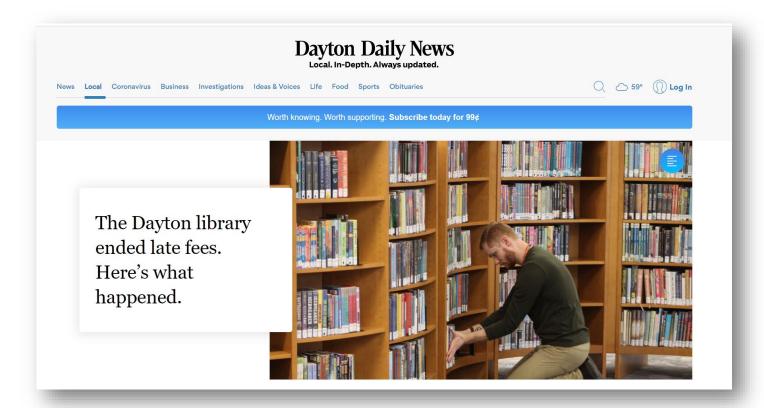
### **Growing Trend**







### **Results Can Be Surprising**



"...surprisingly, fewer borrowed materials have become overdue, and borrowers actually have returned more overdue materials than they did in 2017", officials said.

...(libraries) have little empirical evidence that charging fines results in greater circulation of library materials, or indeed the return of items in a timely manner.

- Study by the Colorado State Library



### **Requested Council Action**

An Ordinance amending Ordinance No. 10739 as amended by Ordinance Nos. 15658, 15167, 15006, 12909, and 12141, and amending the Budget Resolution Fee Schedule to revise the Overdue Fines for Materials charged by the El Paso Public Library to \$0.00 and forgive any outstanding fine balance for overdue materials.



### Questions







**El Paso Public Library** www.elpasolibrary.org





### MISSION



Deliver exceptional services to support a high quality of life and place for our community.

### VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



Integrity, Respect, Excellence, Accountability, People

### El Paso, TX

### **Legislation Text**

File #: 25-523, 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.

#### **All Districts**

Police, Assistant Chief Humberto Talamantes, (915) 212-4309

#### 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 City Manager or designee to submit FY2026 grant application for the Motor Vehicle Crime Prevention Authority (MVCPA) and to accept, alter, decline, modify, terminate and/or execute all necessary documents related to the grant. The grant period will be from September 1, 2025 to August 31, 2026. Requesting grant funding for \$2,023,985.00, with a cash match of \$596,445.00, and an In-kind of \$1,267,598.00. If awarded, the grant will provide financial support to the Police Department's Auto Theft Task Force to combat motor vehicle theft, burglary of motor vehicles and fraud-related motor vehicle crime.

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



**DEPARTMENT: Police** 

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

CONTACT PERSON NAME: Assistant Chief Humberto Talamantes PHONE NUMBER: 915-212-4309

DISTRICT(S) AFFECTED: All

**STRATEGIC GOAL:** 

NO. 2: Set the Standard for a Safe and Secure City

SUBGOAL:

2.1 Maintain standing as one of the nation's top safest cities

#### SUBJECT:

A resolution authorizing the City Manager or designee to submit FY2026 grant application for the Motor Vehicle Crime Prevention Authority (MVCPA) and to accept, alter, decline, modify, terminate and/or execute all necessary documents related to the grant. The grant period will be from September 1, 2025 to August 31, 2026. Requesting grant funding for \$2,023,985,00, with a cash match of 596,445,00, and an In-kind of 1,267,598,00. If awarded, the grant will provide financial support to the Police Department's Auto Theft Task Force to combat motor vehicle theft, burglary of motor vehicles and fraud-related motor vehicle crime.

NAME	AMOUNT (\$)
REPORTING OF CONTRIBUTION OR DONATION TO CITY	
	COUNCIL:
Cash Match of \$553,884 will be funded through the Police Departme	ent General Fund.
AMOUNT AND SOURCE OF FUNDING:	
on June 9, 2021.	S. M. S.
The FY25 MVCPA grant was approved by City Council on July 2, 20, 15, 2023. The FY23 MVCPA grant was approved by City Council on July 2, 20, 20, 20, 20, 20, 20, 20, 20, 20,	24. The FY24 MVCPA grant was approved by City Council on June June 6, 2022, The FY22 MVCPA grant was approved by City Council
PRIOR COUNCIL ACTION:	
N/A	
COMMUNITY AND STAKEHOLDER OUTREACH:	
The FY25 MVCPA grant will fund personnel salaries, fringe benefits. Department's Auto Theft Task Force. El Paso Police Department ha	, travel, supplies, and direct operating expenses for the Police
BACKGROUND / DISCUSSION: The FY25 MVCPA grant will fund personnel salaries, fringe benefits, Department's Auto Theft Task Force. El Paso Police Department ha	, travel, supplies, and direct operating expenses for the Police

NA	ME		AMOUNT (\$)	
	3 - 11 - 11 - 11 - 11 - 11 - 11 - 11 -	1		
	******REQUIR	ED AUTHORIZATION**	*****	
DEPARTMENT HEAD:				_

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

### RESOLUTION

WHEREAS, the City of El Paso is eligible to receive grants from the Texas Department of Motor Vehicles through the Motor Vehicle Crime Prevention Authority (MVCPA) grant program to provide financial support to the El Paso Police Department for automobile theft enforcement teams to combat economic motor vehicle theft and fraud-related motor vehicle crime in El Paso, pursuant to the provisions of the Texas Transportation Code Chapter 1006 and Texas Administrative Code Title 43; Part 3; Chapter 57; and

WHEREAS, the El Paso City Council finds that the MVCPA FY2026 grant program will assist the City of El Paso to combat motor vehicle thefts, burglary of motor vehicles, and fraud-related motor vehicle crime; and

WHEREAS, the El Paso City Council agrees that in the event of loss or misuse of the MVCPA grant funds, the City of El Paso assures that the grant funds will be returned in full to MVCPA.

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

- 1. That the City Manager, or designee, be authorized to submit an MVCPA FY2026 grant application in the amount of \$2,023,985 and to accept, alter, decline, modify, terminate, and/or execute all necessary documents related to the grant.
- 2. That the City of El Paso agrees to provide a cash match in the amount of \$596,445 and in-kind match of salaries and benefits for sworn officers and civilian positions and contractual obligations.
- 3. That the El Paso Police Department Auto Theft Task Force Lieutenant Ricardo Porras or designee is designated as the Program Director.
- 4. That the City of El Paso's Chief Financial Officer, Robert Cortinas, or designee, is designated as the Financial Officer for this grant.

ADOPTED thisday of 2025		
	CITY OF EL PASO	
	Renard U. Johnson Mayor	

ATTEST:

Laura D. Prine City Clerk

APPROVED AS TO FORM:

\_ 10

Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Peter Pacillas
Chief of Police

City of El Paso Taskforce Grant Application for Fiscal Year 2026 Request for Application (RFA)

Primary Agency / Grantee Legal Name: City of El Paso

Organization Type: Law Enforcement

Organization ORI (if applicable): TX0710200: EL PASO PD (MIP)

**Program Title** Please enter a short description of the proposed program that can be used as the title. *El Paso Police Department's Auto Theft Task Force* 

**Application Category** (See **Request for Applications** [RFA] for category details and descriptions RFA Priority Funding Section): **New Grant** - 2026 is the first year of the MVCPA Taskforce Grants. All 2026 grant applicants use the new grant category.

MVCPA Program Category (see RFA and TAC 43, 3 §57.14). Check all that apply.

- · Law Enforcement, Detection and Apprehension
- Prevention, Anti-Theft Devices and Motor Vehicle Registration
- · Reduction of the Sale of Stolen Vehicles or Parts
- Education Programs and Marketing

#### **Taskforce Grant Participation and Coverage Area**

#### Provide a General Description of the Participating and Coverage Area of this Grant Application

The El Paso Police Department's Auto Theft Task Force is the participating agency and provides coverage to all the listed agencies that are located within the City and County of El Paso, Texas. To Include the Native American tribe of Ysleta del Sur Pueblo and the Fort Bliss Military Base.

#### Define in the tables below the grant relationships and geographic area of the taskforce:

Applicant will add the participating and coverage agencies from the ORI list below. If an agency is not in the ORI list, please include the agency and role in the general description above. Make sure to follow the definitions below and select an agency in the dropdown. Use the Add as Participating Agency or Add as Coverage Agency button to populate the list.

Participating Agencies are agencies that materially participate in the grant application through the exchange of funds for reimbursement and cash match. Participating agencies are defined after the grant award by interlocal/interagency agreements. Each applicant must select their own agency first. Then select agencies that will receive or provide funding and/or resources. [Note: Interlocal/interagency agreements do not need to be submitted with the application. Interlocal agreements will need to be executed prior to the first payment being made if selected for a grant. Letters of support with the application from the participating agencies are strongly recommended.]

Coverage Agencies are agencies that provided some level of coverage, assistance or support by this grant application but will not materially exchange funds as cash match or reimbursement. The coverage is not supported by an after the award with interlocal/interagency agreements. Coverage agencies as law enforcement agencies may have jurisdictional coverage agreements unrelated to the grant (Ex. City Y is within County X or vice versa). Agencies selected in this list include agencies that will be covered or where the agency indicates that their agency will coordinate or call upon the taskforce. Letters of support with the application from the participating agencies are strongly recommended.

# Participating Agencies TX0710200 EL PASO PD (MIP) TX0710000 EL PASO CO (MIP) (AE) TX0710100 ANTHONY PD (AE) TX0710400 UT EL PASO PD (AE) TX0711100 EL PASO COMM COLLEGE PD TX0711300 EL PASO ISD PD (AE) TX0711400 HORIZON CITY PD (AE)

#### TX0711600 SOCORRO PD TX0712200 SOCORRO ISD PD (AE)

• Other Coverage (Use if ORI not listed or explanation is necessary.):

Ysleta Del Sur Tribal Police; Fort Bliss, Texas CID and Military Police; Clint Police Department [TX0711200]; Texas Tech University Police Department (El Paso Campus); San Elizario Police Department [TX 0712800]; Canutillo ISD Police Department [TX07112700]; (7) Constable Precincts within the City and County of El Paso, Texas; City of El Paso Fire Marshalls Division [TX0711500]; and, El Paso County Fire Marshalls Office [TX0712600].

**Resolution**: Complete a Resolution and submit to local governing body for approval. Sample Resolution is found in the Request for Application or send a request for an electronic copy to grantsMVCPA@txdmv.gov. The completed and executed Resolution must be attached to this on-line application.

#### **Grant Budget Form**

MVCPA recommends that the applicant complete the total costs (MVCPA and Cash Match combined) for this program. The applicant can then enter the desired amount of Cash Match (not less than 20% per TAC Title 43, §57.36). The system will then calculate the correct grant and match amounts.

### **Budget Entry Option:**

Enter MVCPA and Cash Match Amounts

	Cash		
MVCPA	Match	Total	In-Kind
Expenditures	<b>Expenditures</b>	Expenditures	Match
\$1,589,763	\$0	\$1,589,763	\$923,360
\$0	\$596,445	\$596,445	\$344,238
\$150,000	\$0	\$150,000	
\$40,500	\$0	\$40,500	
\$40,000	\$0	\$40,000	
\$203,722	\$0	\$203,722	
\$2,023,985	\$596,445	\$2,620,430	\$1,267,598
	29.47%		
	\$1,589,763 \$0 \$150,000 \$40,500 \$40,000 \$203,722	MVCPA ExpendituresMatch Expenditures\$1,589,763\$0\$0\$596,445\$150,000\$0\$40,500\$0\$40,000\$0\$203,722\$0\$2,023,985\$596,445	MVCPA Expenditures         Match Expenditures         Total Expenditures           \$1,589,763         \$0         \$1,589,763           \$0         \$596,445         \$596,445           \$150,000         \$0         \$150,000           \$40,500         \$0         \$40,500           \$40,000         \$0         \$40,000           \$203,722         \$0         \$203,722           \$2,023,985         \$596,445         \$2,620,430

Description	Subcategory	Pct Time	MVCPA Funds	Cash Match	Total	In-Kind Match
	Personnel					
Police Lieutenant	Investigator/LEO	100			\$0	\$126,303
Police Sergeant	Investigator/LEO	100			\$0	\$111,474
Police Sergeant	Investigator/LEO	100			\$0	\$111,474
Police Officer	Investigator/LEO	100			\$0	\$90,926
Police Officer	Investigator/LEO	100			\$0	\$72,481
Police Officer	Investigator/LEO	100			\$0	\$79,910
Police Officer	Investigator/LEO	100			\$0	\$98,420
Police Officer	Investigator/LEO	100			\$0	\$98,420
Police Detective	Investigator/LEO	100			\$0	\$98,420
Senior Administrative Assistant	Administrative / Support	100			\$0	\$35,532
Police Sergeant	Investigator/LEO	100	\$107,187	\$0	\$107,187	
Police Officer	Investigator/LEO	100	\$90,926	\$0	\$90,926	
Police Officer	Investigator/LEO	100	\$89,143	\$0	\$89,143	
Police Officer	Investigator/LEO	100	\$89,143	\$0	\$89,143	
Police Officer	Investigator/LEO	100	\$98,421	\$0	\$98,421	
Police Officer	Investigator/LEO	100	\$98,421	\$0	\$98,421	
Police Officer	Investigator/LEO	100	\$85,286	\$0	\$85,286	
Police Officer	Investigator/LEO	100	\$87,412	\$0	\$87,412	
Police Officer	Investigator/LEO	100	\$76,105	\$0	\$76,105	
Police Officer	Investigator/LEO	100	\$98,421	\$0	\$98,421	
Police Officer	Investigator/LEO	100	\$88,286	\$0	\$88,286	
Police Officer	Investigator/LEO	100	\$98,421	\$0	\$98,421	
Police Detective	Investigator/LEO	100	\$96,491	\$0	\$96,491	

Description	Subcategory	Pct Time	MVCPA Funds	Cash Match	Total	In-Kind Match
Police Detective	Investigator/LEO	100	\$84,026	\$0	\$84,026	Match
Police Detective	Investigator/LEO	100	\$98,421	\$0 \$0	\$98,421	
Police Detective	Investigator/LEO	100	\$94,599	\$0 \$0	\$90,421 \$94,599	
Auto Theft Senior Administrative Assistant	Administrative /	100	\$64,828	\$0 \$0	\$64,828	
Auto Theft Crime Prevention Awareness	Support Administrative /	100	\$44,226	\$0	\$44,226	
Manager Total Personnel	Support	2800	\$1,589,763	\$0	\$1,589,763	\$923,360
	<b>P</b> J.,					
Police Lieutenant	Fringe				\$0	\$48,294
Police Sergeant	Investigator/LEO Investigator/LEO				\$0 \$0	\$40,2 <del>94</del> \$42,624
Police Officer	Investigator/LEO				\$0 \$0	\$42,624 \$42,624
Police Officer					\$0 \$0	\$42,024 \$34,767
Police Officer	Investigator/LEO				\$0 \$0	\$34,767 \$27,714
	Investigator/LEO				•	
Police Officer	Investigator/LEO				\$0 \$0	\$30,555
Police Officer	Investigator/LEO				\$0 \$0	\$37,633
Police Officer	Investigator/LEO				\$0 \$0	\$37,633
Police Detective	Investigator/LEO				\$0	\$37,633
Senior Administrative Assistant	Administrative / Support				\$0	\$4,761
Police Sergeant	Investigator/LEO		\$0	\$40,985	\$40,985	
Police Officer	Investigator/LEO		\$0	\$34,765	\$34,765	
Police Officer	Investigator/LEO		\$0	\$34,085	\$34,085	
Police Officer	Investigator/LEO		\$0	\$34,085	\$34,085	
Police Officer	Investigator/LEO		\$0	\$37,633	\$37,633	
Police Officer	Investigator/LEO		\$0	\$37,633	\$37,633	
Police Officer	Investigator/LEO		\$0	\$32,611	\$32,611	
Police Officer	Investigator/LEO		\$0	\$33,423	\$33,423	
Police Officer	Investigator/LEO		\$0	\$29,100	\$29,100	
Police Officer	Investigator/LEO		\$0	\$37,633	\$37,633	
Police Officer	Investigator/LEO		\$0	\$33,758	\$33,758	
Police Officer	Investigator/LEO		\$0	\$37,633	\$37,633	
Police Detective	Investigator/LEO		\$0	\$36,895	\$36,895	
Police Detective	Investigator/LEO		\$0	\$32,129	\$32,129	
Police Detective	Investigator/LEO		\$0	\$37,633	\$37,633	
Police Detective	Investigator/LEO		\$0	\$36,172	\$36,172	
Auto Theft Senior Administrative Assistant	Administrative / Support		\$0	\$16,505	\$16,505	
Auto Theft Crime Prevention Awareness Manager	Administrative / Support		\$0	\$13,767	\$13,767	
Total Fringe	Соррон		\$0	\$596,445	\$596,445	\$344,238
	Overtime					
25 Taskforce Peace Officers	Investigator/LEO		\$150,000	\$0	\$150,000	
Total Overtime	mvestigator/LLO		\$150,000	\$0 \$0	\$150,000	
Pro	ofessional and Contrac	t Services	<b>;</b>			
Total Professional and Contract Services		- 3 <b>1</b>				
	Travel					
Taskforce Training	Training In-State		\$18,000	\$0	\$18,000	
MVCPA Board Meetings/Workshops	Law enforcement In- State		\$10,000	\$0	\$10,000	
TAVTI	Training In-State		\$10,000	\$0	\$10,000	
Taskforce Training	Training In-State  Training Out-of-State		\$2,500	\$0 \$0	\$2,500	
Total Travel	g out of out		\$40,500	\$0	\$40,500	

Description	Subcategory Equipment	Pct Time	MVCPA Funds	Cash Match	Total	In-Kind Match
(X3) Tactical Ballistic Shields	• •		\$2,500	\$0	\$2,500	
Heavy Duty Front Bumper for F250 Truck			\$2,500	\$0	\$2,500	
Bumper Wench for F250 Truck			\$1,000	\$0	\$1,000	
(X4) Vigilant LPR Camera Systems			\$15,000	\$0	\$15,000	
(X2) Starchase Launchers W/GPS Tracking			\$12,000	\$0	\$12,000	
Covert Track Bait Vehicle System			\$7,000	\$0	\$7,000	
Total Equipment			\$40,000	\$0	\$40,000	
Supplies and	d Direct Operating	Expenses	(DOE)			
Office Supplies			\$2,750	\$0	\$2,750	
Promotional Supplies			\$10,000	\$0	\$10,000	
Vehicle Leases (20)			\$166,800	\$0	\$166,800	
Vigilant			\$4,500	\$0	\$4,500	
Paging and Communication (41)			\$19,672	\$0	\$19,672	
Total Supplies and Direct Operating Expenses (DOE)			\$203,722	\$0	\$203,722	

#### **Budget Narrative**

#### A. Personnel

Police Lieutenant: Under minimal supervision oversees the operations of the Auto Theft Task Force and serve as the Taskforce's Program Director. Administers and executes the MVCPA grant. Is responsible for writing the MVCPA grant. Commands the unit to assure department goals and objectives are met. Is directly involved with the unit's budget preparation. Is responsible for monitoring the budget, supplies, and equipment during the grant cycle. Commonly interacts with Departmental Command Staff, Accounting Staff, Grant Staff as well as Local, State, and Federal Law Enforcement partners. Requires frequently changing work schedules, must be available for callout duties and occasional rotating shift work. The Taskforce Commander is deputized by the El Paso County District Attorney's Office to investigate automobile crimes that are committed within the City and County of El Paso, Texas. Police Sergeant: Under general supervision directly supervises auto theft investigators or a tactical field team, to ensure quality, and accurate work methods are followed through. Makes assignments and coordinates activities of the unit. Ensures assignments are completed in a timely manner. Monitors and reviews cases, prepares reports as assigned. Develops and implements action plans. Provides training and ensures logistical needs of the unit are met. Assists in budget preparation, monitors budget, supplies and equipment. Interacts frequently with department supervisors, public, business community, civic organizations, as well as local, state, and federal law enforcement agencies. Requires frequently changing schedules, including callout duty, and rotating shift work. Sergeants are deputized by the El Paso County District Attorney's Office to investigate automobile crimes that are committed within the City and County of El Paso, Texas. Police Investigator (Officer/Detective): Under direct and indirect supervision, prepares quality and accurate investigations of auto related offenses. Prepares fully investigated cases for Presentation to the District Attorney's Office. Collaborates with the District Attorney's Office regarding case packets, sentencing, and addressing repeat offenders. Develops and works with informants. Conducts surveillance in plain-clothes capacity checking for on-view vehicle thefts and other automobile crimes while remaining responsive to the patrol division. The Investigator will use a proactive approach regarding auto thefts through participation of any related duties to include, but not limited to Crime Prevention Presentations, Border Partners (Mexican Liaison), Surveillance, and Investigations. Investigators are deputized by the El Paso County District Attorney's Office to investigate automobile crimes that are committed within the City and County of El Paso, Texas. The investigator interacts frequently with department supervisors, the public, the business community, other law enforcement agencies (Local, State, and Federal), and civil and regulatory governmental entities. Once the investigator is appointed to the taskforce, the investigator acknowledges and agrees unconditionally that he or she will be required to frequently change work schedules, rotating days off, be on continuous call-out status, travel, and/or work rotating shifts. The investigator further agrees that if at any moment that he or she is no longer able or willing to accept and abide by the position requirements, that he or she will forfeit his or her position with the Auto Theft Task Force. Police Field Team Officer (Officer/Detective): Under direct and indirect supervision, prepares quality and accurate investigations of auto related offenses. Field Team Officers are deputized by the El Paso County District Attorney's Office to investigate automobile crimes that are committed within the City and County of El Paso, Texas. Field team officers develop and work with informants, conduct surveillance in plain-clothes capacity, checking for on-view vehicle thefts and other crimes, while remaining responsive to the patrol division. Field team officers utilize a proactive approach regarding auto thefts through participation of any taskforce related duties. Taskforce duties include, but are not limited to Crime Prevention Presentations, Border Partners (Mexican Liaison), Surveillance, and automobile crime Investigations, Field team officers frequently interact with department supervisors, the public, the business community, other law enforcement agencies (Local, State, and Federal), and civil & regulatory governmental entities. Once appointed to the taskforce, the field team officer acknowledges and agrees unconditionally that he or she will be required to frequently change work schedules, rotating days off, be on continuous call-out status, travel, and/or work rotating shifts. The field team officer further agrees that if at any moment that he or she is no longer able or willing to accept and abide by the position requirements, that he or she will forfeit his or her position with the Auto Theft Task Force. Senior Administrative Assistant: Greets and assist city personnel, officials, and the public in person and over the phone. Greets and responds to visitors and personnel in a professional manner. Provides appropriate information and documents to city personnel and the public related to area of responsibility. Exercise of proper telephone etiquette, responding to inquiries to the appropriate party. Prepares and edits specialized documents and correspondence for review. Reviews and enters sensitive and complex data, maintains records, files, databases, and record keeping sources. Updates and prepares spreadsheets. Performs a broad variety of related office clerical activities and support functions. Auto Theft Crime Prevention Awareness Manager (ATCPAM): Is responsible for the planning and implementation of auto theft related public awareness presentations and law enforcement auto theft

#### **Budget Narrative**

training events. The ATCPAM is responsible for the all logistics associated with the planning and coordination of all taskforce trainings held and/or sponsored within the City and County of El Paso, TX. The ATCPAM writes and composes auto theft informational presentations for the dissemination to local newspapers, news outlets, radio stations, and social media. The ATCPAM actively participates in the social media platform of Facebook and participates in a variety of social media activities such as blogging, commenting, community development and management, and social bookmarking. The ATCPAM coordinates and participates in public speaking events, conferences exhibits, and various activities that support the statewide goal of vehicle come prevention and the "Watch Your Car"; "Lock It Down!"; and, "If You Like it, Lock it" Campaigns. The ATCPAM coordinates and participates in VIN etching events, to include catalytic converter etching events, and is the primary contact for such events. The ATCPAM prepares and compiles monthly statistical information of the different types of events attended and the number of attendees that participated during the events that is reported to MVCPA. The ATCPAM works in conjunction with the private sector, insurance companies, and local businesses for the distribution of auto theft prevention and awareness information to vehicle owners and operators within the City and County of El Paso, TX. The ATCPAM serves as Public Information Officer (PIO) for the taskforce and provides information to the media via the EI Paso Police Department's Public Information Office (PIO) and conducts interviews with the media. The ATCPAM establishes and maintains an effective working relationship with community, to include, new and used car dealers, in order to implement auto theft awareness and prevention programs designed to educate customers purchasing new and used vehicles. Auto Theft Senior Office Assistant: Types memorandums, correspondence, reports, forms, and other related materials from rough copies, audible recordings and other sources. Composes routine correspondence for the Taskforce Program Director's signature. Establishes and maintains MVCPA and taskforce files, records and reviews documents for accuracy and completeness. Compiles information for the MVCPA quarterly and yearly reports, maintains balances on budget accounts, maintains the unit inventory list, and related property records. Greets visitors, provides information, and refers visitors to the appropriate taskforce personnel. Takes and relays messages, information and instructions to designated taskforce personnel. Schedules appointments for the program director and taskforce staff. Arranges MVCPA sponsored travel itineraries and travel reservations for taskforce personnel. Arranges dates, times, and locations of taskforce staff meetings and notifies all interested parties. Interprets and translates from Spanish to English and vise-versa, official police department reports for recovered stolen vehicles in Mexico. Translates for Spanish speaking automobile crime victims and/or witnesses when they meet with an auto theft investigator at the office to provide a statement and translates Mexican authorities' reports for taskforce personnel.

### **B.** Fringe

Sworn Law Enforcement Officer Fringe Benefits include FICA [1.47%], Unemployment [.11%], Pension [19.02%], and Workers Compensation [4.94%]. Standard insurance benefits such as Health Insurance, Life Insurance, Vision and Dental Fringe Benefits were calculated using current year expenditures. Civilian Fringe Benefits include FICA [1.38%], Unemployment [.10%], Pension [5.67%], and Workers Compensation [.29%]. Standard insurance benefits such as Health Insurance, Life Insurance, Vision and Dental Fringe Benefits were calculated using current year expenditures. Fringe benefits for grant funded salaries will be covered 100% by cash match.

### C. Overtime

The taskforce will conduct auto theft operations on an overtime basis for all taskforce officers, regardless of how they are funded (Grant, Cash Match, or In-kind), as long as they are active members of the current MVCPA Grant. Overtime funds will also be used to conduct egress operations at US Ports-of-Entry leading into Mexico; salvage yard inspections during unsuspecting times; surveillance and directed patrol operations of high crime areas according to crime trends and patterns; and, warrant round-ups of known automobile crime thieves. Any planned operation will require an action plan and approval by the Taskforce Commander or his designated OIC. Overtime will also be used for impromptu automobile crime operations that include, but are not limited to, automobile crimes investigated by the taskforce, apprehension of known or suspected wanted subjects, or operations that occur after normal business hours as a callout. Impromptu operations will require the notification and approval of a taskforce supervisor as per the El Paso Police Department's overtime policy.

#### E. Travel

Travel funds will be used to pay for active taskforce members (regardless of funding) of the El Paso Police Department's (EPPD) Auto Theft Task Force and for personnel assigned the EPPD Grant Section, who finiancially manage the grant. Travel funds will be used to attend automobile crime courses, conferences, meetings, and workshops related to taskforce functions, both within the State of Texas and outside of the State of Texas, with prior MVCPA approval as mandated by the Grant Administrative Manual. Administrative In-State Travel may include, but is not limited to, any or all MVCPA Board Meetings, Workshops, MVCPA Committees that a taskforce member is appointed to, conferences, and Intel Meetings with other agencies or other taskforces [\$10,000]. Law Enforcement In-State Travel may include, but is not limited to, MVCPA or NICB sponsored automobile investigation courses and/or other courses that have a nexus to automobile crimes (Theft of Vehicles, Burglary of Vehicles, Fraud, Organized Crime, Informants, Chop Shop Investigations, Gangs, Cartels, etc.) [\$18,000]. Taskforce officers to attend the Texas Association of Vehicle Theft Investigators (TAVTI) Annual Training Conference [\$10,000.00]. Law Enforcement Out-of-State Travel may include, but is not limited to, various automobile training courses that have a nexus to automobile crimes that are being offered in a venue close to El Paso, TX. For example, some of the exact courses that are being offered in Central and East Texas, are also offered in Albuquerque, NM, which is only a 4-hour drive from El Paso [\$2,500.00]. Taskforce members, regardless of funding source (Grant, Cash Match or In-Kind Match), as recommended by the Taskforce Program Director/ Unit Commander, and upon approval by the department, may travel to training courses, meetings, and conferences that are reasonable and related to the taskforce's function. Attendance to the aforementioned will be beneficial to the taskforce's mission and will be done in accordance with the MVCPA Grant Administrative Manual.

### F. Equipment

### **Budget Narrative**

Funding for the purchase of three Tactical Ballistic Shields, to equip each one of the three Taskforce teams are being requested for officer safety. The Ballistic Shields will provided the needed added protection during felony traffic stops and the execution of criminal warrants involving harden criminals [\$2,500]. A request for funding to purchase a Heavy Duty Bumper [\$2,500] and a Vehicle Recovery Wench [\$1,000] for the Taskforce's F250 is being requested for the use of recovering stolen vehicles from the El Paso desert terrain. A request to fund the purchase of (X4) Vigilant LPR camera systems [\$15,000] is being made to replace the current 4 LPR systems that taskforce has and that are either not functioning or non-serviceable due to their age. A request for funding of two Starchase Portable Launchers [\$12,000] with GPS Tracking capabilities are being requested to track stolen vehicles, since the department has a no pursuit policy. Funding for a Covert Track Bait Vehicle System [\$7,000] is being requested to equip the Taskforce's bait vehicle for covert operations.

#### Revenue

Indicate Source of Cash and In-Kind Matches for the proposed program. Click on links to go to match detail pages for entry of data.

**Source of Cash Match** 

Fringe Grantee \$596,445 **Total Cash Match** \$596,445

Source of In-Kind Match

Personnel Grantee \$1,267,598.00 **Total In-Kind Match** \$1,267,598.00

Statistics to Support Grant Problem Statement

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Reported Cases	2023			2024			
Jurisdiction	Motor Vehicle Theft (MVT)	Burglary from Motor Vehicle (BMV)	Fraud-Related Motor Vehicle Crime (FRMVC)	Motor Vehicle Theft (MVT)	Burglary from Motor Vehicle (BMV)	Fraud-Related Motor Vehicle Crime (FRMVC)	
El Paso PD	1,502	1,411	3	1,802	1,517	4	

### **Application Narrative**

### Grant Introduction (Executive Summary) and General Information

- 1.1 Briefly describe the organization and program operation. Provide a high level summary to the application and how it will affect the local community. (500 words or less)
  - Safety and security continues to be an essential part of the economic growth and prosperity of the City of El Paso, TX. In order to achieve this, the El Paso Police Department must continue to maintain a strong relationship with its citizens, and it must establish and maintain new and continued law enforcement partners through constant teamwork with all stakeholders. The El Paso Police Department's Auto Theft Task Force program will efficiently use Motor Vehicle Crime Prevention Authority (MVCPA) grant funding to combat and reduce automobile crimes, which includes theft of vehicles, motor vehicle burglaries, and fraud related motor vehicle crimes. MVCPA grant funding will ensure the sustainment of the highly specialized Auto Theft Task Force officers and support staff. Taskforce officers are who respond and investigate motor vehicle offenses that occur throughout the City of El Paso. Furthermore, the MVCPA grant will assist with the enhancement of automobile crime measures such as surveillance, fugitive roundups, international bridge operations, and automobile business inspections governed by the Texas Transportation Code and the Texas Occupation Code. The goal of the program is the reduction of theft of vehicles, motor vehicle burglaries, and automobile fraud offenses occurring within the City of El Paso. The accomplishment of this goal will be contingent upon the collaboration between the citizens of El Paso and all local, state and federal law enforcement partners.
- 1.2 Describe the taskforce governing, organization and command structures. Include a description of the nature of support and agreements that will be in place if the grant is awarded. Provide any details unique to the taskforce organization or geographical target area. Describe whether any part of this grant will be directed to serve a specific target population (or subset of the community)? The El Paso Police Department's Auto Theft Task Force unit is part of the El Paso Police Department's Organized Crime Division. The Organized Crime Division is one of five bureaus within the large police department. Assistant Chief (A/C) H. Talamantes, who reports directly to Chief of Police Peter Pacillas, heads the Field Operations & Investigations Bureau. A/C Talamantes is in charge of the Organized Crimes Division. Commander R. Moton is the Division Commander of the Organized Crime Division. The Organized Crime Division consist of five investigative units: The Auto Theft Task Force, the Fusion Center, the Gang Unit, the Narcotics Unit, and the Special Investigative Unit (SIG). All five of the investigative units have their own assigned unit commanders. Lieutenant R. Porras, Jr. is the Unit Commander for the Auto Theft Task Force. The motor vehicle theft problem in the City of El Paso is unique due to the geographical positioning of the city. The City of El Paso has four International Bridges connecting the City of El Paso, with a population of approximately 867,947, with the City of Juarez, Mexico, that has a population of approximately 1.6 million (Source: U.S. Census Bureau and State of Chihuahua CIES). The El Paso-Ciudad Juarez community is the largest metropolitan area on the border between the United States and Mexico. It is estimated that this metropolitan area, comprised of El Paso, Texas and Ciudad Juarez, Mexico has a combined population of approximately 2.5 Million inhabitants. The City of El Paso borders the State of New Mexico, which lends to criminal groups crossing state lines, between New Mexico and Texas, and ultimately crossing stolen vehicles into Juarez, Mexico. Also bordering the City of El Paso is one of the largest Army Posts in the Country, Fort Bliss, TX. Criminal activities initiated in El Paso cross into Fort Bliss military jurisdiction and vis-versa. The taskforce is in consistent contact with local, state, and

federal authorities in Las Cruces, NM; Albuquerque, NM; Fort Bliss, TX; all smaller adjoining municipalities of the City of El Paso; and Juarez, Mexico. The El Paso Police Department's Auto Theft Task Force is an exclusive auto theft authority that exists in the West Texas Region of the State of Texas. The taskforce uses established partnerships with local, state, and federal law enforcement officers, as well as Mexican authorities to accomplish its local mission. The taskforce provides services to all Texas citizens, as well as to all visitors of the City of El Paso, that become a victim of an automobile crime.

### **Grant Problem Statement**

2.1 Provide an assessment of the burglary from a motor vehicle (including theft of parts) problem in the coverage area of this application. Include loss data consistent with the reported incident numbers above.

Opportunistic offenders, prolific repeat offenders, and citizens leaving their vehicles unlocked, with items in plain sight, appear to be the driving factors for motor vehicle burglaries within the City of El Paso, TX. Opportunistic offenders tend to be younger persons within the age group of 15 years old to their early 20's. This category of burglar tends to prey on unsecured vehicles. The opportunistic offender participates in a criminal ritual called, "Car hopping." Car hopping occurs when an opportunistic offender targets areas with a large selection of vehicles, such as apartment complexes, movie theaters, shopping centers, malls, etc. The opportunistic offender simply walks through the parking lot, checking vehicle door handles, until an unlocked vehicle is located. These offenders quickly take advantage of the situation by gaining entry into the vehicle and burglarizing any valuables that are easily observed and located. Prolific repeat offenders tend to be habitual drug users and commit burglaries to support their drug habits. Both the opportunistic offender and prolific repeat offenders prey on citizens that leave their vehicles unlocked and leave high dollar items unsecured and in plain sight.

2.2 Provide an assessment of the motor vehicle theft problem in the coverage area of this application. Include loss data consistent with the reported incident numbers above.

Taskforce officers have seen a trend of opportunistic offenders that begin with car hopping, advancing to stealing the entire vehicle. Car Hoppers are locating unlocked vehicles and in addition to burglarizing the unlocked vehicles, they will check for the vehicles keys and/or key fobs and take the entire vehicle. In addition to the car hopping theft, El Paso is still experiencing theft of vehicles by wellorganized, professional theft rings, which operate in both the United States and Mexico. These thieves illegally export stolen vehicles from El Paso, TX to Juarez, Mexico. The sophisticated rings are notorious for crossing geographical boundary lines into El Paso from the neighboring New Mexico Counties of Dona Ana and Otero, to include the City of Albuquerque, NM, and Fort Bliss, TX. The taskforce has identified a nexus between criminal activities associated with Mexican Drug Cartels and Transnational Gangs operating on both sides of the United States and Mexico border. The program will make modifications of previous taskforce tactics as needed and continue to utilize proficient proactive strategies in an effort to address theft of vehicles in El Paso, TX. The program will continue to use strategies (i.e. working with all local, state, and federal law enforcement agencies and provide training to law enforcement personnel in the investigation of theft of vehicles and automobile fraud). The program will complement existing patrol personnel strategies with regards to theft of vehicle and burglary of vehicle surveillance operations. The program will continue to combine efforts with U.S. Customs and U.S. Border Patrol through use of Southbound Bridge Operations designed to identify stolen vehicles being crossed south into Mexico. A direct correlation between auto thefts, narcotics, homicides, human trafficking, and other smuggling operations have been identified in the City of El Paso. As a result, auto theft has developed into a significant source of major criminal activity. The demographics indicate that organized criminal activity, re-organization, and homeland security responsibilities demand substantial staff to manage intensive time consuming operations to successfully target ongoing criminal activity that involves stolen vehicles and related automobile crimes within the City of El Paso. A median amount of \$20,000 dollars was established using a random sample of thirty-two stolen vehicle amounts. The median amount was then multiplied by the total number of vehicle that were reported to TX DPS as index crimes for FY2024 (1802 Motor Vehicle Thefts). The outcome shows that citizens of the City of El Paso experienced an approximate monetary loss of \$36,040,000 dollars when they became victims of motor vehicle theft.

2.3 Provide an assessment of the fraud-related motor vehicle crime problem in the coverage area of this application. Include loss data consistent with the reported incident numbers above.

Taskforce officers have come across fraud cases involving False Reports and Fraudulent Transfer of a Motor Vehicles. Most False Report cases being investigated by the taskforce are resulting from cases that are filed as either a Theft of Vehicle or an Unauthorized Use of Vehicle (UUV) case. The common factors attributed to the offense of False Report is that most reporters in these types of cases are trying to cover up wrongdoing that their vehicle was or may be possibly involved with. For example, taskforce investigators have uncovered several cases where these unscrupulous reporters loan out, usually in trade for drugs, to a fellow drug addict, their vehicle and the vehicle is not returned at the agreed upon time. The reporter simply calls the police, in an attempt to cover himself/herself, by filing a UUV police report. The main reason being that they know or suspect, that the person they loaned their vehicle to, could possibly involve their vehicle in criminal activity. Taskforce investigators investigate a second type of False Report that usually involves a person that is involved in a DWI crash. The person flees the scene of the crash and subsequently reports their vehicle as stolen to avoid fault. Taskforce officers also investigate cases where a person steals a relative's identity and uses it to purchase a motor vehicle by fraudulent means. For example, a person uses his own father's identity to obtain credit, purchases a vehicle, and then sells the vehicle to an unsuspecting person. The offender in this type of case is then charged with the offenses of Identity Theft, Forgery, False Statement to Obtain Credit, and Fraudulent Transfer of a Motor Vehicle.

2.4 Provide an assessment of motor vehicle crime not covered above like insurance fraud, preventing stolen vehicles from entering Mexico, bridge/port stolen vehicle export crime, disruption of cartels and organized criminal enterprises related to motor vehicle crime, etc...

Taskforce officers occasionally investigate cases involving insurance fraud. Insurance fraud usually occurs when a vehicle owner can no longer afford payments on a vehicle that he/she purchased, so the person commits what is referred to as an, "Owner give-up." Investigators have discovered multiple methods that these deceitful people use. A few examples are when the owner of a vehicle purposefully leaves their vehicle unlocked, with the keys attached, with hopes that it be stolen, and alleviate them from a car payment. Some people take the vehicle out into the desert and torch the vehicle, while others simply drive their vehicle into Mexico, abandon it, and then usually walk back into the United States. In all the insurance fraud examples, these dishonest people then file a fraudulent

insurance claim. Taskforce officers participate in proactive measures to prevent stolen vehicles from being taken into Juarez, Mexico. According to recent NICB data, the Bridge of the Americas (BOTA), which is an international port-of-entry that is located in El Paso, TX, is responsible for the highest recorded numbers of illegally exported stolen vehicles taken south of the border into Juarez, Mexico. Taskforce officers routinely conduct joint southbound bridge operations with officers of Customs and Border Protection (CBP) and US Border Patrol at all three international port-of-entries that lead into Mexico, to include BOTA, and check for stolen vehicles that may be in the process of being illegally exported into Juarez, Mexico. When taskforce officers begin conducting southbound bridge operations, the criminal element quickly spreads the word that Auto Theft Task Force officers are working at the bridges, via their cell phones and/or Social Media. This allows auto thieves time to store any stolen vehicles in neighborhoods adjacent to the ports-of-entry. Having prior knowledge of such tactics, taskforce officers conduct LPR operations in areas that are known drop-off sites for stolen vehicles. The auto thieves have lookouts that monitor the different ports, in anticipation that taskforce officers are no longer conducting southbound bridge operations, and resume the illegal exportation of stolen vehicles into Mexico. Past and present intelligence indicates a nexus between stolen vehicles, narcotics, homicides, human trafficking, and other smuggling operations that are being directed by Mexican drug cartels and transnational gangs working on both sides of the border. In an effort to disrupt the criminal enterprises of Mexican drug cartels and transnational gangs operating within the City of El Paso, the taskforce works closely with the El Paso Police Department's Gang unit and maintains a database of known auto thieves, some of whom are known to have gang affiliations, and links to Mexican cartels. The taskforce routinely conducts warrant round-ups of these same known auto theft offenders. Vital information is constantly being shared between Auto Theft Task Force officers and the El Paso's Anti-Gang Center (TAG) that houses local, state, and federal law enforcement gang investigators.

### **Grant Goals and Activities**

There are two parts to this section: 1) Functions of Proposed Program and 2) Goals Strategies and Activities (GSA). In the following boxes, describe the functions of the proposed program and then complete a fillable form called GSA.

MVCPA programs must completely describe the actions, methods and tactics that law enforcement and civilian staff will perform for each of the categories below. Describe the reliance on technology or other program elements to solve the problem statement above and goals below. Functions must be detailed and consistent with the requested budget. If a grant is awarded, funds expended towards activities not described in this section will result in the reimbursement being denied.

#### Part 1

3.1 Functions of the proposed program related to burglary from a motor vehicle (including theft of parts)

The El Paso Police Department's Auto Theft Task Force unit is part of the El Paso Police Department's Organized Crime Division. The Organized Crime Division is one of five bureaus within the large police department. Due to the large metropolitan area and complexity of the multiple different units of the police department that are designated to investigate an array of different offenses. The offense of burglary of vehicle is one such offenses that is generally handled at the regional command level. Each of the six regional command centers have TAC Units that handle all burglary of habitations and burglary of vehicles as designated by the Chief of Police. Each of the six (6) regional command centers and have set geographical boundaries within the City of El Paso. Many of the burglary suspects cross the city's geographical boundaries established by the regional commands and the taskforce plays the integral role of bridging the gap of criminal invesigation mobility. The taskforce assists the different regional command centers with bait car operations, surveillance, and intelligence gathering for burglary investigations. All taskforce supervisors, detectives and officers are deputized by the District Attorney of the 34th Judicial District to investigate and follow-up on cases that occur within the City and County of El Paso, Texas. The taskforce has the flexibility to move around the City and County of El Paso, to follow and surveil offenders, and to follow-up on major crime trends and patterns associated with burglary of vehicles. The mission of the taskfroce is to participate and assist with the holistic approach of targeting all areas of automobile crimes that include burglary of vehicles and theft of motor vehicle parts, to include Catalytic Converter Thefts that are within the capability of the unit. The taskforce conducts salvage check operations at junk yards, metal recycling businesses, mechanic shops, and body shops. The salvage checks are used to check for stolen parts that could be used as replacement parts or sold as metal. The taskforce has created a collaborative effort that involves a weekly Intel sharing meeting every Wednesday. The Intel meetings are devised to allow representatives of each of all the regional command TAC units to come together and discuss crime trends and patterns involving automobile crimes. The meetings are held at the Auto Theft Task Force Office as it is a centrally located place to meet. It allows all the police department stakeholders the opportunity to ensure that investigative efforts are not duplicated and facilitates working together to address automobile crimes.

3.2 Functions of the proposed program related to motor vehicle theft.

The El Paso Police Department's Auto Theft Task Force is a unit which is part of the El Paso Police Department's Organized Crime Division. The taskforce pursues auto theft initiatives concentrating in the prevention of automobile crimes by public awareness and criminal investigations. The taskforce's objectives include the disruption and dismantling of criminal organizations with a special interest in auto theft as part of its domestic and international efforts. A multifaceted law enforcement approach to the regional area consisting of local, state, federal, and Mexican authorities has been integrated by the taskforce. The strategy was incorporated into the taskforces functions, as the taskforce is the only auto theft authority for the West Texas region of the state. As part of the taskforce's efforts, it involves all local stakeholders, and serves as the contact for the exchange of information and planning of criminal investigation initiatives related to auto thefts. The taskforce has a Crime Prevention Awareness Manager, who is responsible for the planning and implementation of auto theft related public awareness presentations and law enforcement auto theft training events. The Crime Prevention Awareness Manager also serves as the taskforce's Public Information Officer (PIO) and puts out public awareness information to the public, via the media, as it pertains to automobile crimes investigated by the taskforce. The taskforce is a well-structured unit consisting of three investigative teams. The first team is made up of CID Investigators who frequently collaborate with the District Attorney's Office regarding case presentations, investigations, and addressing repeat offenders. The second and third teams are made up of highly trained officers whose primary mission is to conduct field operations; furthermore, as part of their duties, they conduct surveillance, initiate field investigations, recover stolen vehicles, and conduct business/salvage inspections. The

taskforce incorporates street level enforcement as part of the daily mission and acts in both a proactive and reactive capacity to address crime. Assigned taskforce officers, regardless of team assignment, routinely conduct surveillance operations at high target areas that have been identified as hot spots by crime analysis. Taskforce officers routinely use non-paid informants as a source of information pertaining to automobile crimes. The taskforce conducts bait operations with the use of a bait (decoy) vehicle, with hopes of affording the would-be thief the opportunity to steal the bait vehicle, and catch the would-be thief in the process. The taskforce conducts salvage check operations at junk yards, metal recycling businesses, mechanic shops, and body shops. The salvage checks are used to check for stolen vehicles and stolen parts that could be used as replacement parts or sold as metal. The duty of the taskforce is to take a holistic approach of targeting all areas of automobile crimes that include burglary of vehicles, motor vehicle fraud related crimes, and theft of motor vehicle parts that are within the purview of the unit's investigative responsibilities.

- 3.3 Functions of the proposed program related to fraud-related motor vehicle crime (such as title and registration fraud)

  Taskforce officers investigate fraud-related motor vehicle crimes associated with identity theft, forgery, false statement to obtain credit, fraudulent transfer of a motor vehicle, false report, insurance fraud, and tampering with a governmental record (registration fraud) that usually stem from a theft of vehicle investigation. Taskforce officers consistently conduct bi-weekly 68-A inspections of motor vehicles and encounter motor vehicles that a person is trying to inspect to have the vehicle registered. Some vehicles are involved with a deceptive transactions stemming from insurance fraud, fraudulent transfer of a motor vehicle, as well as VIN fraud, usually involving a VIN switch. Some vehicles also have stolen components that were installed by fraudulent means. Taskforce officers take possession of these vehicles, find all interested parties, and set the vehicle up for a Right of Possession Hearing with a Magistrate. The judge then reviews all the facts associated with the case and awards the vehicle or stolen parts of the vehicle to the rightful owner. Taskforce officers routinely work in conjunction with TX DMV enforcement investigator(s) and conduct business checks at various suspected used car dealerships that are suspected of committing fraud-related motor vehicle crimes. Taskforce officers and investigators also team-up with the TX DPS investigators and conduct business checks at various suspected used car dealerships and automobile repair shops that are suspected of committing fraud-related motor vehicle crimes. Taskforce officers investigate identity fraud sales of motor vehicles, as well as vehicle rentals, where a vehicle was rented by fraudulent means by using someone else's identity.
- 3.4 Functions of the proposed program related to preventing motor vehicle crime (motor vehicle theft, burglary from a motor vehicle and fraud-related motor vehicle crime)
  - The El Paso Police Department's Auto Theft Task Force uses an all-inclusive approach of addressing and preventing motor vehicle crimes from occurring within the City and County of El Paso, Texas. The geographic boundaries of El Paso is an exclusive problem to the area as it offers criminals the means to cross state and international boundaries to avoid prosecution and quickly transport stolen property out of jurisdictional reach. Law enforcement partnerships with local, state, federal, and Mexican stakeholders has been a successful way to bridge that gap that has been created by this criminal mobility. The taskforce conducts a plethora of joint operations with local, state, federal, and Mexican stakeholders. Joint operations consist of surveillance, bait operations, warrant round-ups, international bridge checks, LPR operations, and business inspections. The taskforce has an officer assigned as a Mexican Liaison and has been instrumental in coordinating the location and recovery of numerous stolen vehicles that are illegally exported into Mexico. The Mexican liaison officer serves as a Spanish translator for the taskforce and has been very helpful in assisting victims repatriate their stolen vehicles from Mexico. The El Paso Police Department employs a crime analyst who is assigned to assist the taskforce, but is housed at the Department's Fusion Center. The crime analyst tracks criminal activity involving motor vehicle crimes. The crime analyst provides a weekly summary of all cases that are being committed within the City of El Paso and quickly informs the taskforce of any significant criminal activity patterns that are noted. Taskforce investigators routinely share information on crime trends and patterns that are being investigated with local, state, and federal law enforcement stakeholders. The taskforce shares a hot sheet of all vehicles stolen within the City of El Paso, with all law enforcement shareholders on a weekly basis via the TX DPS Joint Operations Intelligence Center (JOIC) that is assigned to El Paso and housed at the El Paso Police Department's Fusion Center. The taskforce sends out bulletins to all local, state, and federal stakeholders, via the El Paso Police Department's Fusion Center, on wanted subjects and stolen vehicles. The taskforce has a Crime Prevention Awareness Manager that manages the taskforce's public awareness program. The Crime Prevention Awareness Manager develops specific marketing and communication programs regarding motor vehicle crime prevention through planning and implementing public awareness and training events. The Crime Prevention Awareness Manager coordinates and participates in public speaking engagements, conference exhibits, auto theft prevention training, and various other activities that support the statewide goal of raising public awareness concerning vehicle thefts and burglary of vehicles. The Crime Prevention Awareness Manager works with the private sector, insurance companies, and local businesses for resources to aid in distribution of auto theft prevention information to vehicle owners and operators in the program area. The Crime Prevention Awareness Manager conducts security surveys upon request of businesses that are experiencing a problem with auto thefts or burglary of vehicles. The Crime Prevention Awareness Manager makes recommendations of the placement of security surveillance cameras or the installation of parking lot lighting. The Crime Prevention Awareness Manager works with the local business community to place "Hide, Lock, and Take" warning signs in their parking lots, in furtherance of promoting the message of not becoming a victim of an automobile crime. The Crime Prevention Awareness Manager regularly attends presentations at various schools, universities, colleges, businesses, and community watch programs. The Crime Prevention Awareness Manager regularly conducts VIN etching services as part of his presentations. The Crime Prevention Awareness Manager puts to full use all brochures and printed literature materials that are provided by the MVCPA at his scheduled events. The Crime Prevention Awareness Manager shares any concerns or issues that are related to him, or that he observes, to his taskforce supervisors for future follow-up. The Crime Prevention Awareness Manager also serves as the taskforce's Public Information Officer and is responsible for disseminating automobile crime information to the media. The Crime Prevention Awareness Manager does an outstanding job educating the public through public presentations and public service announcements through local and social media. The public awareness program has been very effective in empowering citizens to protect themselves from becoming victims of a motor vehicle crime.
- 3.5 Functions of the proposed program for other motor vehicle crimes investigations and activities consistent with the statutory requirements (preventing stolen vehicles from entering Mexico, stopping illegal export of stolen vehicle from bridge/ outbound port operations, disruption of cartel or organized criminal enterprises using stolen motor vehicles or fraud related motor vehicle crime, insurance fraud, etc...)

MVCPA funds the taskforce to conduct prevention strategies and criminal investigations as they relate to theft of vehicles, burglary of vehicles, and fraud related motor vehicle crime cases. The taskforce frequently encounters cases where a person files a false report and/or commits insurance fraud because he or she can no longer afford their vehicle payments. The taskforce coordinates with the National Insurance Crime Bureau (NICB) and Insurance Investigators of the different insurance companies, in order to conduct a thorough investigation for presentation to the District Attorney's Office. The taskforce conducts southbound port operations at the International ports-of-entry that are located within the City of El Paso. The focus of these types of operations are the identification and recovery of stolen vehicles being illegally exported into Mexico. The taskforce has developed partnerships with the Mexican Law Enforcement Authorities, due to the taskforce not having any type of criminal investigation authority in Mexico, once the stolen vehicle crosses the United States-Mexico Border. The taskforce has an officer who is assigned as a Mexican Liaison and carries the title of Border Partner. The taskforce's Mexican Liaison contacts the Mexican Law Enforcement Authorities, via phone, on a consistent basis, in order to maintain a working relationship, and for the exchange of invaluable information. The taskforce in conjunction with area stakeholders (TX DPS, BATIC, TX DMV, the County Tax Assessors Office, and NICB) began offering auto theft classes to their Mexican Law Enforcement counterparts. Training is hosted by the taskforce at one of the El Paso Police Department's facilities located within the City of El Paso. The goal of the training was to educate and empower the Mexican Law Enforcement Authorities, to extend auto theft investigations into Mexico, with the hopes of disrupting and dismantling Mexican Cartels and transnational Gangs involved in auto theft activities, on both sides of the United States-Mexico Border.

3.6 Collaboration Effort — Describe the taskforce method to collaborate, and not duplicate existing activities. Describe the cross boundaries regional approach to grant activity implementation. Describe how the applicant staff and jurisdiction will coordinate with other taskforces and law enforcement agencies to implement this program.

The El Paso Police Department's Auto Theft Task Force recognizes that it must conduct and support multi-agency, multi-jurisdictional investigations to disrupt and dismantle criminal organizations involved in auto burglary, auto theft, and fraud related motor vehicle crimes. To facilitate the goal, the taskforce members are in steady contact with local, state, and federal law enforcement authorities in Las Cruces, NM; Dona Ana County, NM; Albuquerque, NM; Fort Bliss, TX; El Paso County including the smaller municipalities; and Mexican Law Enforcement Authorities of Juarez, Mexico. In addition to the coverage agencies listed at the onset of this application, the taskforce also collaborates with the following agencies: Ysleta Del Sur Tribal Police; Clint Police Department, TX; San Elizario Police Department, TX; Canutillo ISD Police Department, TX; Seven (7) Constable Precincts; and the Fire Marshall Offices of both the City and County of El Paso, TX. One example of collaboration is the sharing of local Auto Theft Hot Sheets between all the listed agencies, to include the Las Cruces Police Department, the Albuquerque Auto Theft Task Force on a weekly basis. The local TX DPS Join Intelligence Operations Center (JOIC) that is housed at the El Paso Police Department's Fusion Center collaborates and assists the taskforce in sending the taskforce's weekly hot sheet to the various Texas Fusion Centers around the State of Texas. The JOIC forwards the hot sheets, at the request of the taskforce, on a weekly basis, in order to share current auto theft information, and to keep all Texas peace officers informed of stolen vehicles from El Paso for their own situational awareness. The taskforce has created an Intel sharing initiative that includes all the five different Regional Command Center's CID sections and TAC Units. A weekly Intel meeting is held at the ATTF office where all El Paso Police Department stakeholders from the different Regional Command Centers come together and discuss automobile crimes involving Catalytic Converters, Burglary of Vehicles, and Theft of Vehicles. The Intel sharing initiative is a way to bridge the gap of being a decentralized department and improve on better communication to effectively address crime trends and patterns occurring within the City of El Paso. It also serves as a way to prevent all local stakeholders from duplicating enforcement efforts and work more efficiently.

3.7 If the proposed application requests any exceptions or deviation from any general grant rules, RFA conditions or grant administrative policy, please indicate in the section below. Indicate the section of the specific issue and citation that you are asking the MVCPA to consider and the rational for the request.

An exemption of Section 4.3 Approved Overtime is being requested to allow all Taskforce Officers, regardless of funding type (Grant Funded, Cash Match, or In-Kind Match) the ability to exceed the 5% cap limitation placed upon them by this section.

### Part II

### Goals, Strategies, and Activities

Select Goals, Strategies, and Activity Targets for the proposed program.

arrested for motor vehicle burglary

Click on the link above and select the method by which statutory measures will be collected. Law Enforcement programs must also estimate targets for the MVCPA predetermined activities. The MVCPA board has determined that grants programs must document specific activities that are appropriate under each of the three goals. Applicants are allowed to write a limited number of user defined activities.

ID Activity	Measure	Target
Statuto	ry Motor Vehicle Theft Measures Required for all Grantees.	
1.1.15 Increase the recovery rate of stolen motor vehicles	Report the number of vehicles recovered by taskforce	
1.1.16 Increase the clearance rate of MVTs	Report the number of MVT cases cleared	
1.1.17 Increase the number of persons arrested for motor vehicle theft	Report the number of persons arrested for motor vehicle theft by taskforce	
Statutory E	Burglary of a Motor Vehicle Measures Required for all Grantees	
2.1.12 Increase the clearance rate of motor vehicle burglaries	Report the number of BMV including parts cases cleared	
2.1.13 Increase the number of persons	Report the number of persons arrested for burglary by taskforce	

ID	Activity	Measure	Target
	Statutory Fraud-R	telated Motor Vehicle Crime Measures Required for all Grantees	
	Increase the clearance rate of fraud- related motor vehicle crime cases.	Report the number of fraud-related motor vehicle cases cleared	
	Increase the number of persons arrested for fraud-related motor vehicle	Report the number of persons arrested for fraud-related motor vehicle crimes	
	crimes.	Canadana Add Tarant relica for those that recovery	
4		Grantees. Add Target values for those that you will measure.	
1		Incidence of Motor Vehicle Theft through Enforcement Strategies	
1.1		that Result in the Arrest, Clearance, and Recoveries of Motor Vehicle Theft	0.5
	Identify groups of auto theft offenders through intelligence gathering, crime analysis and the use of informants	Number of MVT groups identified. Include gangs, cartels or other criminal enterprise with two or more members	25
	Identify and document/record prolific MVT offenders [Prolific is defined as "linked to MVT offenses three or more times"]	Number identified/documented offenders	20
	Conduct inspections of local businesses related to vehicle enterprise (transportation code or occupation code authorized companies such as salvage yard, repair shop, parts recycling center, used car dealership, salvage rebuilder, title service company, other). (see 1.3.3 to report the number of vehicles inspected in these businesses)	Number of businesses inspected	10
	Conduct bait vehicle operations that target MVT offenders	Number of bait vehicle deployments. Include BMV bait operations here.	10
1.1.8	Deploy license plate readers (LPR)	Number of times LPR deployed. Deploy: If stationary unit then total number of days or partial days unit was operable and on. Mobile unit number of days the unit was on and operable.	500
	Respond to taskforce license plate reader (LPR) alert notifications	Number of times investigators responded to taskforce LPR alert notifications regardless of whether vehicle was located	100
	Conduct covert operations targeting MVT offenders	Number of covert operations	250
	Conduct warrant "round-up" operations targeting motor vehicle crime offenders, including people wanted for MVTs, motor vehicle burglaries, theft of vehicle parts and motor vehicle fraud related crime.	Number of warrant round-up operations performed for MVT, BMV and FRMVC.	10
1.1.20	Number of Altered Vehicles Recovered	Report the total number of vehicles recovered with altered Vehicle Identification Number. Note: Please remember that a vehicle recovered must be reported in 1.1.15	
1.2	Strategy 2: Conduct Collabo	prative Efforts that Result In Reduction of Incidents of Motor Vehicle Theft	
1.2.1	Provide Agency Assists for MVT and motor vehicle related fraud	Number of agency assists related to MVT. Assist means responding or answering questions via phone, e-mail, or in person. Providing recommendation, guidance, strategy, support or information that other LEOs will use to resolve their cases. The assist generally does not have the direct responsibility for an investigation nor uses LEO authority. The assist helps another LEO or agency investigate cases. Analysts and civilian employees will record their assists to outside LEOs and agencies met here along with officers.	
	Collaborate with other units or divisions (i.e. homicide, vice, narcotics, etc.) within the taskforce department(s) where a motor vehicle was used in the commission of the crime (includes identification of vehicles). Include all participating jurisdiction departments here.	Number of times collaborated within departments or SOs participating in taskforce related to MVT. Collaboration means physically using law enforcement resources, tactics and authority to perform activity on cases that draw upon or aid in the investigation intended to further the resolution of any case, identify parties to crime, identify vehicles, interview witnesses/suspects and apprehend suspects. Collaboration will include any help, recommendation, contribution or support requested from or provided to another unit or offered by the taskforce that aids in the furtherance of motor vehicle theft investigations.	80

ID	Activity	Measure	Target
1.2.	3 Collaborate with all other outside LE agencies and other organizations that assist in the reduction of MVTs. Include all coverage jurisdictions here.	Number of times collaborated with coverage area agencies or other law enforcement agencies and organizations that assist in the reduction of MVT. Collaboration means physically using law enforcement resources, tactics and authority to perform activity on cases that draw upon or aid in the investigation intended to further the resolution of any case, identify parties to crime, identify vehicles, interview witnesses/suspects and apprehend suspects. Collaboration will include any help, recommendation, contribution or support requested from or provided to another unit or offered by the taskforce that aids in the furtherance of MVTtheft investigations.	200
1.2.	5 Conduct intelligence information- sharing (Personal attendance)	Number of intelligence meetings attended (include attending as presenter, participant or attendee)	15
1.2.0	6 Conduct intelligence information- sharing (Written information)	Crime analysis bulletins disseminated (include information distributed to law enforcement agencies via text, e-mail, or intra-net communications)	75
1.2.	7 Collaborate with other MVCPA taskforces	Number of times collaborated with other MVCPA taskforces that assist in the reduction in MVT, BMV and FRMVC.	
1.3	Strategy 3: Prevent a	nd Reduce the Incidence of Fraud-Related Motor Vehicle Activities	
1.3.	Collaborate with agencies relating to investigation and enforcement of vehicle insurance fraud and FRMVC	Number of collaborations	25
1.3.	2 Conduct confidential 68(A) inspections (for TxDMV assignment or reassignment of VIN required by Tx Trans. Code §501.032)	Number of vehicles inspected to complete a TxDMV 68A inspection form per TxDMV (VIN assignment, reassignment, bonded title)	80
1.3.	3 Conduct VIN verification inspections. (All other reasons except bridge or port)	Number of vehicles inspected by taskforce to identify the vehicles not reported in confidential (68A) or bridge and port sections.	400
1.3.4	4 Coordinate with TxDMV/Tax Offices relating to investigation and enforcement of fraudulent titles and registration of stolen vehicles	Number of collaborations with TxDMV HQ, TxDMV Regional Service Centers or County Tax Assessor Collector offices.	1
	=	idence of Theft from Motor Vehicles through Enforcement Strategies	
2.	1 Strategy 1: Conduct Activities that I	Result in the Arrest, Clearance, and Recoveries of Burglary of Motor Vehicles Theft of Vehicle Parts and Accessories	and
2.1.	1 Conduct bait vehicle operations that target vehicle burglary offenders	Number of bait vehicle burglary deployments	15
	2 Identify "prolific BMV offenders" through informants and intelligence [Prolific is defined as "linked to BMV and theft of vehicle parts and accessories offenses three or more times"]		2
2.3		e Efforts that Result in the Reduction of Incidents of Theft From a Motor Vehi	
2.2.	1 Provide Agency Assists BMV.	Number of agency assists related to BMV or stolen parts. Assist means responding or answering questions via phone, e-mail, or in person. Providing recommendation, guidance, strategy, support or information that other LEOs will use to resolve their cases. The assist generally does not have the direct responsibility for an investigation nor uses LEO authority. The assist helps another LEO or agency investigate cases. Analysts and civilian employees will record their assists to outside LEOs and agencies met here along with officers.	40
2.2.:	2 Collaborate with other units or divisions within the taskforce department(s) (i.e. homicide, vice, narcotics, etc.) where theft of parts occurred in the commission of the crime (includes identification of vehicle). Include all participating jurisdiction departments here.	Number of times collaborated within departments or SOs participating in taskforce related to BMV or stolen parts. Collaboration means physically using law enforcement resources, tactics and authority to perform activity on cases that draw upon or aid in the investigation intended to further the resolution of any case, identify parties to crime, identify vehicles, interview witnesses/suspects and apprehend suspects. Collaboration will include any help, recommendation, contribution or support requested from or provided to another unit or offered by the taskforce that aids in the furtherance of BMV theft investigations.	80
2.2.	3 Collaborate with all other outside LE agencies and other organizations where theft of parts occurred in the commission of the crime (includes identification of vehicle). Include all coverage jurisdictions here.	Number of times collaborated with coverage area agencies or other law enforcement agencies and organizations that assist in the reduction of BMV or stolen parts. Collaboration means physically using law enforcement resources, tactics and authority to perform activity on cases that draw upon or aid in the investigation intended to further the resolution of any case, identify parties to crime, identify vehicles, interview witnesses/suspects and apprehend suspects. Collaboration will include any help, recommendation, contribution or support requested from or provided to another unit or offered by the taskforce that aids in the furtherance of motor vehicle theft investigations.	40

ID	Activity	Measure	Target
3		Qualified Personnel in Detection and Prevention of Motor Vehicle Theft, Burgla Vehicles and Theft of Vehicle Parts and Accessories	ary of
3.1	Strategy 1: Conduc	ct Public Awareness Related Activities Used to Educate Citizens	
3.1.1	Conduct educational outreach events (include trade show, exhibits, booths at community events, vehicle displays, brochures, etc.)	Number of outreaches	25
3.1.2	Conduct educational presentations to the public	Number of presentations. Presentation means in person, on-line, original written document, article, or webpage.	50
3.1.4	Conduct vehicle identification initiative/event	Number of etching events. Include windows, component parts, VIN stamps and catalytic converters.	15
3.1.4.1	Conduct vehicle identification initiative/event	Number of Participants/Attendees (Vehicles Marked)	
3.1.5	Purchase advertisements in local outlets	Number of advertisements purchased or provided complimentary for taskforce. Include all types of media purchased or provided free (social, tv, utility inserts, billboards, transportation, etc.). Describe in 6.1.1.	0
3.1.6	Conduct vehicle report card initiatives.	Number report cards issued	500
3.1.7	Utilize social media outlets (Facebook, Twitter, Instagram, etc.)	Number of postings in social media outlets	10
3.1.8	Deploy outdoor public notification signage	Number of deployments per month (if sign remains several months, count as 1 deployment per month)	25
3.1.10	Conduct media outreach, including, public service announcements, press releases, and interviews	Number of outreaches	10
3.2	Strategy 2: Conduct Law Enforcem	nent Training Activities to Educate Officers on Recognition and Apprehension Stolen Vehicles and Property	n of
3.2.1	Conduct law enforcement training (TCOLE)	Number of classes provided for TCOLE credit	0
3.2.3	Conduct vehicle crimes presentations to law enforcement agencies (non TCOLE)	Number of classes or presentations. Presentations may include electronic roll call documents, shift BOLOs and other written or presented materials based on local practices.	15

### **Grant Evaluation**

4.1 Describe the local method and/or practice used to collect the data for reporting Goals, Strategies, and Activities and to evaluate the grant program effectiveness. Describe management and staff participation. Include descriptions of systems (forms and software) that will be used to ensure reliable and accurate data is collected and reported. Describe any other evaluation methods used in the applicant agency to determine effectiveness or cost efficiency of the program.

The taskforce documents and maintains monthly statistics that are reported to MVCPA on required quarterly progress reports. Each individual officer or detective is responsible for maintaining his or her own case assignment log. The administrative sergeant is responsible for daily case assignment in the department's Web-RMS system. The assignment of cases and the final disposition is recorded by the system, when the administrative sergeant assigns the case for investigation, and then when the case is returned to the administrative sergeant with a final disposition. A team meeting is held every month at shift change, when both of the taskforce's field teams change work hour shifts (Days-to-Nights and Nights-to-Days). Dunng the team meetings, all taskforce members exchange information on all active cases and brief each other of any crime trends and patterns that are being observed. A crime analyst, which is housed at the El Paso Police Department's Fusion Center, is assigned to assist the taskforce and is in charge of tracking crime trends and patterns involving automobile crimes. The crime analyst provides taskforce supervisors a weekly Auto Theft Intel Assessment Report and a weekly Catalytic Converter Theft Report. The report provides data on most common days of auto thefts and catalytic converter thefts, based on "Days Occurred" during the last six (6) weeks. The report lists trend analysis charts, percentage charts, time occurred charts, and a citywide heat maps. The report also includes, Top Stolen Vehicles, In-Town Recovenes. Out-of-Town Recoveries, Auto Theft Arrests, UUV Arrests, Mexican Cartel Nexus Information, the Top-5 Prolific Auto Theft Offenders, and Violent Crimes Involving Auto Thefts. Taskforce supervisors also receive a weekly crime summary report that is constructed by an El Paso Police Department's crime analyst using the Data-Drive Approaches to Crime and Traffic Safety (DDACTS). DDACTS is a law enforcement operational model supported by a partnership among the Department of Transportation's National Highway Traffic Safety Administration and two agencies of the Department of Justice: The Bureau of Justice Assistance and the National Institute of Justice. DDACTS integrates location-based crime and traffic crash data to determine the most effective methods for deploying law enforcement and other resources. Drawing on the deterrent value of highly visible traffic enforcement and the knowledge that crimes often involve motor vehicles, the goal of DDACTS is to reduce crime, crashes, and traffic violations across the country. The department's executive staff determines the effectiveness of the taskforce based on crime analysis data that is provided on a weekly basis. The crime analysis data compares current Part-I offense numbers, with a category for auto thefts and burglary of vehicles. The comparison does a four-week trend analysis, a year-to-week comparison, and a year-to-year month comparison.

4.2 Provide any other suggested measures that would better reflect the law enforcement or prevention work that the proposed program will perform. If the suggested measure fits into one of the stated goals above please indicate.
No suggested measures are being made at this time.

### **TxGMS Standard Assurances by Local Governments**

☐ We acknowledge reviewing the *TxGMS Standard Assurances by Local Governments* as promulgated by the Texas Comptroller of Public Accounts and agree to abide by the terms stated therein.

### **Current Documents in folder**

Interlocal Agreement.pdf (3/12/2025 6:24:30 PM)
Supporting Documentation.pdf (3/13/2025 9:01:57 PM)

### Certifications

The certifying official is the authorized official, Elda Rodriguez-Hefner, City of El Paso Grants Administrator.

By submitting this application I certify that I have been designated by my jurisdiction as the authorized official to accept the terms and conditions of the grant. The statements herein are true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties.

By submitting this application I certify that my jurisdiction agrees to comply with all terms and conditions if the grant is awarded and accepted. I further certify that my jurisdiction will comply with all applicable state and federal laws, rules and regulations in the application, acceptance, administration and operation of this grant.

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### El Paso, TX

### **Legislation Text**

File #: 25-506, 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.

### **All Districts**

Human Resources, Mary Wiggins, (915) 212-1287

### AGENDA LANGUAGE:

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

Discussion and action to accept the Actuarial Audit Reports of the El Paso City Employee's Pension Trust Fund as of September 1, 2022 valuation and El Paso Fireman and Policemen's Pension Fund as of January 1, 2024 valuation to be presented by Foster and Foster Actuaries and Consultants, to comply with the requirements of Section 802.1012 of the Texas Government Code.

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



**DEPARTMENT:** Human Resources

**AGENDA DATE: 4/29/25** 

**PUBLIC HEARING DATE:** 

CONTACT PERSON NAME: Mary Wiggins, Chief Human Resources Officer PHONE NUMBER: 915-212-1267

2nd CONTACT PERSON NAME: PHONE NUMBER:

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** 

Set the Standard for Sound Governance and Fiscal Management

SUBGOAL:

6.6 Ensure continued financial stability and accountability through sound financial management, budgeting and reporting

### SUBJECT;

Discussion and action to accept the Actuarial Audit Reports of the El Paso City Employee's Pension Trust Fund and El Paso Fireman and Policemen's Pension Fund for the five years ending September 1, 2022 and January 1, 2024 respectively to be presented by Foster and Foster Actuaries and Consultants., to comply with the requirements of Section 802.1012 of the Texas Government Code.

### BACKGROUND / DISCUSSION:

As required by state law, every five years, the actuarial valuations, studies, and reports of a public retirement system most recently prepared for the retirement system must be audited by an independent actuary who: (1) is engaged for the purpose of the audit by the governmental entity; and (2) has the credentials required for an actuary under Section 802.101 (d). The City has two public retirement systems that it contributes to: The City Employee's Pension Trust Fund and the El Paso Firemen and Policemen Pension Fund. These two pension funds fall under the state law to be audited. The City selected and hired the firm of Foster & Foster Actuaries and Consultants, to prepare this audit. Foster & Foster is an independent actuarial firm with the appropriate credentials under Section 802.101(d), and has prepared the audit in accordance with the provisions of the state law pertaining to such. The City is required by state law to present the final audit report at the first regularly scheduled open meeting of the governmental entity after it receives the final reports. As such, this item is on the agenda for the April 29, 2025 City Council meeting. The presentation will include an overview of the findings and recommendations as well as the responses from both retirement funds.

**************************************				
NAME	AMOUNT (\$)			
REPORTING OF CONTRIBUTION OR DONATION TO CITY N/A	COUNCIL:			
Cost of the report is \$50,000 and was funded from General Fund (100	00-999-99999-544050)			
AMOUNT AND SOURCE OF FUNDING:				
PRIOR COUNCIL ACTION:  Prior five year report presented on June 23, 2020 by Foster and Foster	er Actuaries and Consultants			
COMMUNITY AND STAKEHOLDER OUTREACH: N/A				
final reports. As such, this item is on the agenda for the April 29, 202 the findings and recommendations as well as the responses from bo	th retirement funds.			

DEPARTMENT HEAD:

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

sign also)

# CITY OF EL PASO ACTUARIAL AUDIT OF PENSION FUNDS

Presented By: Jason L. Franken, FSA, EA, MAAA

April 29, 2025

## SCOPE

- Foster & Foster was retained to audit all three of the City's pension funds
  - Employees Retirement Trust
    - Reviewing September 1, 2022 valuation report produced by Buck Global, LLC
  - Firemen's Pension Fund
    - Reviewing January 1, 2024 valuation report produced by Rudd and Wisdom, Inc.
  - Policemen's Pension Fund
    - Reviewing January 1, 2024 valuation report produced by Rudd and Wisdom, Inc.



## **AUDIT OBJECTIVES**

- Full-scope (Level 1) audit involves several steps
  - Full replication of actuarial liabilities
  - Verify actuarial methods, considerations and analyses used are reasonable and consistent with actuarial standards
  - Verify calculations for funding requirements are appropriate based on the structure of the plan and funding objectives
- Key Categories Included in the Review
  - Member Data
  - Assets
  - Liabilities
  - Assumptions / Methods
  - Reporting



## **OVERALL FINDINGS**

- Found no major deficiencies
  - Contribution requirements are sufficient and consistent with long-term objectives of funding the plan and paying benefits when due
  - Underlying member and asset information is reasonable, consistent and free of material discrepancies
  - Actuarial assumptions and methods are reasonable
  - Reports generally comply with Actuarial Standards of Practice and are sufficient in communicating results
  - Valuations are complete and in accordance with State and Federal requirements
- Made several recommendations throughout reports
  - Key recommendations shown in this document



# REVIEW CATEGORIES MEMBER DATA

- Reviewed that the final data was correctly incorporated into the actuarial valuation
  - Confirmed that the data used was sufficient to measure the benefits provided by the System
  - No differences between data and report summaries
- Key Recommendations/Observations:
  - None



# REVIEW CATEGORIES ASSETS

- Verified the valuation correctly incorporated the market value of assets supplied by the System
- Reviewed the method used to determine the actuarial value of assets for accuracy and reasonability
- Key Recommendations/Observations:
  - None



# REVIEW CATEGORIES LIABILITIES

- Coded our valuation system based on Fund provisions to replicate liabilities
- As a general rule, liabilities are deemed acceptable when:
  - Results are within 2% of present value of future benefits (PVB);
  - Results are within 5% of the actuarial accrued liability (AAL); and
  - Results are within 5% of the normal cost
- Key Recommendations/Observations:
  - Summary results for each plan are presented on the next page
  - It is our professional assessment that the valuation liabilities are reasonable



## REVIEW CATEGORIES

## LIABILITIES

Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference
Present Value of Future Benefits				
- Actives	557.2	557.2	0.0	0.0%
- Inactives	778.9	782.2	3.3	0.4%
- Total	1,336.1	1,339.4	3.3	0.2%
Actuarial Accrued Liability				
- Actives	392.6	387.7	-4.8	-1.2%
- Inactives	778.9	782.2	3.3	0.4%
- Total	1,171.5	1,169.9	-1.5	-0.1%
Normal Cost (% of payroll)				
- Total	11.88%	11.91%	0.0%	0.3%

## **Employees**

Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference
Present Value of Future Benefits				
- Actives	456.6	460.1	3.5	0.8%
- Inactives	600.0	601.6	<u>1.6</u>	0.3%
- Total	1.056.6	1,061.7	5.1	0.5%
Actuarial Accrued Liability				
- Actives	344.3	342.8	-1.5	-0.4%
- Inactives	600.0	601.6	1.6	0.3%
- Total	944.3	944.5	0.2	0.0%
Normal Cost (% of payroll)				
- Total	17.94%	17.69%	-0.3%	-1.4%

### Firemen

Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference
Present Value of Future Benefits				
- Actives	609.7	613.6	3.9	0.5%
- Inactives	<u>879.3</u>	<u>882.8</u>	<u>3.5</u>	0.4%
- Total	1,489.0	1,496.4	7.4	0.5%
Actuarial Accrued Liability				
- Actives	483.0	480.3	-2.7	-0.5%
- Inactives	<u>879.3</u>	<u>882.8</u>	<u>3.5</u>	0.4%
- Total	1.362.3	1,363.1	0.8	0.1%
Normal Cost (% of payroll)				
- Total	14.69%	14.53%	-0.2%	-1.1%

### Policemen



# REVIEW CATEGORIES ASSUMPTIONS

• Reviewed assumptions for reasonableness, appropriateness and compliance with applicable standards of practice

### Key Recommendations/Observations:

- Recommend using available mortality for survivors and disabled lives to best utilize the Pub-2010 information (Police and Fire)
- Recommend regularly updating to the latest mortality projection scale to minimize impact of future mortality table changes (Police and Fire)
- Concur with Plan Actuary to consider lowering interest rate to 7.50% or discuss long-term risk assessment / document future plan (Police and Fire)
- Review payroll growth assumption in light of actual experience as part of next experience study (Employees)



# REVIEW CATEGORIES METHODS

- Reviewed calculations used to determine contribution requirements
- Reviewed appropriateness of the underlying actuarial funding method used to develop contribution requirements
- Reviewed the funding policy to amortize unfunded liabilities
- Key Recommendations/Observations:
  - None



# REVIEW CATEGORIES REPORTING

- Compared benefit summary in report to plan document
- Reviewed overall report for clarity, completeness and compliance with actuarial standards
- Key Recommendations/Observations:
  - Formal risk section to disclose items that may have a significant impact on the plan's financial condition, in compliance with ASOP 51 (Police and Fire)



## Thank you

## Questions?



Jason Franken, FSA, EA, MAAA
Foster & Foster, Inc.
jason.franken@foster-foster.com
(630) 620-0200

## CITY OF EL PASO EMPLOYEES RETIREMENT TRUST

ACTUARIAL AUDIT OF SEPTEMBER 1, 2022 VALUATION



March 21, 2025

City of El Paso Employees Retirement Trust El Paso, TX

Re: Actuarial Audit of September 1, 2022 Valuation

To whom it may concern:

We are pleased to present to El Paso (City) this report of the actuarial audit of the City of El Paso Employees Retirement Trust (Fund). Foster & Foster was retained by the City to perform a full-scope (Level 1) actuarial audit of the September 1, 2022 actuarial valuation report produced by Buck Global, LLC (Actuary). Accordingly, we have performed the following tasks:

- A review of the actuarial assumptions and methods used in the Fund's valuation;
- An examination of the current actuary's data collection and calculation processes and its interpretation of plan provisions and benefits;
- Replicate the liabilities and funding requirements;
- An assessment of the results of the Actuary's most recent valuation report and experience study;
- An opinion on the Fund's current actuarial funding policies and practices; and
- Any additional advice, comments, or concerns deemed appropriate.

This report was prepared at the request of the City and is intended for use by the City and those designated or approved by the City. This report may be provided to other parties only in its entirety and only with the permission of the City. Foster & Foster will not accept any liability for any misuse of this report.

In conducting the valuation, we have relied on liability information supplied by the Actuary and various personnel, report and asset information supplied by Fund staff. While we cannot verify the accuracy of all this information, the supplied information was reviewed for consistency and reasonableness. As a result of this review, we have no reason to doubt the substantial accuracy of the information and believe that it has produced appropriate results.

In performing the analysis, we used third-party software to model (calculate) the underlying liabilities and costs. These results are reviewed in the aggregate and for individual sample lives. The output from the software is either used directly or input into internally developed models to generate the costs. All internally developed models are reviewed as part of the process. As a result of this review, we believe that the models have produced reasonable results. We do not believe there are any material inconsistencies among assumptions or unreasonable output produced due to the aggregation of assumptions.

The undersigned are familiar with the immediate and long-term aspects of pension valuations and meet the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinions

contained herein. All sections of this report are considered an integral part of the actuarial opinions.

To our knowledge, no associate of Foster & Foster, Inc. working on valuations of the program has any direct financial interest or indirect material interest in the City of El Paso Employees Retirement Trust, nor does anyone at Foster & Foster, Inc. act as a member of the Board of Trustees of the Fund. Thus, there is no relationship existing that might affect our capacity to prepare and certify this actuarial report.

If there are any questions, concerns, or comments about any of the items contained in this report, please contact us at 630-320-0200.

Respectfully Submitted,

Foster & Foster, Inc.

By: Jewon S. Front

Jason L. Franken, FSA, EA, MAAA

## TABLE OF CONTENTS

Executive Summary	1
Member Data Review	
Asset Data and Asset Method Review	
Liability Review	5
Funding Calculation and Actuarial Methods Review	6
Assumption Review	7
Plan Summary Review	9
Report Review	.10
Response From Fund Actuary	

### **EXECUTIVE SUMMARY**

An actuarial valuation provides a best estimate of a plan's liabilities, assets, funded status and annual contribution requirements at a particular point in time. This estimate helps ensure that current assets and future contribution requirements will be sufficient to fund the benefits as they are earned by working members and provide benefits promised to members throughout retirement. Future liabilities are determined by projecting future benefit payments for each member based on individual census data, the plan's provisions, and a set of actuarial assumptions regarding future salary increases and future member behavior. The extent to which an actuarial valuation accurately measures a plan's liabilities, funded status and contribution levels depends on a variety of factors including:

- The accuracy and completeness of the underlying census and financial information;
- Accurate incorporation of the plan's provisions into the actuarial model;
- The extent to which actuarial assumptions predict future participant behavior and future economic outcomes; and
- The appropriateness of the actuarial methods being used.

A thorough actuarial audit will include review of the above factors to ensure the actuary's valuation provides the best estimates possible. In addition, there are several other items an actuary must take into consideration when performing an actuarial valuation. An actuary must consider the Actuarial Standards of Practice, which provide guidelines in assessing the underlying data, setting appropriate actuarial assumptions/methods, and disclosing results. State and federal laws related to maintaining and funding pension systems is another important consideration. Accordingly, a thorough actuarial audit will include review of these factors in conjunction with the ones mentioned previously.

The remainder of this report focuses on the audit of the September 1, 2022 actuarial valuation report for the City of El Paso Employees Retirement Trust prepared by your Actuary. We have organized this audit report into the following key categories which correspond to the objectives outlined above:

- Member Data Review;
- Asset Data and Asset Method Review;
- Liability Review;
- Funding Calculation and Actuarial Methods Review;
- Assumption Review;
- Plan Provisions Review, and
- Report Review.

For each of the above categories, we have provided details regarding the review we performed along with key observations and recommendations. In general, we believe the valuation results are reasonable and we found no major deficiencies. More specifically, we find that:

- The approach to develop the actuarially determined contribution is sufficient and consistent with the long-term objective of funding the plan over time and paying benefits as they become due;
- Underlying member and asset information used is reasonable, consistent, and free of any material discrepancies;
- Actuarial assumptions and methods are reasonable;
- The valuation report generally complies with the Actuarial Standards of Practice that apply specifically to valuing pensions and is sufficient in communicating actuarial results; and
- The valuation has been completed in accordance with Federal requirements and the guidelines set forth by the Texas Pension Review Board (PRB).

In completing our review, we also made several observations and recommendations for the City's consideration. The most notable of these observations / recommendations are summarized below:

- Assumption Review
  - The payroll growth assumption of 2.50% does not appear to be in line with recent experience. We
    would recommend that the assumption be reviewed on its own merits and not be set simply based on
    the inflation assumption.

### MEMBER DATA REVIEW

An actuarial valuation determines liabilities based on current and projected benefits to be paid to each member of the plan. As such, one of the key items provided for the actuarial valuation is data on each of the current members. Member data includes the status of the member (active, terminated, disabled, retired, beneficiary), key dates (birth, hire, retirement, termination), gender, pensionable pay, benefit amounts, and forms of payment.

There are typically two levels of data review:

- Review unprocessed data that was provided to the actuary to perform the valuation. The goal here is
  to determine if the audit would arrive at substantially the same final data as the plan's actuary after
  processing was complete.
- Review the final data that was provided by the plan's staff against plan provision requirements and the member data summaries provided in the valuation report.

The scope of our audit included both levels of data review. We found the data provided to the Actuary to be very clean and sufficient to measure the benefits provided by the Fund. The Actuary's processed data was consistent with the data provided by the Fund. Further, we found no material differences between the data and report summaries. As such, the actuarial valuation appropriately reflected the member data provided by the Fund.

### OBSERVATIONS / RECOMMENDATIONS

- We are not able to closely match the split between vested and non-vested active member counts in the Plan actuary's report based on available information. It may be worthwhile to add a footnote further detailing the criteria for the breakdown.
- The unprocessed data provided to the actuary is as of July 1, but the valuation date is September 1. While this is not unique, it is more common for the census data to be as of the valuation date, especially when valuations are biennial.

### ASSET DATA AND ASSET METHOD REVIEW

An actuarial valuation compares the plan's liabilities to the assets to determine the plan's funded status and the resulting need for additional contributions. We confirmed that the valuation used assets consistent with those shown in the August 31, 2022 Annual Financial Report for the Fund.

While assets are measured on a market-value basis, an actuarial value of assets is used to measure the funded status of the plan and determine contribution requirements. The actuarial value of assets is based on a method that recognizes asset gains and losses over a period of time. This produces an asset value that is less volatile than the market value, resulting in less volatile contribution requirements. An acceptable smoothing method will dampen volatility and will meet the following three requirements:

- 1. Will not produce an actuarial value of assets that is unreasonably higher or lower than the market value of assets. To achieve this, an appropriate market value corridor is applied to the actuarial value of assets;
- 2. Will not be biased (systematically higher or lower than the market value); and
- 3. Will not spread asset gains and losses over an unreasonable length of time.

The Fund's actuarial value of assets is based on a commonly accepted and widely used method that smooths market value gains and losses over a five-year period. Since the method recognizes market value gains and losses over a five-year period, the actuarial value of assets will converge with the market value absent future gains and losses on assets. Therefore, the method is unbiased. We find this portion of the method used to be reasonable and consistent with actuarial standards of practice. Finally, we reviewed the calculation of the actuarial value of assets and determined that the method has been utilized appropriately.

### **OBSERVATIONS / RECOMMENDATIONS**

We noticed that there is an approximately \$10 million difference in the market value of assets at end of year 2022 between the September 1, 2022 actuarial report and the City's 2022 Annual Comprehensive Financial Report. The discrepancy will not negatively impact the city required contribution. It may be worthwhile adding a footnote to further document that the assets are preliminary or to use final asset information in the valuation, if available.

### LIABILITY REVIEW

In order to confirm the accuracy of the liability calculations provided in the actuarial valuation report, we developed an independent actuarial model. The model used the same plan provisions, member data, actuarial assumptions, and methods that were used by the Actuary to independently verify the liabilities calculated for representative sample members.

The actuarial valuation process, while sophisticated in its calculation methodology, is an estimate of the financial value of benefits payable on contingent events, most of which occur many years into the future. This means that the estimates contain a considerable amount of uncertainty and variability. As actuaries, we recognize that small differences in the results do not change the overall financial results portrayed in the valuation. Furthermore, the actuarial software used by different firms has implicit differences that create variances in valuation numbers. For these reasons, we consider the comparison of key valuation results in terms of both value and percentage differences. As a general rule, results that are within 2% of the plan actuary's calculation of present value of future benefits and within 5% for the plan actuary's calculation of actuarial accrued liability and normal cost are deemed acceptable. Further analysis may be needed to determine if any calculation issues exist when results fall outside those margins.

Below is a summary of the results of the replication process, which shows that the results are within the thresholds outlined above. As a result, it was not necessary to review sample liability calculations. Based on these results, it is our professional assessment that the Fund's actuary has provided a reasonable valuation of the liabilities.

#### KEY LIABILITY RESULTS

KET LIADIEITT RESULTS						
Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference		
Present Value of Future Benefits						
- Actives	557.2	557.2	0.0	0.0%		
- Inactives	<u>778.9</u>	<u>782.2</u>	<u>3.3</u>	0.4%		
- Total	1,336.1	1,339.4	3.3	0.2%		
Actuarial Accrued Liability						
- Actives	392.6	387.7	-4.8	-1.2%		
- Inactives	<u>778.9</u>	<u>782.2</u>	<u>3.3</u>	0.4%		
- Total	1,171.5	1,169.9	-1.5	-0.1%		
Normal Cost (% of payroll)						
- Total	11.88%	11.91%	0.0%	0.3%		

### **OBSERVATIONS / RECOMMENDATIONS**

None.

### FUNDING CALCULATION AND ACTUARIAL METHODS REVIEW

Review of the calculation of the recommended contributions consists of review of several components as follows:

- Review of the accuracy of the calculations used to determine the contribution requirements.
- Review of the appropriateness of the underlying actuarial funding method used to calculate the normal cost (the annual amount needed to fund the benefits as they are earned by members).
- Review of planned contribution rates.

Below is an analysis of each of these items:

### Review of the Accuracy of the Calculations Used

We reviewed the calculation of the required contribution based on the underlying assumptions and methods and found the calculations to be accurate. We were able to match the contribution as a percentage of payroll in each year based on the liability information provided in the report.

### Review of the Appropriateness of the Underlying Actuarial Funding Method

The Entry Age Normal funding method is the method used by most public sector funds, including Texas defined benefit systems (as published by PRB in their "Guide to Public Retirement Systems in Texas"). This method spreads costs evenly over the member's career in relation to their annual salary, which is consistent with how many public funds base their contributions. Entry Age Normal is also required for use with Governmental Accounting Standards. The Conference of Consulting Actuaries (CCA) Public Plans Community in their August 2024 white paper entitled "Actuarial Funding Policies and Practices for Public Pension Plans" recommend use of the "Entry Age cost method with level percentage of pay" as a model practice. As such, we find the funding method used to be appropriate.

### **Review of Planned Contribution Rates**

The PRB's Funding Guidelines, effective June 30, 2017, provide that (1) funding of the unfunded actuarial accrued liability should be level or declining as a percentage of payroll over the amortization period and (2) actual contributions made to the plan should be sufficient to cover the normal cost and to amortize the unfunded actuarial accrued liability over as brief a period as possible, but not to exceed 30 years, with 10-25 years being the preferable target.

The 2022 valuation report shows that the Fund has contribution rates that well exceed the rate that would be required to amortize the unfunded liability over 30 years starting in 2022. We were able to replicate the amortization period shown in the report within a reasonable range. Given this, we feel comfortable that the approach used is appropriate and in full compliance with the PRB guidelines.

### OBSERVATIONS / RECOMMENDATIONS

None.

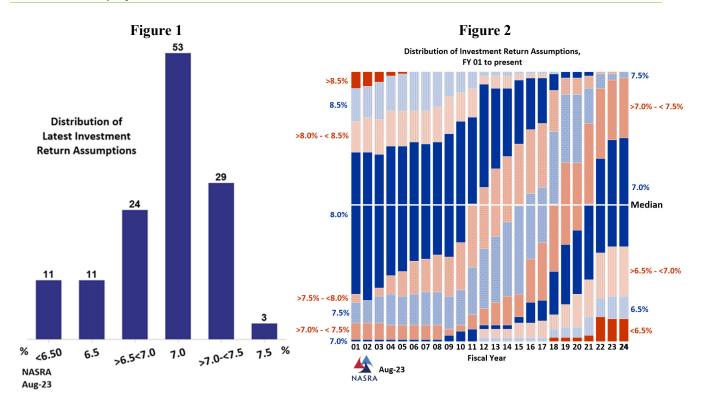
### **ASSUMPTION REVIEW**

Actuarial assumptions are used within a valuation to measure the future benefits to be paid from a plan by considering economic and demographic factors that will impact the plan. Economic assumptions include investment rates of return/discount rates, inflation rates, and salary scales. Demographic assumptions include rates for mortality, retirement, termination, and disability.

As part of any audit, assumptions are to be reviewed in terms of their reasonableness and appropriateness as well as their compliance with applicable Actuarial Standards of Practice. Our review has considered all the assumptions, both individually and collectively, and we find them to be reasonable and appropriate. Further, we believe the assumptions and methods are in compliance with Actuarial Standards of Practice, most notably Standards 4, 27, and 35. It should be noted however, that a detailed review of the assumptions based on past and anticipated future experience or prior gains and losses is beyond the scope of this report.

### **OBSERVATIONS / RECOMMENDATIONS**

- The last detailed study of Fund experience was completed in 2023, subsequent to the August 1, 2022 valuation report. Having a regularly scheduled review of experience is a best practice and puts you squarely in compliance with Texas Government Code.
- The mortality assumption is based on the latest tables produced for public sector plans, Pub-2010. The tables used for inactive members are specific for each status group (retiree, survivor, disabled), consistent with the status groups available with the Pub-2010 results. Further, the mortality generational improvement scale of MP-2021 is the latest table available, with scheduled annual updates as future improvement scales become available. This is appropriate and the proper use of the Pub-2010 tables.
- A detailed analysis of the interest rate assumption is beyond the scope of this audit. We were able to consider the 7.25% assumption, though, from two perspectives to give our thoughts on the selected rate. This review, summarized below, finds that the current assumption is reasonable.
  - One approach is to review the model the long-term rate of return using the Horizon Actuarial Services (HAS) survey. Using the 2023 survey results and the asset allocation information included in the experience study report for the Fund, a reasonable range for the long-term rate of return assumption would be 7.02% to 8.28%. The range is based on the 40<sup>th</sup> and 60<sup>th</sup> percentile of the 20-year returns using the capital market assumptions of the 24 survey respondents who provided long-term assumptions to the HAS survey. The percentiles generally mean that there would be a 60% probability that the average return over the 20-year period would exceed 7.02% and a 40% probability that the average return over the 20-year period would exceed 8.28%. The 50% probability is 7.65%.
  - O A second approach is to consider return assumptions used by other public funds, as found in national assumption surveys. The National Association of State Retirement Administrators (NASRA) released updated information in August 2023 to their ongoing summary of investment return assumptions used by public employers. Figure 1 below, taken from NASRA's website, shows that an assumption of 7.00% is most common among respondents, with the range of 7.00% 7.50% as the second most common response. Figure 2 shows how discount rates have been trending down over the last 23 years, with a current median of 7.00%.



- The inflation assumption of 2.50% is reasonable with that found in the HAS survey published in 2023. Among the 24 investment firms who provided long-term data, this survey shows an average long-term expectation of inflation of 2.46%.
- The payroll growth assumption, which is used to keep amortizations levels as a percentage of payroll, is currently set based on the inflation assumption of 2.50%. The assumption was not considered separately in the 2023 experience study to show trends in actual payroll experience. Looking at the 9-year payroll history in the FYE 2023 ACFR, experience shows an average annual increase in payroll of 1.79% over that time. We would recommend that the payroll growth assumption be revisited with past experience being considered.

# PLAN SUMMARY REVIEW

The benefits available to Fund membership are outlined in the plan document. The "Summary of Present Plan" section of the valuation report provides a brief summary of the relevant provisions of the plan document which impact the benefits paid by the Fund. Our audit compared this summary to the plan document, considering both the content as well as the clarity of the provisions shown. We found the summary to be complete and understandable.

## **OBSERVATIONS / RECOMMENDATIONS**

# REPORT REVIEW

#### VALUATION REPORT

The valuation report summarizes the work completed as part of the valuation process. In doing so, the report should meet certain requirements and objectives. Below is a summary of the key requirements and objectives:

- The report should clearly and concisely relay the results of the valuation;
- The report should include a summary of the data, assumptions, methods and plan provisions used to develop the results;
- The report should provide discussion of the key risks that should be considered by the reader in reviewing the results and a discussion of the impact on plan maturity (including measures of maturity where appropriate) when reviewing these risks;
- The report should provide certain disclosures that clarify and supplement the results as required by the Actuarial Standards of Practice (ASOP); and
- The report should provide information sufficient to allow another actuary to reasonably verify the results.

#### **OBSERVATIONS / RECOMMENDATIONS**

# RESPONSE FROM FUND ACTUARY

The following comments were provided by the Actuary in response to our draft report. Since the comments were provided via email, we have taken that email and pasted here, word for word, for documentation to complete our report.

Hi Robert,

Foster & Foster's audit report dated 2/27/25 did not identify any major issues related to their audit of the 9/1/22 actuarial valuation.

The identified a few minor items. Their findings and our responses are provided below:

- Payroll growth rate assumption
  - o F&F finding: The payroll growth assumption of 2.50% does not appear to be in line with recent experience. We would recommend that the assumption be reviewed on its own merits and not be set simply based on the inflation assumption.
  - Gallagher response: We will evaluate the payroll growth rate assumption as part of the next experience study (which is scheduled to be completed in FY27 based on plan experience for the 4-year period 9/1/22 to 8/31/26).
- Split between vested and non-vested actives
  - o F&F finding: We are not able to closely match the split between vested and non-vested active member counts in the Plan actuary's report based on available information. It may be worthwhile to add a footnote further detailing the criteria for the breakdown.
  - Gallagher response: After publishing the 2022 valuation report, we noted that our 9/1/22 data summary in Schedule A had listed the incorrect split between vested and non-vested active members. We corrected the 9/1/22 figures in our final 2024 valuation report. While the summary in the 2022 valuation report had shown the split of vested/non-vested members incorrectly, all members were valued appropriately and consistently with the plan provisions and assumptions described in the report.

- Census data collected as of July 1 for September 1 valuations
  - o F&F finding: The unprocessed data provided to the actuary is as of July 1, but the valuation date is September 1. While this is not unique, it is more common for the census data to be as of the valuation date, especially when valuations are biennial.
  - O Gallagher response: The 2-month early collection of census data is intended to allow the valuations to be completed to meet the City's timing needs. We believe this approach is acceptable and would not materially impact the valuation results. We appropriately disclose in the report the July 1 date of the census data and note that we assume this is the same as of September 1.
- \$10M difference between 8/31/22 market value of assets and the corresponding asset value shown in the City's ACFR
  - o F&F finding: We noticed that there is an approximately \$10 million difference in the market value of assets at end of year 2022 between the September 1, 2022 actuarial report and the City's 2022 Annual Comprehensive Financial Report. The discrepancy will not negatively impact the city required contribution. It may be worthwhile adding a footnote to further document that the assets are preliminary or to use final asset information in the valuation, if available.
  - O Gallagher response: The valuations are based on unaudited assets because audited assets are not available by the time valuation results are needed by the City. A statement to this effect was not included in the 2022 valuation report. However, beginning with the 2023 interim valuation, we specify in the cover letter of the valuation report that the valuation is based on unaudited assets. We believe the continued use of unaudited assets will not materially impact the valuation results.

Let us know if there are any questions.

Thanks,

David

David J. Kershner FSA, EA, MAAA, FCA Principal, Consulting Actuary Benefits & HR Consulting



Insurance | Risk Management | Consulting

# EL PASO FIREMEN'S PENSION FUND

ACTUARIAL AUDIT OF JANUARY 1, 2024 VALUATION



March 21, 2025

El Paso Firemen's Pension Fund El Paso, TX

Re: Actuarial Audit of January 1, 2024 Valuation

To whom it may concern:

We are pleased to present to El Paso (City) this report of the actuarial audit of the El Paso Firemen's Pension Fund (Fund). Foster & Foster was retained by the City to perform a full-scope (Level 1) actuarial audit of the January 1, 2024 actuarial valuation report produced by Rudd and Wisdom, Inc. (Actuary). Accordingly, we have performed the following tasks:

- A review of the actuarial assumptions and methods used in the Fund's valuation;
- An examination of the current actuary's data collection and calculation processes and its interpretation of plan provisions and benefits;
- Replicate the liabilities and funding requirements;
- An assessment of the results of the Actuary's most recent valuation report and experience study;
- An opinion on the Fund's current actuarial funding policies and practices; and
- Any additional advice, comments, or concerns deemed appropriate.

This report was prepared at the request of the City and is intended for use by the City and those designated or approved by the City. This report may be provided to other parties only in its entirety and only with the permission of the City. Foster & Foster will not accept any liability for any misuse of this report.

In conducting the valuation, we have relied on liability information supplied by the Actuary and various personnel, report and asset information supplied by Fund staff. While we cannot verify the accuracy of all this information, the supplied information was reviewed for consistency and reasonableness. As a result of this review, we have no reason to doubt the substantial accuracy of the information and believe that it has produced appropriate results.

In performing the analysis, we used third-party software to model (calculate) the underlying liabilities and costs. These results are reviewed in the aggregate and for individual sample lives. The output from the software is either used directly or input into internally developed models to generate the costs. All internally developed models are reviewed as part of the process. As a result of this review, we believe that the models have produced reasonable results. We do not believe there are any material inconsistencies among assumptions or unreasonable output produced due to the aggregation of assumptions.

The undersigned is familiar with the immediate and long-term aspects of pension valuations and meets the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinions

El Paso Firemen's Pension Fund | Page 2

contained herein. All sections of this report are considered an integral part of the actuarial opinions.

To our knowledge, no associate of Foster & Foster, Inc. working on valuations of the program has any direct financial interest or indirect material interest in the El Paso Firemen's Pension Fund, nor does anyone at Foster & Foster, Inc. act as a member of the Board of Trustees of the Fund. Thus, there is no relationship existing that might affect our capacity to prepare and certify this actuarial report.

If there are any questions, concerns, or comments about any of the items contained in this report, please contact me at 630-320-0200.

Respectfully Submitted,

Foster & Foster, Inc.

By: Jewan S. Frank Jason L. Franken, FSA, EA, MAAA

# TABLE OF CONTENTS

Executive Summary	1
Member Data Review	3
Asset Data and Asset Method Review	4
Liability Review	5
Funding Calculation and Actuarial Methods Review	<i>6</i>
Assumption Review	
Plan Summary Review	
Report Review	
Response From Fund Actuary	

# **EXECUTIVE SUMMARY**

An actuarial valuation provides a best estimate of a plan's liabilities, assets, funded status and annual contribution requirements at a particular point in time. This estimate helps ensure that current assets and future contribution requirements will be sufficient to fund the benefits as they are earned by working members and provide benefits promised to members throughout retirement. Future liabilities are determined by projecting future benefit payments for each member based on individual census data, the plan's provisions, and a set of actuarial assumptions regarding future salary increases and future member behavior. The extent to which an actuarial valuation accurately measures a plan's liabilities, funded status and contribution levels depends on a variety of factors including:

- The accuracy and completeness of the underlying census and financial information;
- Accurate incorporation of the plan's provisions into the actuarial model;
- The extent to which actuarial assumptions predict future participant behavior and future economic outcomes; and
- The appropriateness of the actuarial methods being used.

A thorough actuarial audit will include review of the above factors to ensure the actuary's valuation provides the best estimates possible. In addition, there are several other items an actuary must take into consideration when performing an actuarial valuation. An actuary must consider the Actuarial Standards of Practice, which provide guidelines in assessing the underlying data, setting appropriate actuarial assumptions/methods, and disclosing results. State and federal laws related to maintaining and funding pension systems is another important consideration. Accordingly, a thorough actuarial audit will include review of these factors in conjunction with the ones mentioned previously.

The remainder of this report focuses on the audit of the January 1, 2024 actuarial valuation report for the El Paso Firemen's Pension Fund prepared by your Actuary. We have organized this audit report into the following key categories which correspond to the objectives outlined above:

- Member Data Review;
- Asset Data and Asset Method Review;
- Liability Review;
- Funding Calculation and Actuarial Methods Review;
- Assumption Review;
- · Plan Provisions Review, and
- Report Review.

For each of the above categories, we have provided details regarding the review we performed along with key observations and recommendations. In general, we believe the valuation results are reasonable and we found no major deficiencies. More specifically, we find that:

- The approach to develop the actuarially determined contribution is sufficient and consistent with the long-term objective of funding the plan over time and paying benefits as they become due;
- Underlying member and asset information used is reasonable, consistent, and free of any material discrepancies;
- Actuarial assumptions and methods are reasonable;
- The valuation report generally complies with the Actuarial Standards of Practice that apply specifically to valuing pensions and is sufficient in communicating actuarial results; and
- The valuation has been completed in accordance with Federal requirements and the guidelines set forth by the Texas Pension Review Board (PRB).

In completing our review, we also made several observations and recommendations for the City's consideration. The most notable of these observations / recommendations are summarized below:

## • Assumption Review

- o The mortality projection is currently based on the MP-2020 table. Since these projection scales are updated annually, it might be worth including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year.
- The interest rate assumption of 7.75%, while reasonable and supported, is an outlier when compared to other large funds. We would concur with the Actuary's recommendation for the City to lower this assumption to 7.50%, either all at once or over a series of smaller moves. Alternatively, we would recommend that the City discuss a thorough long-term risk assessment of the investments held and document your future plan.

## • Report Review

 The valuation report does not include any long-term risk disclosure as required by Actuarial Standard of Practice Number 51. While some short-term risks are considered, a more complete discussion of the risks should be included in future reports.

# MEMBER DATA REVIEW

An actuarial valuation determines liabilities based on current and projected benefits to be paid to each member of the plan. As such, one of the key items provided for the actuarial valuation is data on each of the current members. Member data includes the status of the member (active, terminated, disabled, retired, beneficiary), key dates (birth, hire, retirement, termination), gender, pensionable pay, benefit amounts, and forms of payment.

There are typically two levels of data review:

- Review unprocessed data that was provided to the actuary to perform the valuation. The goal here is
  to determine if the audit would arrive at substantially the same final data as the plan's actuary after
  processing was complete.
- Review the final data that was provided by the plan's staff against plan provision requirements and the member data summaries provided in the valuation report.

The scope of our audit included both levels of data review. We found the data provided to the Actuary to be very clean and sufficient to measure the benefits provided by the Fund. The Actuary's processed data was consistent with the data provided by the Fund. Further, we found no material differences between the data and report summaries. As such, the actuarial valuation appropriately reflected the member data provided by the Fund.

#### OBSERVATIONS / RECOMMENDATIONS

# ASSET DATA AND ASSET METHOD REVIEW

An actuarial valuation compares the plan's liabilities to the assets to determine the plan's funded status and the resulting need for additional contributions. We confirmed that the valuation used assets consistent with those shown in the December 31, 2023 Annual Financial Report for the Fund.

While assets are measured on a market-value basis, an actuarial value of assets is used to measure the funded status of the plan and determine contribution requirements. The actuarial value of assets is based on a method that recognizes asset gains and losses over a period of time. This produces an asset value that is less volatile than the market value, resulting in less volatile contribution requirements. An acceptable smoothing method will dampen volatility and will meet the following three requirements:

- 1. Will not produce an actuarial value of assets that is unreasonably higher or lower than the market value of assets. To achieve this, an appropriate market value corridor is applied to the actuarial value of assets;
- 2. Will not be biased (systematically higher or lower than the market value); and
- 3. Will not spread asset gains and losses over an unreasonable length of time.

The Fund's actuarial value of assets is based on a commonly accepted and widely used method that smooths market value gains and losses over a five-year period. Since the method recognizes market value gains and losses over a five-year period, the actuarial value of assets will converge with the market value absent future gains and losses on assets. Therefore, the method is unbiased. We find this portion of the method used to be reasonable and consistent with actuarial standards of practice. Finally, we reviewed the calculation of the actuarial value of assets and determined that the method has been utilized appropriately.

## **OBSERVATIONS / RECOMMENDATIONS**

# LIABILITY REVIEW

In order to confirm the accuracy of the liability calculations provided in the actuarial valuation report, we developed an independent actuarial model. The model used the same plan provisions, member data, actuarial assumptions, and methods that were used by the Actuary to independently verify the liabilities calculated for representative sample members.

The actuarial valuation process, while sophisticated in its calculation methodology, is an estimate of the financial value of benefits payable on contingent events, most of which occur many years into the future. This means that the estimates contain a considerable amount of uncertainty and variability. As actuaries, we recognize that small differences in the results do not change the overall financial results portrayed in the valuation. Furthermore, the actuarial software used by different firms has implicit differences that create variances in valuation numbers. For these reasons, we consider the comparison of key valuation results in terms of both value and percentage differences. As a general rule, results that are within 2% of the plan actuary's calculation of present value of future benefits and within 5% for the plan actuary's calculation of actuarial accrued liability and normal cost are deemed acceptable. Further analysis may be needed to determine if any calculation issues exist when results fall outside those margins.

Below is a summary of the results of the replication process, which shows that the results are within the thresholds outlined above. As a result, it was not necessary to review sample liability calculations. Based on these results, it is our professional assessment that the Fund's actuary has provided a reasonable valuation of the liabilities.

#### KEY LIABILITY RESULTS

KET LIABILITY RESULTS						
Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference		
Present Value of Future Benefits						
- Actives	456.6	460.1	3.5	0.8%		
- Inactives	600.0	<u>601.6</u>	<u>1.6</u>	0.3%		
- Total	1.056.6	1,061.7	5.1	0.5%		
Actuarial Accrued Liability						
- Actives	344.3	342.8	-1.5	-0.4%		
- Inactives	600.0	<u>601.6</u>	<u>1.6</u>	0.3%		
- Total	944.3	944.5	0.2	0.0%		
Normal Cost (% of payroll)						
- Total	17.94%	17.69%	-0.3%	-1.4%		

## **OBSERVATIONS / RECOMMENDATIONS**

# FUNDING CALCULATION AND ACTUARIAL METHODS REVIEW

Review of the calculation of the recommended contributions consists of review of several components as follows:

- Review of the accuracy of the calculations used to determine the contribution requirements.
- Review of the appropriateness of the underlying actuarial funding method used to calculate the normal cost (the annual amount needed to fund the benefits as they are earned by members).
- Review of planned contribution rates.

Below is an analysis of each of these items:

## Review of the Accuracy of the Calculations Used

We reviewed the calculation of the required contribution based on the underlying assumptions and methods and found the calculations to be accurate. We were able to match the contribution as a percentage of payroll in each year based on the liability information provided in the report.

## Review of the Appropriateness of the Underlying Actuarial Funding Method

The Entry Age Normal funding method is the method used by most public sector funds, including Texas defined benefit systems (as published by PRB in their "Guide to Public Retirement Systems in Texas"). This method spreads costs evenly over the member's career in relation to their annual salary, which is consistent with how many public funds base their contributions. Entry Age Normal is also required for use with Governmental Accounting Standards. The Conference of Consulting Actuaries (CCA) Public Plans Community in their August 2024 white paper entitled "Actuarial Funding Policies and Practices for Public Pension Plans" recommend use of the "Entry Age cost method with level percentage of pay" as a model practice. As such, we find the funding method used to be appropriate.

## **Review of Planned Contribution Rates**

The PRB's Funding Guidelines, effective June 30, 2017, provide that (1) funding of the unfunded actuarial accrued liability should be level or declining as a percentage of payroll over the amortization period and (2) actual contributions made to the plan should be sufficient to cover the normal cost and to amortize the unfunded actuarial accrued liability over as brief a period as possible, but not to exceed 30 years, with 10-25 years being the preferable target.

The 2024 valuation report shows that the Fund has phased into higher annual contribution rates. These rates exceed the rate that would be required to amortize the unfunded liability over 30 years starting in 2024. We were able to replicate the amortization period shown in the report within a reasonable range. With the short-term projections provided by the Actuary to monitor the expected amortization period in the future, we feel comfortable that the approach used is appropriate and in full compliance with the PRB guidelines.

### **OBSERVATIONS / RECOMMENDATIONS**

# **ASSUMPTION REVIEW**

Actuarial assumptions are used within a valuation to measure the future benefits to be paid from a plan by considering economic and demographic factors that will impact the plan. Economic assumptions include investment rates of return/discount rates, inflation rates, and salary scales. Demographic assumptions include rates for mortality, retirement, termination, and disability.

As part of any audit, assumptions are to be reviewed in terms of their reasonableness and appropriateness as well as their compliance with applicable Actuarial Standards of Practice. Our review has considered all the assumptions, both individually and collectively, and we find them to be reasonable and appropriate. Further, we believe the assumptions and methods are in compliance with Actuarial Standards of Practice, most notably Standards 4, 27, and 35. It should be noted however, that a detailed review of the assumptions based on past and anticipated future experience or prior gains and losses is beyond the scope of this report.

#### **OBSERVATIONS / RECOMMENDATIONS**

- The last detailed study of Fund experience was completed in 2021 and reflected in the January 1, 2022 valuation report. Having a regularly scheduled review of experience is a best practice and puts you squarely in compliance with Texas Government Code.
- The mortality assumption is based on the latest tables produced for public sector plans, Pub-2010. The tables used for inactive members appear to be the same for all groups, even though group-specific tables (retiree, survivor, disabled) are available with the Pub-2010 results. We would recommend utilizing these group-specific tables to provide the best estimate of inactive liabilities.
- We noticed that the mortality generational projection makes use of MP-2020, which was not the most recent scale available when the valuation reports were completed. Since these projection scales are generally updated annually, it might be worth considering including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year.
- A detailed analysis of the interest rate assumption is beyond the scope of this audit. We were able to consider the 7.75% assumption, though, from two perspectives to give our thoughts on the selected rate. This review, summarized below, finds that the current assumption, while reasonable, is definitely on the high-side of reasonable.
  - One approach is to review the model the long-term rate of return using the Horizon Actuarial Services (HAS) survey. Using the 2021 survey results and the asset allocation information as of December 31, 2020 included in the experience study report for the Fund, a reasonable range for the long-term rate of return assumption would be 6.64% to 8.01%. The range is based on the 40<sup>th</sup> and 60<sup>th</sup> percentile of the 20-year returns using the capital market assumptions of the 24 survey respondents who provided long-term assumptions to the HAS survey. The percentiles generally mean that there would be a 60% probability that the average return over the 20-year period would exceed 6.64% and a 40% probability that the average return over the 20-year period would exceed 8.01%. The 50% probability is 7.33%.
  - A second approach is to consider return assumptions used by other public funds, as found in national assumption surveys. The National Association of State Retirement Administrators

(NASRA) released updated information in October 2021 to their ongoing summary of investment return assumptions used by public employers. Figure 1 below, taken from NASRA's website, shows that an assumption of 7.00% to 7.50% is most common among respondents. Figure 2 shows how discount rates are trending down over the last 22 years, with a current median of 7.00%.

Latest Distribution of Investment Return Assumptions

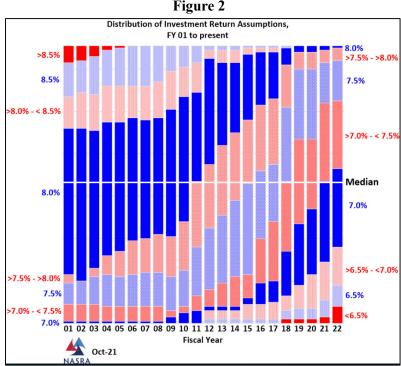
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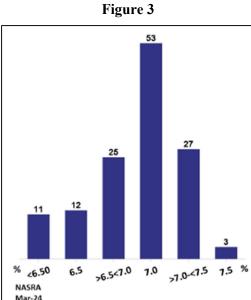
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Oct-21



- The 2024 valuation report notes that the Actuary had continued to recommend a decrease in the interest rate assumption to 7.50% for the 2024 valuation. The updated survey results, noted below, continue to deviate, with the return analysis suggesting that the current rate is supported while the peer-group comparison shows continued downward trends. We would concur with the recommendation to lower the assumption, or at least recommend that a thorough review of the associated risk be discussed and a future plan be documented.
  - Using the 2023 HAS survey results with the asset allocation information as of December 31,
     2023 for the Fund, a reasonable range for the long-term rate of return assumption (20-year returns) would be 7.45% to 8.84%. The 50% probability is 8.14%.
  - The NASRA survey results of investment return assumptions updated through March 2024 are shown below. Figure 3 shows that 7.00% is by far the most common assumption among respondents.
  - O The 2023 guide from the PRB notes that only 12% of Texas municipal plans use an interest rate at or above 7.50%.



- The inflation assumption of 2.75% is reasonable with that found in the HAS survey published in 2021. Among the 24 investment firms who provided long-term data, this survey shows an average long-term expectation of inflation of 2.23%. The decrease in this assumption from 3.00% to 2.75% was appropriate. The 2023 HAS survey shows a long-term expectation of 2.46%, so the current assumption is reasonable, although the recommended decrease to 2.50% is supported.
- The payroll growth assumption (currently 2.75%) was considered as part of the 2021 experience study, with actual payroll information from 2014 – 2020 being considered. The assumption was easily supported based on this historical data and, based on additional years of payroll information in the GASB reports, the assumption continues to be supported.

# PLAN SUMMARY REVIEW

The benefits available to Fund membership are outlined in the plan document. The "Summary of Present Plan" section of the valuation report provides a brief summary of the relevant provisions of the plan document which impact the benefits paid by the Fund. Our audit compared this summary to the plan document, considering both the content as well as the clarity of the provisions shown. We found the summary to be complete and understandable.

#### OBSERVATIONS / RECOMMENDATIONS

The plan document provides in section 10.01 that former members with less than five years of service are not entitled to a refund of contributions. While this is being reflected properly in the valuation, we wanted to note that this provision is unique and differs from most of the other public plans that we work with. The typical approach would be to allow a refund of contributions to all non-vested members.

# REPORT REVIEW

#### VALUATION REPORT

The valuation report summarizes the work completed as part of the valuation process. In doing so, the report should meet certain requirements and objectives. Below is a summary of the key requirements and objectives:

- The report should clearly and concisely relay the results of the valuation;
- The report should include a summary of the data, assumptions, methods and plan provisions used to develop the results;
- The report should provide discussion of the key risks that should be considered by the reader in reviewing
  the results and a discussion of the impact on plan maturity (including measures of maturity where
  appropriate) when reviewing these risks;
- The report should provide certain disclosures that clarify and supplement the results as required by the Actuarial Standards of Practice (ASOP); and
- The report should provide information sufficient to allow another actuary to reasonably verify the results.

#### **OBSERVATIONS / RECOMMENDATIONS**

ASOP Number 51, Assessment and Disclosure of Risk Associated with Measuring Pension Obligations and Determining Pension Plan Contributions, was issued in September 2017. The purpose of this ASOP was to assist actuaries in identifying and disclosing risks that, in the actuary's professional judgment, may reasonably be anticipated to significantly affect the plan's future financial condition. The Standard was effective for any actuarial work product with a measurement date on or after November 1, 2018.

In the 2024 valuation report, two specific risks (investment return and interest rate) are considered, but the discussion is more in regards to short-term Fund considerations, rather than the longer-term risks of these items on the Fund's financials. Further, there was no identification of other potential risks (e.g., salary increase, payroll growth, demographic assumptions) that could significantly impact future results. Many actuarial firms are addressing such topics in a seperate risk section or reference to an external risk document to be in compliance with this Standard, but none was found. This additional information should be added for all future reports.

# RESPONSE FROM FUND ACTUARY

W. Lee Bello, A.S.A.
Mitchell L. Bilbe, F.S.A.
Evan L. Dial, F.S.A.
Philip S. Dial, F.S.A.
Charles V. Faerber, F.S.A., A.C.A.S.
Mark R. Fenlaw, F.S.A.
Brandon L. Fuller, F.S.A.
Christopher S. Johnson, F.S.A.
Oliver B. Kiel, F.S.A.
Dustin J. Kim, F.S.A.



Xiuyu Li, A.C.A.S. Edward A. Mire, F.S.A. Rebecca B. Morris, A.S.A. Amanda L. Murphy, F.S.A. Michael J. Muth, F.S.A. Khiem Ngo, F.S.A., A.C.A.S. Timothy B. Seifert, F.S.A. Raymond W. Tilotta Ronald W. Tobleman, F.S.A. David G. Wilkes, F.S.A.

March 12, 2025

Mr. Jason L. Franken Foster & Foster, Inc. 184 Shuman Blvd., Suite 305 Naperville, IL 60563

> Re: Response to the Preliminary Report of the Actuarial Audit of the January 1, 2024 Actuarial Valuations of the El Paso FPPF

Dear Mr. Franken:

The City of El Paso engaged your firm, Foster & Foster, Inc., to conduct an actuarial audit of the January 1, 2024 actuarial valuations we performed for the El Paso Firemen & Policemen's Pension Fund (El Paso FPPF or Fund), one for the Firemen's Pension Fund and one for the Policemen's Pension Fund. We received your February 27, 2025 preliminary reports of the actuarial audit. The state law requiring actuarial audits of public employee pension plans gives the Fund Board of Trustees the opportunity to make written comments in response to your preliminary audit reports. The Board has asked us to prepare the comments below on their behalf for inclusion in your final reports to the City.

We are pleased with the results of your actuarial audits. For the City of El Paso and the Fund Board of Trustees, the key section in your preliminary reports is in the Executive Summary on the top of page 2. That portion of the report is summarized in the second sentence, "we believe the valuation results are reasonable." This means that both the City and the Board can rely on the results of those actuarial valuations.

You made three observations/recommendations in the Executive Summary, each of which is repeated below, with our response immediately following.

## **Mortality Improvement Projection**

"The mortality projection is currently based on the MP-2020 table. Since these projection scales are updated annually, it might be worth including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year."

The changes of the MP series of projection scales from year-to-year from 2014 to 2021 have been very small. In addition, no update was provided in 2022, 2023, and 2024 due to the distorting effects of COVID on the national mortality experience. Given the small year-to-year

Mr. Jason L. Franken Page 2 March 12, 2025

changes, we prefer to update at the time we complete a full experience study, which are completed every five years, or in conjunction with other more significant assumption changes between experience studies. In the event a projection scale is developed with some post-COVID experience or some adjustments for the COVID distortions between scheduled experience studies, we will consider updating at that time. We believe that the MP-2020 projection scale used for generational projection is a reasonable component of the mortality assumption.

## **Interest Rate Assumption**

"The interest rate assumption of 7.75%, while reasonable and supported, is an outlier when compared to other large funds. We would concur with the Actuary's recommendation for the City to lower this assumption to 7.5%, either all at once or over a series of smaller moves. Alternatively, we would recommend that the City discuss a thorough long-term risk assessment of the investments held and document your future plan."

The Fund Board of Trustees, rather than the City of El Paso, holds the responsibility for adopting the investment return assumption. The Board will have another opportunity to review our recommendation before the next actuarial valuation as of January 1, 2026. As part of each biennial actuarial valuation, we carefully review the economic assumptions and provide our recommendations.

## **Risk Disclosure**

"The valuation report does not include any long-term risk disclosure as required by Actuarial Standard of Practice Number 51. While some short-term risks are considered, a more complete discussion of the risks should be included in future reports."

In accordance with Actuarial Standard of Practice Number 51 (ASOP 51), an actuary should identify risks that, in their professional judgment, may reasonably be anticipated to significantly affect the plan's future financial condition. In our professional opinion, the primary risk for the Fund is the risk that actual investment returns are different than the long-term assumed rate of return.

In our January 1, 2024 actuarial valuation reports, we highlight this risk on pages 1-3 by presenting projected amortization periods for the next two biennial actuarial valuations under six different scenarios. These projections assess the potential impact of short-term variations in investment returns relative to the assumed 7.75% rate by illustrating their effect on the amortization period of the unfunded liability. Additionally, on page 9, we compare the effects of using an investment return assumption of 7.5% versus 7.75%.

We believe these analyses provide the most relevant ASOP 51 disclosures for the Fund Board of Trustees, the City of El Paso, and other stakeholders. However, we understand

Mr. Jason L. Franken Page 3 March 12, 2025

there may be other secondary risks worth investigating in the future. As such, for future valuation reports we will consider including additional language and/or analysis regarding other types of risks and plan maturity measures to further align with ASOP 51.

Please let us know if you have any questions about these responses.

We appreciate the professional manner in which you have conducted this actuarial audit and your communications with Rudd and Wisdom.

Sincerely,

Mark R. Fenlaw

Mark R. Fenlaw, F.S.A.

Brandon L. Fuller, F.S.A.

Rebecca B. Morris

Rebecca B. Morris, A.S.A.

MRF/BLF/RBM:nlg

cc: Mr. Tyler Grossman, Executive Director & CIO

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# EL PASO POLICEMEN'S PENSION FUND

ACTUARIAL AUDIT OF JANUARY 1, 2024 VALUATION



March 21, 2025

El Paso Policemen's Pension Fund El Paso, TX

Re: Actuarial Audit of January 1, 2024 Valuation

To whom it may concern:

We are pleased to present to El Paso (City) this report of the actuarial audit of the El Paso Policemen's Pension Fund (Fund). Foster & Foster was retained by the City to perform a full-scope (Level 1) actuarial audit of the January 1, 2024 actuarial valuation report produced by Rudd and Wisdom, Inc. (Actuary). Accordingly, we have performed the following tasks:

- A review of the actuarial assumptions and methods used in the Fund's valuation;
- An examination of the current actuary's data collection and calculation processes and its interpretation of plan provisions and benefits;
- Replicate the liabilities and funding requirements;
- An assessment of the results of the Actuary's most recent valuation report and experience study;
- An opinion on the Fund's current actuarial funding policies and practices; and
- Any additional advice, comments, or concerns deemed appropriate.

This report was prepared at the request of the City and is intended for use by the City and those designated or approved by the City. This report may be provided to other parties only in its entirety and only with the permission of the City. Foster & Foster will not accept any liability for any misuse of this report.

In conducting the valuation, we have relied on liability information supplied by the Actuary and various personnel, report and asset information supplied by Fund staff. While we cannot verify the accuracy of all this information, the supplied information was reviewed for consistency and reasonableness. As a result of this review, we have no reason to doubt the substantial accuracy of the information and believe that it has produced appropriate results.

In performing the analysis, we used third-party software to model (calculate) the underlying liabilities and costs. These results are reviewed in the aggregate and for individual sample lives. The output from the software is either used directly or input into internally developed models to generate the costs. All internally developed models are reviewed as part of the process. As a result of this review, we believe that the models have produced reasonable results. We do not believe there are any material inconsistencies among assumptions or unreasonable output produced due to the aggregation of assumptions.

The undersigned is familiar with the immediate and long-term aspects of pension valuations and meets the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinions

contained herein. All sections of this report are considered an integral part of the actuarial opinions.

To our knowledge, no associate of Foster & Foster, Inc. working on valuations of the program has any direct financial interest or indirect material interest in the El Paso Policemen's Pension Fund, nor does anyone at Foster & Foster, Inc. act as a member of the Board of Trustees of the Fund. Thus, there is no relationship existing that might affect our capacity to prepare and certify this actuarial report.

If there are any questions, concerns, or comments about any of the items contained in this report, please contact me at 630-320-0200.

Respectfully Submitted,

Foster & Foster, Inc.

By: Jewan S. Frank Jason L. Franken, FSA, EA, MAAA

# TABLE OF CONTENTS

Executive Summary	1
Member Data Review	3
Asset Data and Asset Method Review	4
Liability Review	5
Funding Calculation and Actuarial Methods Review	6
Assumption Review	7
Plan Summary Review	10
Report Review	11
Response From Fund Actuary	12

# **EXECUTIVE SUMMARY**

An actuarial valuation provides a best estimate of a plan's liabilities, assets, funded status and annual contribution requirements at a particular point in time. This estimate helps ensure that current assets and future contribution requirements will be sufficient to fund the benefits as they are earned by working members and provide benefits promised to members throughout retirement. Future liabilities are determined by projecting future benefit payments for each member based on individual census data, the plan's provisions, and a set of actuarial assumptions regarding future salary increases and future member behavior. The extent to which an actuarial valuation accurately measures a plan's liabilities, funded status and contribution levels depends on a variety of factors including:

- The accuracy and completeness of the underlying census and financial information;
- Accurate incorporation of the plan's provisions into the actuarial model;
- The extent to which actuarial assumptions predict future participant behavior and future economic outcomes; and
- The appropriateness of the actuarial methods being used.

A thorough actuarial audit will include review of the above factors to ensure the actuary's valuation provides the best estimates possible. In addition, there are several other items an actuary must take into consideration when performing an actuarial valuation. An actuary must consider the Actuarial Standards of Practice, which provide guidelines in assessing the underlying data, setting appropriate actuarial assumptions/methods, and disclosing results. State and federal laws related to maintaining and funding pension systems is another important consideration. Accordingly, a thorough actuarial audit will include review of these factors in conjunction with the ones mentioned previously.

The remainder of this report focuses on the audit of the January 1, 2024 actuarial valuation report for the El Paso Policemen's Pension Fund prepared by your Actuary. We have organized this audit report into the following key categories which correspond to the objectives outlined above:

- Member Data Review;
- Asset Data and Asset Method Review;
- Liability Review;
- Funding Calculation and Actuarial Methods Review;
- Assumption Review;
- · Plan Provisions Review, and
- Report Review.

For each of the above categories, we have provided details regarding the review we performed along with key observations and recommendations. In general, we believe the valuation results are reasonable and we found no major deficiencies. More specifically, we find that:

- The approach to develop the actuarially determined contribution is sufficient and consistent with the long-term objective of funding the plan over time and paying benefits as they become due;
- Underlying member and asset information used is reasonable, consistent, and free of any material discrepancies;
- Actuarial assumptions and methods are reasonable;
- The valuation report generally complies with the Actuarial Standards of Practice that apply specifically to valuing pensions and is sufficient in communicating actuarial results; and
- The valuation has been completed in accordance with Federal requirements and the guidelines set forth by the Texas Pension Review Board (PRB).

In completing our review, we also made several observations and recommendations for the City's consideration. The most notable of these observations / recommendations are summarized below:

## • Assumption Review

- o The mortality projection is currently based on the MP-2020 table. Since these projection scales are updated annually, it might be worth including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year.
- The interest rate assumption of 7.75%, while reasonable and supported, is an outlier when compared to other large funds. We would concur with the Actuary's recommendation for the City to lower this assumption to 7.50%, either all at once or over a series of smaller moves. Alternatively, we would recommend that the City discuss a thorough long-term risk assessment of the investments held and document your future plan.

## Report Review

 The valuation report does not include any long-term risk disclosure as required by Actuarial Standard of Practice Number 51. While some short-term risks are considered, a more complete discussion of the risks should be included in future reports.

# MEMBER DATA REVIEW

An actuarial valuation determines liabilities based on current and projected benefits to be paid to each member of the plan. As such, one of the key items provided for the actuarial valuation is data on each of the current members. Member data includes the status of the member (active, terminated, disabled, retired, beneficiary), key dates (birth, hire, retirement, termination), gender, pensionable pay, benefit amounts, and forms of payment.

There are typically two levels of data review:

- Review unprocessed data that was provided to the actuary to perform the valuation. The goal here is
  to determine if the audit would arrive at substantially the same final data as the plan's actuary after
  processing was complete.
- Review the final data that was provided by the plan's staff against plan provision requirements and the member data summaries provided in the valuation report.

The scope of our audit included both levels of data review. We found the data provided to the Actuary to be very clean and sufficient to measure the benefits provided by the Fund. The Actuary's processed data was consistent with the data provided by the Fund. Further, we found no material differences between the data and report summaries. As such, the actuarial valuation appropriately reflected the member data provided by the Fund.

#### OBSERVATIONS / RECOMMENDATIONS

# ASSET DATA AND ASSET METHOD REVIEW

An actuarial valuation compares the plan's liabilities to the assets to determine the plan's funded status and the resulting need for additional contributions. We confirmed that the valuation used assets consistent with those shown in the December 31, 2023 Annual Financial Report for the Fund.

While assets are measured on a market-value basis, an actuarial value of assets is used to measure the funded status of the plan and determine contribution requirements. The actuarial value of assets is based on a method that recognizes asset gains and losses over a period of time. This produces an asset value that is less volatile than the market value, resulting in less volatile contribution requirements. An acceptable smoothing method will dampen volatility and will meet the following three requirements:

- 1. Will not produce an actuarial value of assets that is unreasonably higher or lower than the market value of assets. To achieve this, an appropriate market value corridor is applied to the actuarial value of assets;
- 2. Will not be biased (systematically higher or lower than the market value); and
- 3. Will not spread asset gains and losses over an unreasonable length of time.

The Fund's actuarial value of assets is based on a commonly accepted and widely used method that smooths market value gains and losses over a five-year period. Since the method recognizes market value gains and losses over a five-year period, the actuarial value of assets will converge with the market value absent future gains and losses on assets. Therefore, the method is unbiased. We find this portion of the method used to be reasonable and consistent with actuarial standards of practice. Finally, we reviewed the calculation of the actuarial value of assets and determined that the method has been utilized appropriately.

## **OBSERVATIONS / RECOMMENDATIONS**

# LIABILITY REVIEW

In order to confirm the accuracy of the liability calculations provided in the actuarial valuation report, we developed an independent actuarial model. The model used the same plan provisions, member data, actuarial assumptions, and methods that were used by the Actuary to independently verify the liabilities calculated for representative sample members.

The actuarial valuation process, while sophisticated in its calculation methodology, is an estimate of the financial value of benefits payable on contingent events, most of which occur many years into the future. This means that the estimates contain a considerable amount of uncertainty and variability. As actuaries, we recognize that small differences in the results do not change the overall financial results portrayed in the valuation. Furthermore, the actuarial software used by different firms has implicit differences that create variances in valuation numbers. For these reasons, we consider the comparison of key valuation results in terms of both value and percentage differences. As a general rule, results that are within 2% of the plan actuary's calculation of present value of future benefits and within 5% for the plan actuary's calculation of actuarial accrued liability and normal cost are deemed acceptable. Further analysis may be needed to determine if any calculation issues exist when results fall outside those margins.

Below is a summary of the results of the replication process, which shows that the results are within the thresholds outlined above. As a result, it was not necessary to review sample liability calculations. Based on these results, it is our professional assessment that the Fund's actuary has provided a reasonable valuation of the liabilities.

#### KEY LIABILITY RESULTS

KET LIABILITI KESULIS						
Liability Measure (in millions)	Fund Actuary	Foster & Foster	<u>Value</u> <u>Difference</u>	Percent Difference		
Present Value of Future Benefits						
- Actives	609.7	613.6	3.9	0.5%		
- Inactives	<u>879.3</u>	<u>882.8</u>	<u>3.5</u>	0.4%		
- Total	1,489.0	1,496.4	7.4	0.5%		
Actuarial Accrued Liability						
- Actives	483.0	480.3	-2.7	-0.5%		
- Inactives	<u>879.3</u>	<u>882.8</u>	<u>3.5</u>	0.4%		
- Total	1.362.3	1,363.1	0.8	0.1%		
Normal Cost (% of payroll)						
- Total	14.69%	14.53%	-0.2%	-1.1%		

## **OBSERVATIONS / RECOMMENDATIONS**

# FUNDING CALCULATION AND ACTUARIAL METHODS REVIEW

Review of the calculation of the recommended contributions consists of review of several components as follows:

- Review of the accuracy of the calculations used to determine the contribution requirements.
- Review of the appropriateness of the underlying actuarial funding method used to calculate the normal cost (the annual amount needed to fund the benefits as they are earned by members).
- Review of planned contribution rates.

Below is an analysis of each of these items:

### **Review of the Accuracy of the Calculations Used**

We reviewed the calculation of the required contribution based on the underlying assumptions and methods and found the calculations to be accurate. We were able to match the contribution as a percentage of payroll in each year based on the liability information provided in the report.

## Review of the Appropriateness of the Underlying Actuarial Funding Method

The Entry Age Normal funding method is the method used by most public sector funds, including Texas defined benefit systems (as published by PRB in their "Guide to Public Retirement Systems in Texas"). This method spreads costs evenly over the member's career in relation to their annual salary, which is consistent with how many public funds base their contributions. Entry Age Normal is also required for use with Governmental Accounting Standards. The Conference of Consulting Actuaries (CCA) Public Plans Community in their August 2024 white paper entitled "Actuarial Funding Policies and Practices for Public Pension Plans" recommend use of the "Entry Age cost method with level percentage of pay" as a model practice. As such, we find the funding method used to be appropriate.

## **Review of Planned Contribution Rates**

The PRB's Funding Guidelines, effective June 30, 2017, provide that (1) funding of the unfunded actuarial accrued liability should be level or declining as a percentage of payroll over the amortization period and (2) actual contributions made to the plan should be sufficient to cover the normal cost and to amortize the unfunded actuarial accrued liability over as brief a period as possible, but not to exceed 30 years, with 10-25 years being the preferable target.

The 2024 valuation report shows that the Fund has phased into higher annual contribution rates. These rates exceed the rate that would be required to amortize the unfunded liability over 30 years starting in 2024. We were able to replicate the amortization period shown in the report within a reasonable range. With the short-term projections provided by the Actuary to monitor the expected amortization period in the future, we feel comfortable that the approach used is appropriate and in full compliance with the PRB guidelines.

### **OBSERVATIONS / RECOMMENDATIONS**

# **ASSUMPTION REVIEW**

Actuarial assumptions are used within a valuation to measure the future benefits to be paid from a plan by considering economic and demographic factors that will impact the plan. Economic assumptions include investment rates of return/discount rates, inflation rates, and salary scales. Demographic assumptions include rates for mortality, retirement, termination, and disability.

As part of any audit, assumptions are to be reviewed in terms of their reasonableness and appropriateness as well as their compliance with applicable Actuarial Standards of Practice. Our review has considered all the assumptions, both individually and collectively, and we find them to be reasonable and appropriate. Further, we believe the assumptions and methods are in compliance with Actuarial Standards of Practice, most notably Standards 4, 27, and 35. It should be noted however, that a detailed review of the assumptions based on past and anticipated future experience or prior gains and losses is beyond the scope of this report.

#### **OBSERVATIONS / RECOMMENDATIONS**

- The last detailed study of Fund experience was completed in 2021 and reflected in the January 1, 2022 valuation report. Having a regularly scheduled review of experience is a best practice and puts you squarely in compliance with Texas Government Code.
- The mortality assumption is based on the latest tables produced for public sector plans, Pub-2010. The tables used for inactive members appear to be the same for all groups, even though group-specific tables (retiree, survivor, disabled) are available with the Pub-2010 results. We would recommend utilizing these group-specific tables to provide the best estimate of inactive liabilities.
- We noticed that the mortality generational projection makes use of MP-2020, which was not the most recent scale available when the valuation reports were completed. Since these projection scales are generally updated annually, it might be worth considering including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year.
- A detailed analysis of the interest rate assumption is beyond the scope of this audit. We were able to consider the 7.75% assumption, though, from two perspectives to give our thoughts on the selected rate. This review, summarized below, finds that the current assumption, while reasonable, is definitely on the high-side of reasonable.
  - One approach is to review the model the long-term rate of return using the Horizon Actuarial Services (HAS) survey. Using the 2021 survey results and the asset allocation information as of December 31, 2020 included in the experience study report for the Fund, a reasonable range for the long-term rate of return assumption would be 6.64% to 8.01%. The range is based on the 40<sup>th</sup> and 60<sup>th</sup> percentile of the 20-year returns using the capital market assumptions of the 24 survey respondents who provided long-term assumptions to the HAS survey. The percentiles generally mean that there would be a 60% probability that the average return over the 20-year period would exceed 6.64% and a 40% probability that the average return over the 20-year period would exceed 8.01%. The 50% probability is 7.33%.
  - A second approach is to consider return assumptions used by other public funds, as found in national assumption surveys. The National Association of State Retirement Administrators

(NASRA) released updated information in October 2021 to their ongoing summary of investment return assumptions used by public employers. Figure 1 below, taken from NASRA's website, shows that an assumption of 7.00% to 7.50% is most common among respondents. Figure 2 shows how discount rates are trending down over the last 22 years, with a current median of 7.00%.

Figure 1

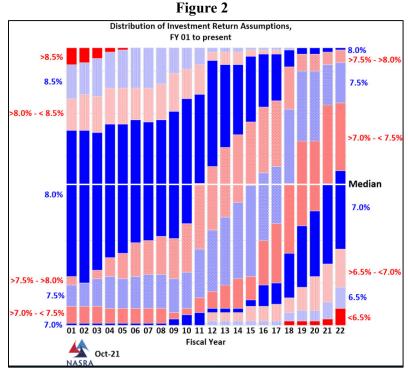
Latest Distribution of Investment Return Assumptions

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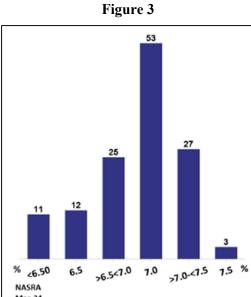
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Oct-21



- The 2024 valuation report notes that the Actuary had continued to recommend a decrease in the interest rate assumption to 7.50% for the 2024 valuation. The updated survey results, noted below, continue to deviate, with the return analysis suggesting that the current rate is supported while the peer-group comparison shows continued downward trends. We would concur with the recommendation to lower the assumption, or at least recommend that a thorough review of the associated risk be discussed and a future plan be documented.
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     2023 for the Fund, a reasonable range for the long-term rate of return assumption (20-year returns) would be 7.45% to 8.84%. The 50% probability is 8.14%.
  - The NASRA survey results of investment return assumptions updated through March 2024 are shown below. Figure 3 shows that 7.00% is by far the most common assumption among respondents.
  - O The 2023 guide from the PRB notes that only 12% of Texas municipal plans use an interest rate at or above 7.50%.



• The inflation assumption of 2.75% is reasonable with that found in the HAS survey published in 2021.

Among the 24 investment firms who provided long-term data, this survey shows an average long-term

expectation of inflation of 2.23%. The decrease in this assumption from 3.00% to 2.75% was appropriate. The 2023 HAS survey shows a long-term expectation of 2.46%, so the current assumption is reasonable,

although the recommended decrease to 2.50% is supported.
 The payroll growth assumption (currently 2.75%) was considered as part of the 2021 experience study, with actual payroll information from 2014 – 2020 being considered. The assumption was easily supported based on this historical data and, based on additional years of payroll information in the GASB reports, the assumption continues to be supported.

### PLAN SUMMARY REVIEW

The benefits available to Fund membership are outlined in the plan document. The "Summary of Present Plan" section of the valuation report provides a brief summary of the relevant provisions of the plan document which impact the benefits paid by the Fund. Our audit compared this summary to the plan document, considering both the content as well as the clarity of the provisions shown. We found the summary to be complete and understandable.

#### OBSERVATIONS / RECOMMENDATIONS

The plan document provides in section 10.01 that former members with less than five years of service are not entitled to a refund of contributions. While this is being reflected properly in the valuation, we wanted to note that this provision is unique and differs from most of the other public plans that we work with. The typical approach would be to allow a refund of contributions to all non-vested members.

### REPORT REVIEW

#### **VALUATION REPORT**

The valuation report summarizes the work completed as part of the valuation process. In doing so, the report should meet certain requirements and objectives. Below is a summary of the key requirements and objectives:

- The report should clearly and concisely relay the results of the valuation;
- The report should include a summary of the data, assumptions, methods and plan provisions used to develop the results;
- The report should provide discussion of the key risks that should be considered by the reader in reviewing
  the results and a discussion of the impact on plan maturity (including measures of maturity where
  appropriate) when reviewing these risks;
- The report should provide certain disclosures that clarify and supplement the results as required by the Actuarial Standards of Practice (ASOP); and
- The report should provide information sufficient to allow another actuary to reasonably verify the results.

#### OBSERVATIONS / RECOMMENDATIONS

ASOP Number 51, Assessment and Disclosure of Risk Associated with Measuring Pension Obligations and Determining Pension Plan Contributions, was issued in September 2017. The purpose of this ASOP was to assist actuaries in identifying and disclosing risks that, in the actuary's professional judgment, may reasonably be anticipated to significantly affect the plan's future financial condition. The Standard was effective for any actuarial work product with a measurement date on or after November 1, 2018.

In the 2024 valuation report, two specific risks (investment return and interest rate) are considered, but the discussion is more in regards to short-term Fund considerations, rather than the longer-term risks of these items on the Fund's financials. Further, there was no identification of other potential risks (e.g., salary increase, payroll growth, demographic assumptions) that could significantly impact future results. Many actuarial firms are addressing such topics in a separate risk section or reference to an external risk document to be in compliance with this Standard, but none was found. This additional information should be added for all future reports.

### RESPONSE FROM FUND ACTUARY

W. Lee Bello, A.S.A.
Mitchell L. Bilbe, F.S.A.
Evan L. Dial, F.S.A.
Philip S. Dial, F.S.A.
Charles V. Faerber, F.S.A., A.C.A.S.
Mark R. Fenlaw, F.S.A.
Brandon L. Fuller, F.S.A.
Christopher S. Johnson, F.S.A.
Oliver B. Kiel, F.S.A.
Dustin J. Kim, F.S.A.



Xiuyu Li, A.C.A.S. Edward A. Mire, F.S.A. Rebecca B. Morris, A.S.A. Amanda L. Murphy, F.S.A. Michael J. Muth, F.S.A. Khiem Ngo, F.S.A., A.C.A.S. Timothy B. Seifert, F.S.A. Raymond W. Tilotta Ronald W. Tobleman, F.S.A. David G. Wilkes, F.S.A.

March 12, 2025

Mr. Jason L. Franken Foster & Foster, Inc. 184 Shuman Blvd., Suite 305 Naperville, IL 60563

> Re: Response to the Preliminary Report of the Actuarial Audit of the January 1, 2024 Actuarial Valuations of the El Paso FPPF

#### Dear Mr. Franken:

The City of El Paso engaged your firm, Foster & Foster, Inc., to conduct an actuarial audit of the January 1, 2024 actuarial valuations we performed for the El Paso Firemen & Policemen's Pension Fund (El Paso FPPF or Fund), one for the Firemen's Pension Fund and one for the Policemen's Pension Fund. We received your February 27, 2025 preliminary reports of the actuarial audit. The state law requiring actuarial audits of public employee pension plans gives the Fund Board of Trustees the opportunity to make written comments in response to your preliminary audit reports. The Board has asked us to prepare the comments below on their behalf for inclusion in your final reports to the City.

We are pleased with the results of your actuarial audits. For the City of El Paso and the Fund Board of Trustees, the key section in your preliminary reports is in the Executive Summary on the top of page 2. That portion of the report is summarized in the second sentence, "we believe the valuation results are reasonable." This means that both the City and the Board can rely on the results of those actuarial valuations.

You made three observations/recommendations in the Executive Summary, each of which is repeated below, with our response immediately following.

### **Mortality Improvement Projection**

"The mortality projection is currently based on the MP-2020 table. Since these projection scales are updated annually, it might be worth including the annual projection scale update as part of the underlying mortality assumption, so that the most current information is being used each year."

The changes of the MP series of projection scales from year-to-year from 2014 to 2021 have been very small. In addition, no update was provided in 2022, 2023, and 2024 due to the distorting effects of COVID on the national mortality experience. Given the small year-to-year

Mr. Jason L. Franken Page 2 March 12, 2025

changes, we prefer to update at the time we complete a full experience study, which are completed every five years, or in conjunction with other more significant assumption changes between experience studies. In the event a projection scale is developed with some post-COVID experience or some adjustments for the COVID distortions between scheduled experience studies, we will consider updating at that time. We believe that the MP-2020 projection scale used for generational projection is a reasonable component of the mortality assumption.

### **Interest Rate Assumption**

"The interest rate assumption of 7.75%, while reasonable and supported, is an outlier when compared to other large funds. We would concur with the Actuary's recommendation for the City to lower this assumption to 7.5%, either all at once or over a series of smaller moves. Alternatively, we would recommend that the City discuss a thorough long-term risk assessment of the investments held and document your future plan."

The Fund Board of Trustees, rather than the City of El Paso, holds the responsibility for adopting the investment return assumption. The Board will have another opportunity to review our recommendation before the next actuarial valuation as of January 1, 2026. As part of each biennial actuarial valuation, we carefully review the economic assumptions and provide our recommendations.

### **Risk Disclosure**

"The valuation report does not include any long-term risk disclosure as required by Actuarial Standard of Practice Number 51. While some short-term risks are considered, a more complete discussion of the risks should be included in future reports."

In accordance with Actuarial Standard of Practice Number 51 (ASOP 51), an actuary should identify risks that, in their professional judgment, may reasonably be anticipated to significantly affect the plan's future financial condition. In our professional opinion, the primary risk for the Fund is the risk that actual investment returns are different than the long-term assumed rate of return.

In our January 1, 2024 actuarial valuation reports, we highlight this risk on pages 1-3 by presenting projected amortization periods for the next two biennial actuarial valuations under six different scenarios. These projections assess the potential impact of short-term variations in investment returns relative to the assumed 7.75% rate by illustrating their effect on the amortization period of the unfunded liability. Additionally, on page 9, we compare the effects of using an investment return assumption of 7.5% versus 7.75%.

We believe these analyses provide the most relevant ASOP 51 disclosures for the Fund Board of Trustees, the City of El Paso, and other stakeholders. However, we understand

Mr. Jason L. Franken Page 3 March 12, 2025

there may be other secondary risks worth investigating in the future. As such, for future valuation reports we will consider including additional language and/or analysis regarding other types of risks and plan maturity measures to further align with ASOP 51.

Please let us know if you have any questions about these responses.

We appreciate the professional manner in which you have conducted this actuarial audit and your communications with Rudd and Wisdom.

Sincerely,

Mark R. Fenlaw

Mark R. Fenlaw, F.S.A.

Brandon L. Fuller, F.S.A.

Rebecca B. Morris

Rebecca B. Morris, A.S.A.

MRF/BLF/RBM:nlg

cc: Mr. Tyler Grossman, Executive Director & CIO

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### El Paso, TX

### Legislation Text

File #: 25-524, 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**

Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341

#### 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 \$11,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:		
COMMUNITY AND STAKEHOLDER OUTREACH:		
PRIOR COUNCIL ACTION:		
AMOUNT AND COURCE OF FUNDING		
AMOUNT AND SOURCE OF FUNDING:		
REPORTING OF CONTRIBUTION OR DONATION TO CITY OF	COUNCIL:	
NAME	AMOUNT (\$)	
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**************************************		
Stephen Jan Voglewede		
Stephen Van V	ogerwede	
DEPARTMENT HEAD:		

(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.

### 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 \$11,800,000.00, 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 begin on the following page)

APPROVED this	day of	2025.
		CITY OF EL PASO:
		Renard U. Johnson Mayor
ATTEST:		Wayor
Laura D. Prine	-	
City Clerk		
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:
Volesta Bristo		Gilbert Guerrero
Roberta Brito	_	Gilbert Guerrero
Senior Assistant City Attorney		Interim Director, Capital Improvement

Department



# Objective

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 \$11,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project.

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



# Overview

- FY26 CPF Program Overview
- Project Description
- Scope of Work and Budget
- Implementation Timeline
- Council Action



# Strategic and Legislative Affairs (SLA)

- Strategic Partnerships
- Citywide Grants Support
- State Legislative Affairs
- Federal Legislative Affairs
- Military and Veterans Affairs Division
- Climate and Sustainability Division

https://www.elpasotexas.gov/government/intergovernmental-relations/





### **FY26 Community Project Funding**

- Earmarks to Moratorium (1970s 2011): Congress used "earmarks" to steer discretionary dollars to district projects
- House Revival as Community Project Funding (2021): Earmarks restart for FY 2022 under the new "Community Project Funding" label with transparency and accountability measures
- Scale Since Reinstatement (FY 2022-23): Congress approved roughly \$24 billion across more than 12,000
   CPF/Congressionally Directed Spending projects nationwide
  - \$9.1 billion for about 5,000 projects in FY 2022
  - \$15.3 billion for 7,200 projects in FY 2023
- FY25 CPF projects were not funded by Congress





### **FY26 Community Project Funding**

**April 8, 2025:** Congressman Tony Gonzales (TX-23) issued a request for proposals for FY26 CPF

- Projects selected for FY25 CPF will need to resubmit
- Requires updates to cost estimates, letters of support, and other technical and administrative materials
- Projects must comply with updated guidance fy26-thud-edi-guidance.pdf







### **Project Description**

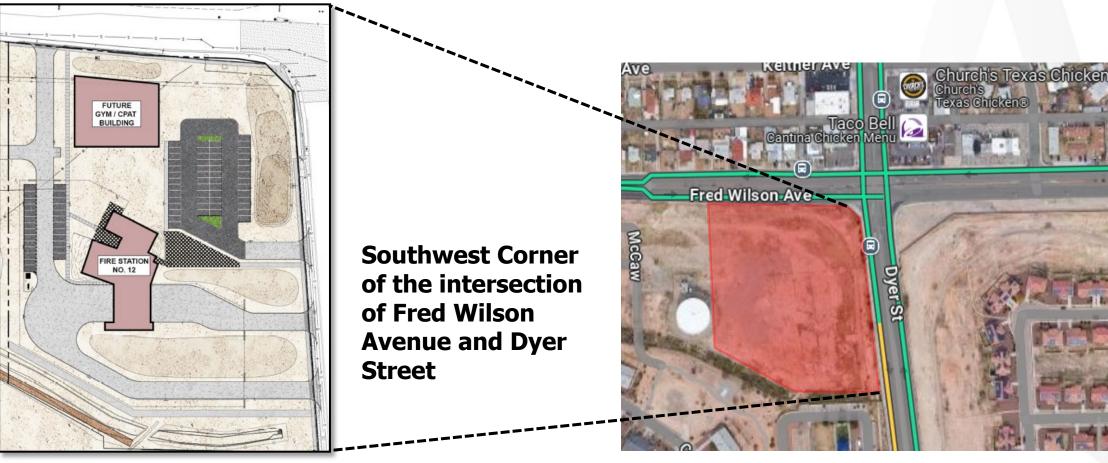
Fire Station #12 serves as the primary fire prevention and control and emergency response services in Northeast El Paso and East Fort Bliss

- The new fire station will serve as a replacement for the aging Fire Station #12, currently located at 3801 Fort Boulevard
- Fire Station #12 will provide supplemental fire protection, training, and emergency response to Fort Bliss under Mutual Aid Agreement City Council 25-500





### **Project Location**





### **Scope of Work**

The estimated Project duration is 48 months from the date of funding authorization with funding allocated to the Project within 12 months (or as required by FY26 CPF).

The Fire Station 12 Reconstruction Project construction work includes:

Task 1: Site preparation

Task 2: Construct Fire station facilities, safety center, and parking

Task 3: Construct ingress and egress access on abutting streets

Task 4: Construct sidewalks, storm sewers, curbs, and gutters



### **Project Budget**

Facility Equipment: \$640,000

Construction Project Management: \$490,047

Contractual: \$426,012

Construction Costs: \$8,499,520

Utilities: \$700,000

Contingency (8.8%): \$1,044,421

Total: \$11,800,000

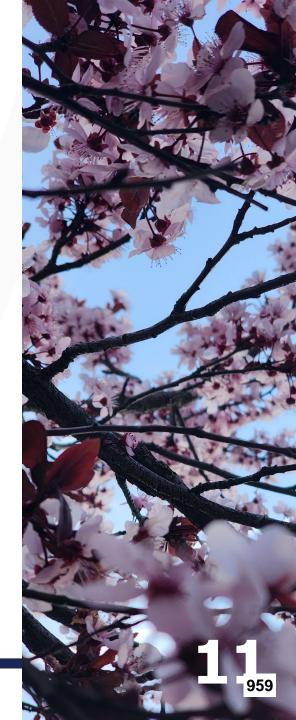




### **Implementation Timeline**

### **Appropriations Process**

- 1. Project Submission by Members (15) (May 2025)
- 2. Committee vetting and selections (June 2025)
- 3. Inclusion in Appropriations Bill (September 2025)
- 4. Post-enactment funding (March 2026)
- 5. Agreement with HUD (July 2026)
- 6. Project Start (September 2026)





## Requested Action

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 \$11,800,000.00, with no match required from the City, for the Fire Station 12 Reconstruction Project.







### El Paso, TX

### **Legislation Text**

File #: 25-525, 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**

Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341

#### 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 an appropriation from the Community Project Funding program in the amount of \$4,000,000.00, with the federal government contributing \$3,200,000.00 and an \$800,000.00 match from the City, for the Ysleta International Port of Entry Engineering Design Project.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:		
COMMUNITY AND STAKEHOLDER OUTREACH:		
PRIOR COUNCIL ACTION:		
AMOUNT AND SOURCE OF FUNDING:		
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REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:		
NEI ORTHO OF CONTRIBOTION OR BONATION TO CITY	<del>JOONOIL.</del>	
NAME	AMOUNT (\$)	
**************************************		
DEPARTMENT HEAD: Stephen San V	oglewede	

(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 Ysleta International Port of Entry Engineering Design Project (the "Project") as worthy of funding through the Community Project Funding process; and

**WHEREAS,** funds received for the Project would be used to design critical border infrastructure and allow the City of El Paso to secure funding for construction.

### 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 an appropriation from the Community Project Funding program in the amount of \$4,000,000.00, with the federal government contributing \$3,200,000.00 and an \$800,000.00 match from the City, for the Ysleta International Port of Entry Engineering Design 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.

APPROVED this day of	2025.
	CITY OF EL PASO:
	Renard U. Johnson
	Mayor

ATTEST:	
Laura D. Prine	
City Clerk	

**APPROVED AS TO FORM:** 

Mona Heydarian Assistant City Attorney **APPROVED AS TO CONTENT:** 

Roberto Tinajero, Director International Bridges Department



# Objective

Discussion and action on a Resolution authorizing the submission of an application to the Office of Congresswoman Veronica Escobar requesting an appropriation from the Community Project Funding program in the amount of \$4,000,000.00, with the federal government contributing \$3,200,000.00 and an \$800,000.00 match from the City, for the Ysleta International Port of Entry Engineering Design Project.

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



# Overview

- FY26 CPF Program Overview
- Project Description
- Scope of Work and Budget
- Implementation Timeline
- Council Action



# Strategic and Legislative Affairs (SLA)

- Strategic Partnerships
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- Climate and Sustainability Division

https://www.elpasotexas.gov/government/intergovernmental-relations/





### **FY26 Community Project Funding**

- Earmarks to Moratorium (1970s 2011): Congress used "earmarks" to steer discretionary dollars to district projects
- House Revival as Community Project Funding (2021): Earmarks restart for FY 2022 under the new "Community Project Funding" label with transparency and accountability measures
- Scale Since Reinstatement (FY 2022-23): Congress approved roughly \$24 billion across more than 12,000
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  - \$9.1 billion for about 5,000 projects in FY 2022
  - \$15.3 billion for 7,200 projects in FY 2023
- FY25 CPF projects were not funded by Congress





### **FY26 Community Project Funding**

**April 8, 2025:** Congresswoman Veronica Escobar (TX-16) issued a request for proposals for FY26 CPF

- Projects selected for FY25 CPF will need to resubmit
- Requires updates to cost estimates, letters of support, and other technical and administrative materials
- Projects must comply with updated guidance fy26-thud-hip-guidance.pdf







### Ysleta International Port of Entry Engineering Design

The City of El Paso will contract engineering consultants to develop design plans that modernize and enlarge the Ysleta-Zaragoza International Port of Entry.

- Expansion is necessary to accommodate projected traffic increases from closure of commercial traffic at Bridge of the Americas (BOTA)
- Expanding the Ysleta Port is a roughly \$500 million capital project – engineering plans will clarify project scope and costs





### Scope of Work and Budget

The City of El Paso will contract professional engineering services to complete:

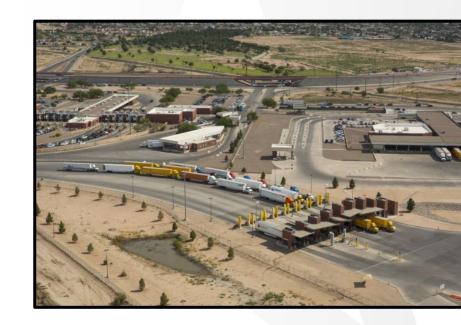
- Feasibility 30% design documents
- Benefit-cost analysis
- Permitting (including Presidential Permit)

Federal: \$3,200,000

City Match: \$800,000 (International Bridges)

Total: \$4,000,000

The Project will be completed in 24 months (after FHWA authorization)

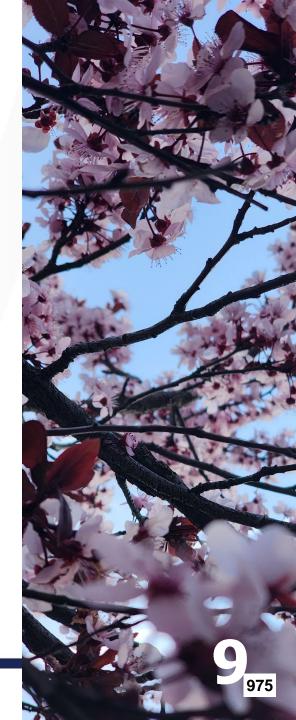




### **Implementation Timeline**

### **Appropriations Process**

- 1. Project Submission by Members (15) (May 2025)
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- 6. Project Start (September 2026)





### Requested Action

Discussion and action on a Resolution authorizing the submission of an application to the Office of Congresswoman Veronica Escobar requesting an appropriation from the Community Project Funding program in the amount of \$4,000,000.00, with the federal government contributing \$3,200,000.00 and an \$800,000.00 match from the City, for the **Ysleta International Port of Entry Engineering** Design Project.







#### El Paso, TX

#### **Legislation Text**

File #: 25-526, Version: 2

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

#### **DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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#### **All Districts**

Strategic and Legislative Affairs, Omar Martinez, (915) 479-0341

#### 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 \$3,000,000.00, with no match required from the City, for the Innovation Factory Phase II Project.

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

DEPARTMENT:	
AGENDA DATE:	
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CONTACT PERSON NAME:	PHONE NUMBER:
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STRATEGIC GOAL:	
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PEROPTING OF CONTRIBUTION OF DONATION TO CITY	COLINCIL
REPORTING OF CONTRIBUTION OR DONATION TO CITY	COUNCIL.
NAME	AMOUNT (\$)
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**************************************	THORIZATION************************************
Stephen San	Voglewede
DEPARTMENT HEAD:	U

(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 Innovation Factory Phase II Project (the "Project") as worthy of funding through the Community Project Funding process; and

WHEREAS, funds received for the Project would be used to accelerate advanced manufacturing capabilities in the region; and

WHEREAS, the Project would not require matching funds from the City of El Paso.

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

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(Signatures begin on the following page)

1

APPROVED this	day of	2025.
		CITY OF EL PASO:
ATTEST:		Renard U. Johnson Mayor
Laura D. Prine City Clerk		
APPROVED AS TO FOI	RM:	APPROVED AS TO CONTENT:
Ignacio R. Troncoso Assistant City Attorney	_	Juan Antonio Nevarez, CM, ACE, IACE Director of Aviation



## Objective

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 \$3,000,000.00, with no match required from the City, for the Innovation Factory Phase II Project.

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



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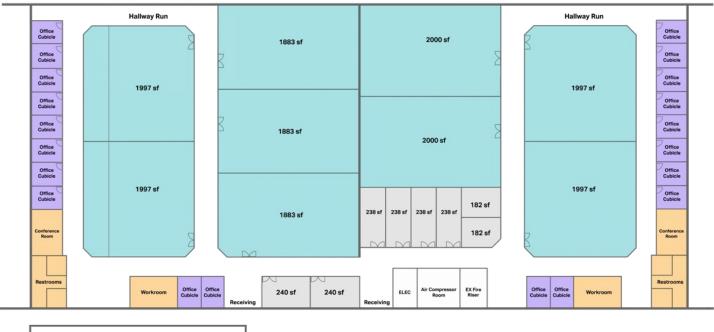
# **Advanced Manufacturing District (AMD) Innovation Factory: Phase II**

The Project involves developing modular Maker Spaces designed to provide cost-savings for early-stage manufacturing and aerospace companies through training, back-office support, environmental management, product design and value chain, and access to advanced manufacturing, testing, and evaluation equipment.





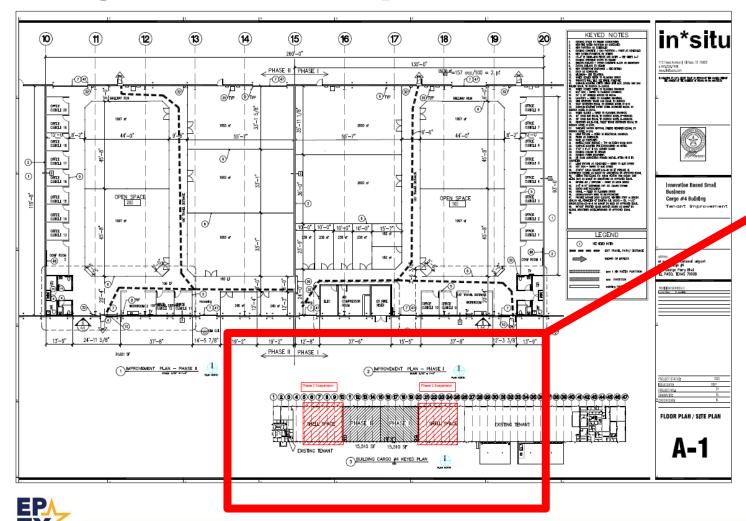
### **Innovation Factory Floor Plan Details**











Designed Modularity =
Same layout as Phase I
Updated costs, materials, equipment, labor

### Scope of Work and Budget

Funding will be utilized to build additional Maker Spaces at the Innovation Factory within 1 year of the date of funding authorization. The Innovation Factory operates utilizing a modular configuration, which expedites equipment purchases, installation, and facility maintenance.

Modular Maker Spaces: \$2,200,000

- R&D and production spaces (1,883 2,000 sf ea)
- Office and cubicle spaces (~200 sf ea)
- Storage space (182-240 sf ea)
- Common use spaces and amenities

Innovation Factory Upgrades: \$800,000

Total: \$3,000,000

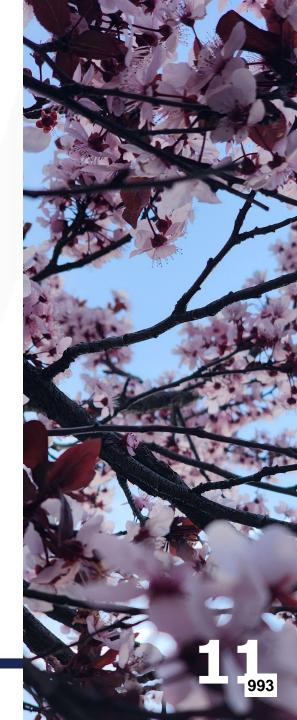




### **Implementation Timeline**

### **Appropriations Process**

- 1. Project Submission by Members (15) (May 2025)
- 2. Committee vetting and selections (June 2025)
- 3. Inclusion in Appropriations Bill (September 2025)
- 4. Post-enactment funding (March 2026)
- 5. Agreement with HUD (July 2026)
- 6. Project Start (September 2026)





### Requested Action

 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 \$3,000,000.00, with no match required from the City, for the Innovation Factory Phase II Project.





#### El Paso, TX

#### **Legislation Text**

File #: 25-447, 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**

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 a Resolution to authorize the City Manager, or designee, to execute loan applications for eligible transportation projects from FY2025 through FY2028 from the Texas Department of Transportation State Infrastructure Bank and to submit the applications, together with all required documentation, to the Texas Department of Transportation for consideration.

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

DEPARTMENT:	
AGENDA DATE:	
PUBLIC HEARING DATE:	
CONTACT PERSON NAME:	PHONE NUMBER:
DISTRICT(S) AFFECTED:	
STRATEGIC GOAL:	
SUBGOAL:	
SUBJECT:	

BACKGROUND / DISCUSSION:	
COMMUNITY AND STAKEHOLDER OUTREACH:	
PRIOR COUNCIL ACTION:	
AMOUNT AND SOURCE OF FUNDING:	
REPORTING OF CONTRIBUTION OR DONATION TO CIT	Y COUNCIL:
NAME	AMOUNT (\$)
NAME	AMOUNT (#)
**************************************	AUTHORIZATION***************
DEPARTMENT HEAD:	2-13-

#### RECEIVED

By City Clerk's Office at 2:22 pm, Apr 16, 2025

#### RESOLUTION

**WHEREAS**, the State Infrastructure Bank, operated by the Texas Department of Transportation, is a revolving loan fund; and

**WHEREAS**, the estimated cost of the City of El Paso's portion of eligible transportation projects for FY 2025 through FY 2028 is \$39,120,000.00; and

WHEREAS, the City Council for the City of El Paso deems it proper and in the best interest of the City of El Paso ("City") to apply for loans from the State Infrastructure Bank in an amount not to exceed \$39,120,000.00 to be used towards the cost of the City of El Paso's portion of eligible transportation projects, including, but not limited to, roadway construction, right of way acquisition, utility relocation, local match and contingency costs; and

**WHEREAS**, the City is qualified to apply for and obtain financial assistance from the State Infrastructure Bank for this purpose.

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

**THAT** the City Council finds it is in the best interest of the City of El Paso to apply for loans from the State Infrastructure Bank in an amount not to exceed \$39,120,000.00 to be used towards the cost of the City's portion of eligible transportation projects for FY 2025 through FY 2028, including, but not limited to, roadway construction, right of way acquisition, utility relocation, and local match costs.

THAT the City Council hereby authorizes the City Manager, or designee, to execute loan applications for eligible transportation projects from FY 2025 through FY 2028 from the State Infrastructure Bank and to submit the applications, together with all required documentation, to the Texas Department of Transportation for consideration.

**THAT** the list of applications to be submitted is attached hereto as Exhibit A and made a part hereof for all purposes.

(Signatures begin on the following page)

APPROVED this	day of	, 2025.
		CITY OF EL PASO:
ATTEST:		Renard U. Johnson Mayor
Laura D. Prine City Clerk		
APPROVED AS TO FORM:		APPROVED AS TO CONTENT:
Poberta Birto		9-B
Roberta Brito		Joaquin Rodriguez
Senior Assistant City Attorney		CID Grant Funded Programs Director

#### **EXHIBIT A**

Project Name	Year of Expenditure
FY 24	
Sean Haggerty Connection	FY 25
FY 25-28	
TMC Upgrades	FY 26
CBD IV	FY 26
Railroad Dr Reconstruction	FY 26
Playa Drain SUP	FY 26
SS4A	FY 26
Buffalo Soldier Reconstruction	FY 27
Sun Valley Dr Improvements	FY 27
Sunland Park SUP	FY 27
Grouped Projects (Active Transportation less than \$1M)	
Downtown Bicycle Infrastructure	FY 25
McRae SUP Ph1 & Ph2	FY 25
Connected Bike Lanes TASA	FY 25
Border Traveler and Cargo ITS	FY 28
Video Surveillance & Count Stns Ph II	FY 28
Brown St Shared Use Path	FY 28
Shadow Mountain Dr SUP	FY 28

### **SIB Loans**

TXDOT State Infrastructure Bank loans for MPO Local Match

April 29, 2025





### **Grant Funded Program Overview**

### Grant Funded Program executes federally & state funded transportation projects

Metropolitan Planning Organization (MPO)

- Regional Priorities
- Regional Mobility Strategy (RMS) 2050

#### **TXDOT**

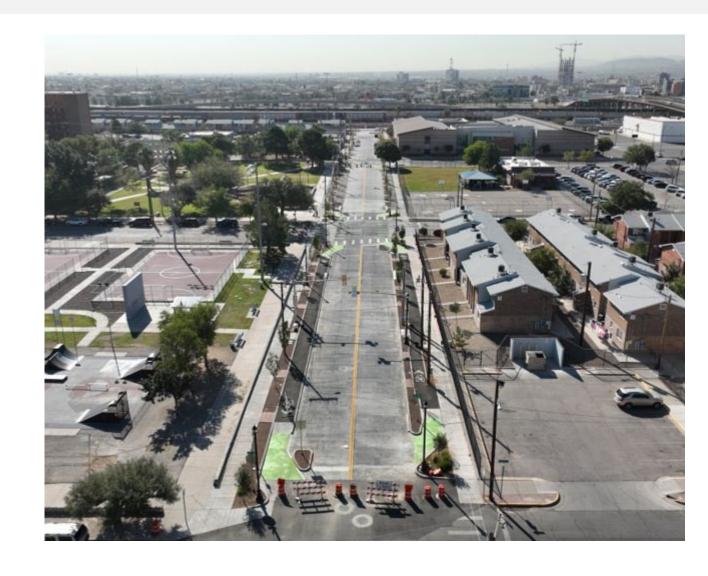
- Highway Safety Improvement Program (HSIP)
- Highway Bridge Program
- International Bridges

#### **Discretionary Grants**

- Rebuilding American Infrastructure with Sustainability and Equity (RAISE)
- Dept of Transportation
- Federal Highway Administration (FHWA)
- Federal Transit Administration

#### Support CID

- Community Progress Bond
- Transportation Planning and safety





### **Grant Funded Program Funding History**

#### 2018-2024

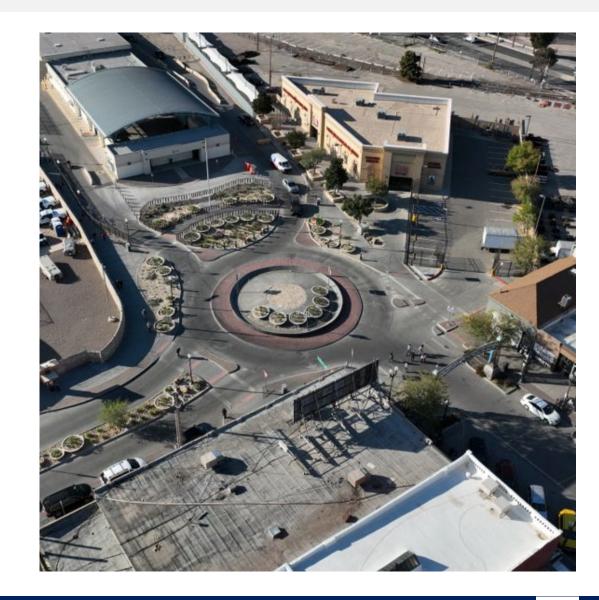
- Approximately \$117.5M in Projects
- Approximately \$32.3M in City Match and Contributions (27%)

#### **Past Funding**

- Historically funded by COs
- \$7.7M in 2017
- \$10.9M in 2018

### 2024 Funding

- Capital Asset Sales to fund the MPO Match for FY24 and FY25
  - FY24 \$6,890,000.00
  - FY25 \$11,181,092.60



#### **What are SIB Loans**

- TXDOT State Infrastructure Bank
- Low interest loans for transportation infrastructure projects
  - Federally eligible projects Title 23
  - Construction or reconstruction
  - Right of way acquisition
  - Utility relocation
  - Contingency
  - Local match
  - Financial & Legal advisory fees



### **Who is using SIB Loans**

Borrower	Total Amount	Year	Projects
Camino Real RMA (4)	\$86m	2010-2021	IH-10 Widening Loop 375 Direct Connector Loop 375 NE Extension Project Direct Connectors
El Paso County (2)	\$9.5m	2018-2021	Pellicano Dr Widening IH-10 Construction
El Paso (3)	\$21.4m	2000-2011	Paseo Del Norte & Zaaragoza Bridge Stanton Bridge Multiple Bridges
Horizon City (3)	\$465k	2000-2008	Darrington Rd Expansion Ashford Reconstruction
Socorro (2)	\$738k	2001-2003	FM 76 ROW Horizon Blvd ROW
Anthony (2)	\$476k	1998-2001	Spur 6 Utility Relocation and ROW





#### **Benefits to SIB Loans**

- Fixed, low interest rate
- Zero lending costs
  - No application fees
- Short Timeline for Funding
  - 6-8 months from Application
- Entities in an economically disadvantaged county receive an interest rate discount.
- Alternative to 1-time funding from capital assets





#### **Rate Calculation**

- The SIB uses the Municipal Market Index (MMD) to set interest rates.
   This index is updated weekly.
  - Rates are set at the time of application.
    - The rate will be reset if the loan does not go before the Texas Transportation Commission within 12 months.
  - Rate is determined based on the current credit rating of the borrower and the term of the loan
    - The SIB team will use the AAA MMD scale for the term requested for the week of the application.
    - A small premium will be applied based on the credit rating and requested term of the loan
- El Paso EDC Reduction: 55 bps
- AA Rating: AAA + 10 bps



#### **Rate Calculation**

**Total Interest** 

#### Possible Loan Breakdowns El Paso - Sean Haggerty Loan Amount 7,364,726.00 **COEP Rating** AA # of Years 10 15 20 25 3.43% **Annual Rate** 2.57% 2.94% 3.73% **Annual Payment** (844,531.08) (614,243.69)\$ (514,913.34) \$ (457,974.77)

\$ (1,848,929.36)

\$(2,933,540.74)

(1,080,584.83)

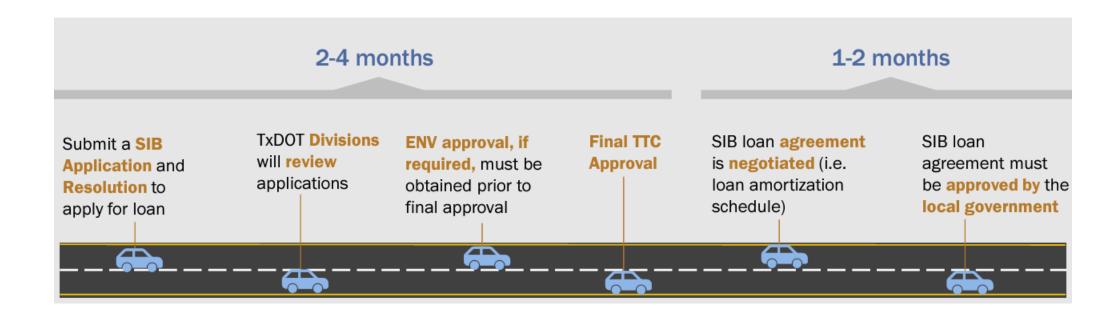




\$ (4,084,643.30)

#### **SIB Loan Timeline**

- 5-7 month TXDOT process
- City process will add 1-2 months
  - Application completion
  - Council Resolutions for application and execution







### **SIB Loan Eligible Projects**

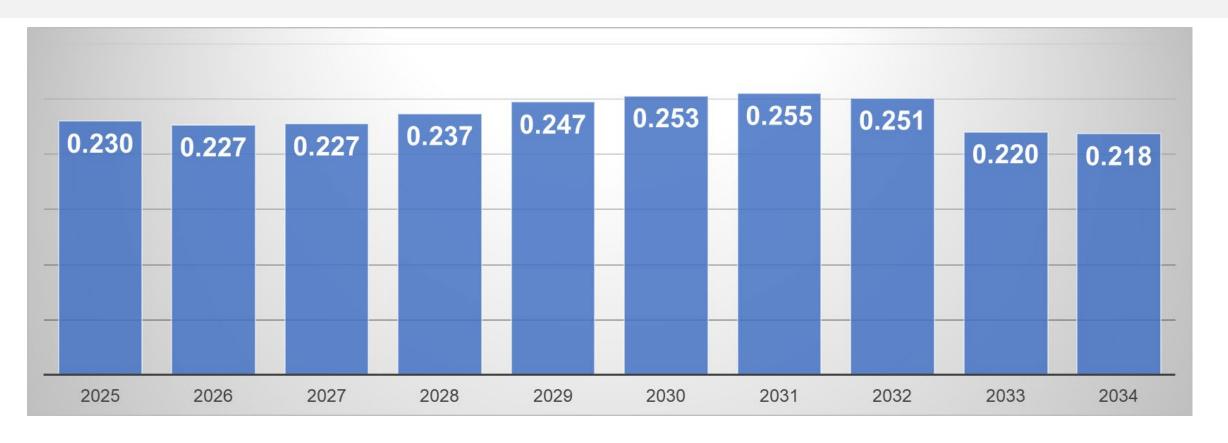
- Single loan agreements for larger projects.
- Potential to group smaller projects

Project Name	Year of Expenditure	Estimated Local Match	Total Project Cost
FY 24			
Sean Haggerty Connection	FY 25	\$7.36 M	\$34.00 M
FY 25-28			
TMC Upgrades	FY 26	\$6.80 M	\$25.50 M
CBD IV	FY 26	\$5.90 M	\$16.50 M
Railroad Dr Reconstruction	FY 26	\$6.10 M	\$19.40 M
Playa Drain SUP	FY 26	\$1.20 M	\$5.90 M
SS4A	FY 26	\$2.50 M	\$12.40 M
Buffalo Soldier Reconstruction	FY 27	\$1.80 M	\$8.40 M
Sun Valley Dr Improvements	FY 27	\$2.60 M	\$6.20 M
Sunland Park SUP	FY 27	\$1.10 M	\$5.30 M
Grouped Projects (Active Transportation less than \$1M)			
Downtown Bicycle Infrastructure	FY 26	\$0.80 M	\$2.70 M
McRae SUP Ph1 & Ph2	FY 26	\$0.31 M	\$5.60 M
Connected Bike Lanes TASA	FY 26	\$0.09 M	\$1.90 M
Border Traveler and Cargo ITS	FY 28	\$0.60 M	\$2.60 M
Video Surveillance & Count Stns Ph II	FY 28	\$0.90 M	\$4.10 M
Brown St Shared Use Path	FY 28	\$0.90 M	\$4.10 M
Shadow Mountain Dr SUP	FY 28	\$0.16 M	\$1.20 M
•		Total \$39.12 M	\$155.80 M





### **Projected Debt Service Property Tax Rate**



	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	Total Future Issuances
2019 Public Safety Bond	36,873,848	79,893,336	79,893,336	49,165,130					245,825,650
2022 Community Progress Bond	33,957,000	39,616,500	39,616,500	22,638,000	22,638,000	22,638,000	22,638,000	22,638,000	226,380,000
SIB Loans	31,064,726	5,500,000	2,560,000						39,124,726
	\$101,895,574	\$125,009,836	\$122,069,836	\$71,803,130	\$22,638,000	\$22,638,000	\$22,638,000	\$22,638,000	\$511,330,376



### **Requested Action**

 Recommend approval of the use of SIB loans to fund MPO match as an alternative to capital asset sales and approval of resolution to submit loan applications for local match requirements through FY28 for up to \$39.12M.



# Thankyou

#### DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND DONATIONS FORM

In compliance with <u>Title 2, Chapter 2.92, Section 2.92.080</u>

#### 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
Donation	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	110/188/280	
District 1		
District 2		S
District 3	143	88 0
District 4	1 300000	5/,//
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:	
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