

Oscar Leeser  
Mayor

Tommy Gonzalez  
City Manager



CITY COUNCIL  
Peter Svarzbein, District 1  
Alexandra Anello, District 2  
Cassandra Hernandez, District 3  
Joe Molinar, District 4  
Isabel Salcido, District 5  
Claudia L. Rodriguez, District 6  
Henry Rivera, District 7  
Cissy Lizarraga, District 8

## **AGENDA FOR THE REGULAR COUNCIL MEETING**

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**March 29, 2022**

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

**THE LOCAL HEALTH AUTHORITY STRONGLY RECOMMENDS THE USE OF  
MASKS IN ALL CITY FACILITIES AND INDOOR SPACES**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 565-902-363#**

**AND**

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

**March 28, 2022**

**9:00 AM**

**Teleconference phone number: 1-915-213-4096**

**Toll free number: 1-833-664-9267**

**Conference ID: 562-137-365#**

Notice is hereby given that an Agenda Review Meeting will be conducted on March 28, 2022 at 9:00 A.M. and a Regular Meeting of the City Council of the City of El Paso will be conducted on March 29, 2022 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, March 28, 2022 Conference ID: 562-137-365#**  
**Regular Council Meeting, March 29, 2022 Conference ID: 565-902-363#**

**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:**

**<https://www.elpasotexas.gov/city-clerk/meetings/city-council-meetings>  
and  
[http://legacy.elpasotexas.gov/muni\\_clerk/Sign-Up-Form-Call-To-The-Public.php](http://legacy.elpasotexas.gov/muni_clerk/Sign-Up-Form-Call-To-The-Public.php)**

**A quorum of City Council must participate in the meeting.**

### **ROLL CALL**

### **INVOCATION BY POLICE, FIRE AND MINISTRY COORDINATOR FOR THE SHERIFF'S OFFICE, CHAPLAIN SAM FARAONE**

### **PLEDGE OF ALLEGIANCE**

### **MAYOR'S PROCLAMATIONS**

**Greater El Paso Association of REALTORS Appreciation Day**

**Sexual Assault Awareness Month**

### **RECOGNITION**

**Northeast Business Alliance to recognize Mayor Oscar Leeser, City Representative Joe Molinar and City Representative Aleksandra Annello.**

### **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 Minutes of the Regular City Council Meeting of March 15, 2022, the Agenda Review Meeting of March 14, 2022, the Work Session of March 14, 2022, and the Work Session of February 28, 2022. [22-318](#)

**All Districts**

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

**CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

**CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

2. Excuse Representative Cassandra Hernandez from the March 29, 2022 Regular City Council Meeting. [22-378](#)

**CONSENT AGENDA - RESOLUTIONS:**

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

3. That the City Manager be authorized to sign the 1st Amendment between the City of El Paso and Bella Vista Place LP, to reduce the abatement grant period by one year at the end of the term of the Tax Abatement Agreement to modify the word "Term", when used in reference to the term of the Agreement, shall mean a period not to exceed six (6) years from the effective date of the agreement. [22-291](#)

**District 6**

Economic and International Development, Elizabeth Triggs, (915) 212-1619

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

4. A Resolution authorizing the City Manager or designee to submit grant application 3007107 for the City of El Paso Police Department project identified as "El Paso 2021 OPSG" through the Office of the Governor of the State of Texas, Homeland Security Grant Division, including all related paperwork, including but not limited to , authorization of budget transfers, and/or revisions to the operation plan, and to accept, reject, amend, and/or terminate the grant which will provide financial assistance to the City of El Paso. In the event of loss or misuse of grant funds, the City of El Paso assures that it will return the funds to the Office of the Governor in full. Requesting \$1,371,163.35, no cash match required. Grant period will be from March 01, 2022 - February 28, 2023. [22-323](#)

**All Districts**

Police, Assistant Chief Humberto Talamantes, (915) 212-4309

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

5. A Resolution to approve the FY2023 Cultural Funding Guidelines. [22-353](#)

**All Districts**

Museums and Cultural Affairs, Ben Fyffe, (915) 212-1766

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

6. A Resolution to find that taxpayer, Sabal James 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$466.33, for the property with the following legal description: 20 CORONADO CTRY CLB FTHILLS #5 LOT 8 (10780 SQ FT). [22-326](#)

**All Districts**

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

7. A Resolution to find that taxpayer, Sabal David 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$195.79, for the property with the following legal description: 66 HIGHLAND PARK 13 & 14 (6000 SQ FT). [22-358](#)

**All Districts**

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

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

8. That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso and the El Paso County Hospital District d/b/a University Medical Center of El Paso (“UMC”), for a two-year term, whereby the parties agree to share information for purposes of contributing to each party meeting the immunization metrics required under the Delivery System Reform Incentive Program operated by the Centers for Medicare and Medicaid Services. This Interlocal Agreement does not require an exchange of money between the parties. [22-322](#)

**All Districts**

Public Health, Angela Mora, (915) 212-6502

**CONSENT AGENDA - BOARD APPOINTMENTS:**

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

9. Danny Padilla to the Greater El Paso Civic, Convention and Tourism Advisory Board by Representative Henry Rivera, District 7. [22-335](#)

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

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

10. Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees by Mayor Oscar Leeser. [22-360](#)

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

11. Alexandria Serra to the Ethics Review Commission by Representative Cissy Lizarraga, District 8. [22-380](#)

Members of the City Council, Representative Cissy Lizarraga (915) 212-0008

**CONSENT AGENDA - APPLICATIONS FOR TAX REFUNDS:**

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

12. 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 greater than \$2,500.00. (See Attachment A) [22-327](#)

**All Districts**

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

**CONSENT AGENDA - REQUESTS TO ISSUE PURCHASE ORDERS:**

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

13. This linkage to Strategic Plan is subsection 2.7 - Maximize Municipal Court efficiency and enhance customer experience. [22-316](#)

Request that the Director of Purchasing and Strategic Sourcing be authorized to issue a purchase order to Justice Systems, Inc. referencing Contract 2013-211R Municipal Court Software Rebid. This change order is to increase the contract by \$183,000.00 for a total amount not to exceed \$3,649,593.00. The change order will cover the expenses for Texting Services, a feature set of the Platform Product that interfaces with the Full Court Enterprise (FCE) operating system for five (5) year term.

Contract Variance:  
No contract variance

Department: Municipal Court  
Award to: Justice Systems, Inc.  
Albuquerque, NM  
Total Estimated Amount: \$183,000.00

Account No.: 111-522020-2535-11030-P1138 -PMC00010  
Funding Source: Municipal Court Restricted Technology Fund  
District(s): All

This is a Request for Proposal, services contract.

**All Districts**

Municipal Courts, Lilia A. Worrell, (915) 212-5822  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**CONSENT AGENDA - BIDS:**

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

14. The linkage to the Strategic Plan is subsection 2.3 - Increase public safety operational efficiency. [22-315](#)

**Award Summary:**

The award of Solicitation 2022-0414R Vehicle Washing Services to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, for a term of three (3) years for an estimated amount of \$198,000.00. This contract will allow washing all Police vehicle units.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$126,000.00 for the initial term, which represents a 175% increase due to the number of Police vehicle car washes per month.

Department:	Police
Vendor:	CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube Tucson, AZ
Item(s):	All
Annual Estimated Award:	\$66,000.00
Total Estimated Award:	\$198,000.00 (3 years)
Account No.:	321-522280-1000-21050
Funding Source:	Vehicle Heavy Equipment off Road Maintenance
District(s):	All

This is a Low Bid, monthly price contract.

The Purchasing and Strategic Sourcing and Police Departments recommend award as indicated to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, the sole lowest responsive, responsible bidder.

**All Districts**

Police, Chief Gregory Allen, (915) 212-6564  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1181

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

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

15. Discussion and action to authorize District 3 City Representative Cassandra Hernandez to attend Council meetings by video conference more than one regular meeting week in a row, for the meeting week of April 11, 2022 and the meeting week of April 25, 2022. [22-330](#)

**All Districts**

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

16. Discussion and action to direct the City Manager to admit one representative of the American Federation of State County and Municipal Employees (AFSCME) Local 59 as an additional member of the Ad Hoc Charter Advisory Committee to be a technical advisor and to have that modification come back to council in two weeks. [22-381](#)

**All Districts**

Members of the City Council, Representative Aleksandra Anello, (915) 212-0002

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

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

17. Presentation and discussion from the Office of Congresswoman Veronica Escobar, representative of Texas' 16th Congressional District, on the Infrastructure Investment and Jobs Act, its competitive and noncompetitive grant funding opportunities, other funding and legislative accomplishments and opportunities, and the upcoming FY2023 appropriations process. [22-349](#)

**All Districts**

Economic and International Development, Karina Bragalla, (915) 212-1570

Economic and International Development, Elizabeth Triggs, (915) 212-0094

18. Budget Update. [22-331](#)

**All Districts**

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

19. Presentation and discussion providing a report from the following Goal Teams: [22-333](#)

1. Vision Block: Safe and Beautiful Neighborhoods:
  - a) Goal 2 (Safe and Secure City)  
Assistant Fire Chief, Robert Arvizu, Assistant Police Chief, Zina Silva
  - b) Goal 7 (Infrastructure)

Grant Funded Program Director, Yvette Hernandez

c) Goal 8 (Healthy, Sustainable Community)  
Managing Director, Ellen Smyth

**All Districts**

City Manager's Office, Juliana Baldwin-Munoz, (915) 212-1204

**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: 565-902-363#**

**A sign-up form is available on line for those who wish to sign up in advance of the meeting at: [http://legacy.elpasotexas.gov/muni\\_clerk/signup\\_form.asp](http://legacy.elpasotexas.gov/muni_clerk/signup_form.asp)**

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

- 20.** An Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III - Parking Prohibited at all times on certain streets) of the City Code, to add paragraph 387 to prohibit parking on certain portions of Schwarzkopf Drive; the penalty being provided in Chapter 12.84 of the El Paso City Code.

**[22-345](#)**

**District 4**

Streets and Maintenance, Hannah Allen, (915) 212-0118

**PUBLIC HEARING WILL BE HELD ON APRIL 12, 2022**

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

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

21. The linkage to the Strategic Plan is subsection 7.2 - Improve competitiveness through infrastructure improvements impacting the quality of life

[22-312](#)

**Award Summary:**

Discussion and action on the award of Solicitation 2022-0004 Security Services - Municipal Buildings to Night Eyes Protective Services, Inc. for an initial three (3) year term for an estimated amount of \$2,063,664.00. The award also includes a two (2) year option for an estimated amount of \$1,375,776.00. The total value of the contract is, including the initial term plus the option for a total of five (5) years, for an estimated amount of \$3,439,440.00. This contract will allow security services at various municipal buildings.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$1,128,945.60 for the initial term, which represents a 120.78% increase due to increase in labor costs and additional locations.

Department:	Streets and Maintenance
Vendor:	Night Eyes Protective Services, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$687,888.00
Initial Term Estimated Award:	\$2,063,664.00 (3 years)
Total Estimated Award:	\$3,439,440.00 (5 years)
Account No.:	532 - 1000 - 522120 - 31040 - P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing and Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Night Eyes Protective Services, Inc., the bidder offering the best value bid.

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

**All Districts**

Streets and Maintenance, Richard J. Bristol, (915) 212-7000  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

22. The linkage to the Strategic Plan is subsection 7.2 - Improve competitiveness through infrastructure improvements impacting the quality of life

[22-313](#)

**Award Summary:**

Discussion and action on the award of Solicitation 2022-0003 Janitorial Services - Fire Facilities and NW Corral to Mirador Enterprises, Inc. for an initial three (3) year term for an estimated amount of \$353,370.99. The award also includes a two (2) year option for an estimated amount of \$235,580.66. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$588,951.65. This contract will allow janitorial services at various fire facilities and NW corral.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$86,720.78 for the initial term, which represents a 32.52% increase due to increase in labor costs.

Department:	Streets and Maintenance
Vendor:	Mirador Enterprises, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$117,790.33
Initial Term Estimated Award:	\$353,370.99 (3 years)
Total Estimated Award:	\$588,951.65 (5 years)
Account No.:	532 - 1000 - 522060 - 31040 - P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing and Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Mirador Enterprises, Inc., the bidder offering the best value bid.

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

**All Districts**

Streets and Maintenance, Richard J. Bristol, (915) 212-7000  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**REGULAR AGENDA – INTRODUCTION AND PUBLIC HEARINGS:**

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

23. An Ordinance authorizing the issuance of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022” pledging the net revenues of the Municipal Drainage Utility System to the payment of such bonds; and resolving other matters which are necessary to effect such issuance.

[22-309](#)

**All Districts**

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

24. An Ordinance authorizing the issuance of “City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022” for system improvements and 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.

[22-310](#)

**All Districts**

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

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

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

25. An Ordinance amending the Future Land Use Map (FLUM) contained in “Plan El Paso” for the properties legally described as a portion of Section 17, Block 79, Township 3 of the T & P RR Company Surveys, City of El Paso, El Paso County, Texas, from O6, Potential Annexation to G4, Suburban (Walkable).

[22-221](#)

Subject Property: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PLCP20-00001

**District 6**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, Andrew Salloum, (915) 212-1603

26. An Ordinance changing the zoning of the following real property known as PARCEL 1: The East ½ of the Northeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 2: The East ½ of the Northwest ¼ of the Southwest ¼ of the Southwest ¼ & the West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 3: The Southeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 4: The West ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼ Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 5: The West ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 6: The East ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 7: The West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79,

[22-223](#)

Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 8: The West ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 9: The East ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 10: The East ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (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: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PZRZ20-00016

**District 6**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, Andrew Salloum, (915) 212-1603

27. An Ordinance changing the zoning of a portion of Lot 12 and 13, save and except a portion thereof, R.L. Dorbandt Subdivision, 170 Polo Inn Road, City of El Paso, El Paso County, Texas from R-4 (Residential) to R-MU (Residential Mixed Use) and approving a Master Zoning Plan. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

[22-225](#)

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: 170 Polo Inn Road  
Applicant: Ricardo Pacheco and Cynthia Pacheco, PZRZ21-00025

**District 3**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, David Samaniego, (915) 212-1608

28. An Ordinance granting Special Permit No. PZST21-00018, to allow for a crematorium on the property described as Lots 6 and 7, Block 2, Golden Gate Commercial Park, 1755 Zaragoza Road, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

[22-226](#)

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: 1755 Zaragoza Road  
Applicant: Golden Gate Family LTD, PZST21-00018

**District 6**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, David Samaniego, (915) 212-1608

**REGULAR AGENDA - OTHER BUSINESS:**

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

29. Discussion and action that the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) by and between CITY OF EL PASO (“City”) and SCENIC VIEW TOWNHOMES, LLC (“Applicant”) in support of an infill development project located at 1360 N Cotton Street, El Paso, Texas 79930. The Agreement requires the Applicant to make a minimum investment of \$950,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$56,949.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate. [22-321](#)

**District 2**

Economic and International Development, Mirella Craigo, (915) 212-1617

30. Discussion and action that the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) by and between CITY OF EL PASO (“City”) and HELUE PROPERTIES, LLC (“Applicant”) in support of an infill development project located at 1255 N Cotton Street, El Paso, Texas 79902. The Agreement requires the Applicant to make a minimum investment of \$900,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$46,854.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate. [22-332](#)

**District 1**

Economic and International Development, Mirella Craigo, (915) 212-1617

31. Discussion and action on a Resolution authorizing the City Manager to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) between the City of El Paso (the “City”) and Pioneers 21 (the “Applicant”). The City will provide Applicant with grant payments for costs incurred in operating a business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant’s eligibility for the grant payments shall be limited to two years. The City shall review the Applicant’s eligibility for Grant Payments on a monthly and annual basis. [22-354](#)

**All Districts**

Economic and International Development, Mirella Craigo, (915) 212-1617

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

32. The linkage to the Strategic Plan is subsection: 2.1 - Maintain standing as one of the nation's top safest cities

[22-314](#)

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Morpho USA, Inc., dba Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

**Contract Variance:**

No contract variance

Department:	El Paso Police Department
Award to:	Morpho USA Inc., dba Idemia Identity & Security USA LLC Anaheim, CA
Initial Term:	7 years
Year 1:	\$186,299.00
Year 2:	\$195,613.95
Year 3:	\$205,394.65
Year 4:	\$215,664.38
Year 5:	\$226,447.60
Year 6:	\$237,769.98
Year 7:	\$249,658.48
Total Estimated Award:	\$1,516,848.03 (7 years)
Account No.:	239-1000-15240-P1506-522020
Funding Source:	General Fund - IT - Citywide Contracts Division
Districts(s):	All
Sole Source No.:	2022-0487

This is a Sole source, service contract.

**All Districts**

Police, Isaura Valdez, (915) 212-4311  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

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

[22-319](#)

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Crime Gun Intelligence Technologies, LLC, the sole distributor for the 2022-0505 Gunshot Detection for a term of one (1) year for an estimated amount of \$57,608.40. The award of the contract for the gunshot detection system is an asset to the El Paso Police Department as it provides real time

information, which will assist the department in better addressing crime.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: A decrease of \$5,391.58 for the initial term, which represents an 8.56% decrease due to a reduction in cost for training which is no longer necessary.

Department: Police Department  
Award to: Crime Gun Intelligence Technologies, LLC  
Tupelo, MS  
Total Estimated Award: \$ 57,608.40  
Account No.: 321-2680-21210-580090-P2104-GT2121SNP  
Funding Source: Grant Funded  
District(s): All  
Sole Source No.: 2022-0505

This is a sole source contract.

The Purchasing and Strategic Sourcing and Police Departments recommend award as indicated to Crime Gun Intelligence Technologies, LLC, the sole distributor for Gunshot Detection Sensors.

**All Districts**

Police, Chief Gregory K. Allen, (915) 212-4302  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1181

34. The linkage to the Strategic Plan is subsection 2.3 - Increase public safety operational efficiency. [22-320](#)

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Siddons-Martin Emergency Group, LLC., the sole distributor provider for Pierce Proprietary Parts Repair and Maintenance Training Service for a term of three (3) years for an estimated amount of \$864,000.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the purchase of Pierce Proprietary Parts Repair and Maintenance Training Service for fire apparatus.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$144,000.00 for the three (3) year term, which represents a 20.00% increase due to an increase in Fire Department equipment requiring maintenance.

Department: Fire  
Vendor: Siddons-Martin Emergency Group, LLC.  
Houston, TX  
Item(s): All  
Initial Term: 3 years  
Annual Estimated Award: \$288,000.00  
Initial Term Estimated Award: \$864,000.00 (3 years)

Account No.: 531180 - 322 - 1000 - 22090 - P2216  
Funding Source: General Fund  
District(s): All

This is a Sole Source contract.

**All Districts**

Fire, Chief Mario D'Agostino, (915) 485-5605  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

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

35. The linkage to the Strategic Plan is subsection 6.7 - Deliver effective and efficient processes to maximize value in obtaining goods and services. [22-344](#)

Discussion and action on a Resolution approving authority to the City of El Paso's Department of Purchasing and Strategic Sourcing to accept electronic submission and receipt of bids and proposals, in accordance with the City's procurement policies and procedures, and adopting rules in accordance with Chapter 252 of the Texas Local Government Code to ensure identification, security, and confidentiality in the electronic bidding and proposal process.

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

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

36. Discussion action that the City Council approves a change order in the amount of \$3,310,893.80 to ZTEX Construction, Inc. for Contract Number 2019-882 Street Resurfacing 2019. This secures 2019 prices. [22-324](#)

**All Districts**

Capital Improvement Department, Sam Rodriguez, (915) 212-1845

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

37. Discussion and action that the City consents to the assignment of the rights, duties and obligations under the contract 2006-015 to Assignee, who agrees to perform all duties under the contract as the Friedman contract is transferred to Waste Connections of El Paso, LB d/b/a BARCO. The termination clause will be amended such that the contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities including its investment in real estate in the amount of \$160,000 (Termination/Transfer fee) 1) if the City exercises its right to terminate for convenience 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the project or 3) if the Contractor terminates the Contract because of default by the City. [POSTPONED FROM 03-15-2022] [22-283](#)

**All Districts**

Environmental Services, Ellen Smyth, (915) 212-6000

- 38.** Discussion and action on a Resolution to approve an amendment to the City's 46th Year Annual Action Plan for the Community Development Block Grant Entitlement (CDBG-EN) to: [22-288](#)
- a. Delete the Community Kitchen and Teaching Kitchen project (\$1,557,540); and
  - b. Add \$1,557,540 back to available 46th Year CDBG funds.

**All Districts**

Community and Human Development, Nicole Ferrini, (915) 212-1659

**EXECUTIVE SESSION**

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

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

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

**Discussion and action on the following:**

- EX1.** Celia Sanchez, et al v. City of El Paso, Texas et al. Matter No. 17-1026-8443 (551.071) [22-383](#)  
City Attorney's Office, Nicole Anchondo, (915) 212-0033
- EX2.** Max Grossman Lawsuit v. City of El Paso; Texas Supreme Court, Case No. 21-1105 Matter No. 17-1001-171.001 (551.071) [22-384](#)  
City Attorney's Office, Karla M. Nieman, (915) 212-0033
- EX3.** Application of El Paso Electric Company to Change Rates, Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071) [22-385](#)  
City Attorney's Office, Frances Engelbaum, (915) 212-0033

- EX4.** Avoided Costs Exception | Petition of the PUC Staff for a Good Cause Exception to §25.181(D)(3)(A) and to set the Avoided Cost of Energy Under §25.181(D)(3)(A) for 2022 Electric Utility Energy Efficiency Programs; Public Utility Commission of Texas Docket No. 52871. Matter No. 21-1008-184 (551.071) [22-386](#)  
City Attorney's Office, Frances Engelbaum, (915) 212-0033
- EX5.** Economic Incentives for a Transit-Oriented Development located in the City of El Paso. Matter No. 21-1007-2869 (551.087) [22-387](#)  
Economic and International Development, Elizabeth Triggs, (915) 212-0095
- EX6.** Economic Incentives for a Transit-Oriented Development located in the City of El Paso. Matter No. 21-1007-2870 (551.087) [22-388](#)  
Economic and International Development, Elizabeth Triggs, (915) 212-0095
- EX7.** Economic Development Incentives for a Convention Center Hotel to be located in the City of El Paso. Matter No. 22-1007-2853 (551.087) [22-389](#)  
Economic and International Development, Elizabeth Triggs, (915) 212-0095
- EX8.** Economic Incentives for a Mixed-Use Development located in the City of El Paso. Matter No. 22-1007-2878 (551.087) [22-390](#)  
Economic and International Development, Elizabeth Triggs, (915) 212-0095
- EX9.** City of El Paso v. Joseph C. Pickett; 8th Court of Appeals, Case No. 08-21-00147-CV. Matter No. 21-1007-268.001 (551.071) [22-391](#)  
City Attorney's Office, Evan Reed, (915) 212-0033
- EX10.** Comptroller Sales and Use Tax Audit. Matter No. 21-1063-175 (551.071) [22-392](#)  
City Attorney's Office, Donald Davie (915) 212-0033

## **ADJOURN**

### **NOTICE TO THE PUBLIC:**

Sign Language interpreters are provided for regular City Council meetings. If you need Spanish Interpreter Services, you must email [CityClerk@elpasotexas.gov](mailto:CityClerk@elpasotexas.gov) at least 48 hours in advance of the meeting.

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

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



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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File #: 22-318, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
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 Minutes of the Regular City Council Meeting of March 15, 2022, the Agenda Review Meeting of March 14, 2022, the Work Session of March 14, 2022, and the Work Session of February 28, 2022.

OSCAR LEESER  
MAYOR

TOMMY GONZALEZ  
CITY MANAGER



CITY COUNCIL  
PETER SVARZBEIN, DISTRICT 1  
ALEXSANDRA ANNELLO, DISTRICT 2  
CASSANDRA HERNANDEZ, DISTRICT 3  
JOE MOLINAR, DISTRICT 4  
ISABEL SALCIDO, DISTRICT 5  
CLAUDIA L. RODRIGUEZ, DISTRICT 6  
HENRY RIVERA, DISTRICT 7  
CISSY LIZARRAGA, DISTRICT 8

## MINUTES FOR REGULAR COUNCIL MEETING

March 15, 2022  
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY  
9:00 AM

### ROLL CALL

The City Council of the City of El Paso met on the above time and date. Meeting was called to order at 9:01 a.m. Mayor Oscar Leeser present and presiding and the following Council Members answered roll call: Alexsandra Annello, Joe Molinar, Isabel Salcido, Claudia Rodriguez, Henry Rivera, and Cissy Lizarraga. Peter Svarzbein participated via videoconference. Cassandra Hernandez requested to be excused.

### INVOCATION BY POLICE CHAPLAIN ROBERT HEMPHILL, JR. PH.D.

### PLEDGE OF ALLEGIANCE

### MAYOR'S PROCLAMATIONS

Dolores Anguiano Recognition Day

### NOTICE TO THE PUBLIC

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Annello, 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 {\*}).

AYES: Representatives Svarzbein, Annello, Molinar, Rodriguez, Salcido, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

### CONSENT AGENDA - APPROVAL OF MINUTES:

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

1. \*Motion made, seconded, and unanimously carried to **APPROVE** the Minutes of the Regular City Council Meeting of March 1, 2022 and the Agenda Review Minutes of February 28, 2022.

**CONSENT AGENDA - REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

**2. REQUEST TO EXCUSE ABSENT CITY COUNCIL MEMBERS:**

\*Motion made, seconded, and unanimously carried to **EXCUSE** Representative Cassandra Hernandez from the Regular City Council Meeting of Tuesday, March 15, 2022.

**CONSENT AGENDA - RESOLUTIONS:**

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

**3.** \*Motion made, seconded, and unanimously carried to **APPROVE** the budget transfer to increase FY2022 Confiscated Funds and appropriations as follows: State Confiscated Funds Budget by \$400,000; Federal Confiscated Funds Budget by \$150,000; Treasury Confiscated Funds Budget by \$200,000.

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

**4. \*RESOLUTION**

**WHEREAS**, in accordance with Chapter 9.04 of the El Paso City Code, LMO PROPERTIES, 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:

1107 Myrtle Ave, more particularly described as Lot 19 &20 (6000 Sq Ft), Block 15, Franklin Heights Subdivision, City of El Paso, El Paso County, Texas, PID #F607-999-0150-4300 to be \$409.50, 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 26th day of March, 2021, 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 NINE AND 50/100 DOLLARS (\$409.50) 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.

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

**5. \*RESOLUTION**

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

That the Mayor be authorized to sign a First Amendment to the Interlocal Agreement between the City of El Paso ("City") and the University of Texas at El Paso ("UTEP") regarding UTEP's assistance with the City's Intersection Safety Improvement Program, to extend the Term of the Agreement and update the project timelines accordingly, without any amendment to the compensation provisions of the Agreement.

.....  
**CONSENT AGENDA – BOARD RE-APPOINTMENTS:**  
.....

**Goal 8: Nurture and Promote a Healthy, Sustainable Community**  
.....

6. \*Motion made, seconded, and unanimously carried to **RE-APPOINT** Beatriz Castorena-Mata to the City Accessibility Advisory Committee by Representative Isabel Salcido, District 5.

.....  
**CONSENT AGENDA – BOARD APPOINTMENTS:**  
.....

**Goal 3: Promote the Visual Image of El Paso**  
.....

7. \*Motion made, seconded, and unanimously carried to **APPOINT** John J. Bryan II to the Building and Standards Commission by City Representative Cassandra Hernandez, District 3.

.....  
**Goal 8: Nurture and Promote a Healthy, Sustainable Community**  
.....

8. \*Motion made, seconded, and unanimously carried to **APPOINT** Victor M. Casas to the Veterans Affairs Advisory Committee by Representative Peter Svarzbein, District 1.

9. \*Motion made, seconded, and unanimously carried to **APPOINT** Edmundo Rodriguez Jr. to the City Accessibility Advisory Committee by Representative Cissy Lizarraga, District 8.

.....  
**CONSENT AGENDA – APPLICATION FOR TAX REFUNDS:**  
.....

10. \*Motion made, seconded, and carried to **APPROVE** the following tax refunds:
1. Giles Volvo Cars El Paso LLC, in the amount of \$5,881.21 made an overpayment on December 31, 2020 of 2020 taxes. (Geo. # 20PP-000-5773-1022)
  2. George Marak, in the amount of \$5,295.71 made an overpayment on January 31, 2022 of 2021 taxes. (Geo. # C214-999-0020-5300)
  3. George Marak, in the amount of \$5,295.71 made an overpayment on January 24, 2022 of 2021 taxes. (Geo. # C214-999-0020-5300)
  4. M. Carmen Samaniego, in the amount of \$3,143.01 made an overpayment on January 26, 2022 of 2021 taxes. (Geo. # E054-999-0230-1700)
  5. El Paso Escrow Inc. DBA Commercial Escrow, in the amount of \$2,586.50 made an overpayment on January 20, 2022 of 2021 taxes. (Geo. #H793-024-0100-0230)
  6. Commercial Escrow, in the amount of \$2,586.50 made an overpayment on January 20, 2022 of 2021 taxes. (Geo. # H793-024-0100-0250)
  7. LNK Properties, LLC, in the amount of \$4,030.49 made an overpayment on January 4, 2022 of 2021 taxes. (Geo. # M842-999-0060-1900)
  8. El Paso Escrow Inc. DBA Commercial Escrow, in the amount of \$3,247.32 made an overpayment on January 20, 2022 of 2021 taxes. (Geo. # S533-000-0010-13W2)
  9. Oluwatosin Arowojolu, in the amount of \$3,209.10 made an overpayment on January 10, 2022 of 2021 taxes. (Geo. # V225-000-0050-0500)
  10. Ann Cereghino, in the amount of \$4,074.48 made an overpayment on February 6, 2022 of 2021 taxes. (Geo. # V893-999-061A-0100)
  11. LNK Properties, LLC, in the amount of \$7,720.23 made an overpayment on January 4, 2022 of 2021 taxes. (Geo. # W564-999-0040-5300)

.....

**REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL**

.....

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

.....

**11. ITEMS 11 AND 19 TAKEN TOGETHER**

**ITEM:** Discussion and action to direct the City Manager to apply for all available funding opportunities including ARPA funds in order to fund the Phase 2 of the Body Worn Camera program for the El Paso Police Department.

Mayor Leeser and Representatives Svarzbein, Annello, Molinar, Salcido, Rodriguez, and Rivera commented.

The following City staff members commented:

- Assistant Police Chief Zina Silva
- Ms. Dionne Mack, Deputy City Manager for Public Safety
- Mr. Robert Cortinas, Chief Financial Officer
- Ms. Kristen Karam-Hamilton, Senior Assistant City Attorney

**1<sup>ST</sup> MOTION**

Motion made by Representative Salcido, seconded by Representative Molinar, and unanimously carried to **AMEND** the item by adding the words “and to **DIRECT** the City Manager to look at a study to implement the use of body cameras with code enforcement and City inspectors” to the end of the wording.

AYES: Representatives Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

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

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **DIRECT** the City Manager to apply for all available funding opportunities including ARPA funds in order to fund the Phase 2 of the Body Worn Camera program for the El Paso Police Department to **DIRECT** the City Manager to look at a study to implement the use of body cameras with code enforcement and City inspectors.

AYES: Representatives Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

.....  
**Goal 4: Enhance El Paso’s Quality of Life through Recreational, Cultural and Educational Environment**  
 .....

**12. RESOLUTION**

**WHEREAS**, in 1968, Interstate-10 was completed in El Paso; and

**WHEREAS**, in order to facilitate the construction of the freeway, entire neighborhoods were destroyed which had the effect of physically detaching thriving urban neighborhoods from our Downtown; and

**WHEREAS**, the ultimate location of the freeway and the neighborhoods it adversely affected were disproportionately those that were previously redlined on the basis of race and ethnicity and their status as being minorities in this country; and

**WHEREAS**, such actions had the effect of reinforcing and strengthening existing patterns of racial segregation and disinvestment in our downtown and throughout our City and others across the country; and

**WHEREAS**, the City’s Comprehensive Plan, *Plan El Paso*, identified as a priority the reimagining of the freeway as it traverses through downtown; and

**WHEREAS**, *Connecting El Paso*, the precursor to *Plan El Paso*, identified capping the freeway as vital to the success of downtown redevelopment; and

**WHEREAS**, *Plan El Paso* calls for reducing the overreliance on the automobile as a preferred mode of travel; and

**WHEREAS**, the City's *Street Design Manual* calls for the appropriate context-sensitive design of roadways by differentiating the design elements of roads located in urban, suburban and rural contexts; and

**WHEREAS**, the location of the freeway's proposed frontage roads in and around Downtown and adjacent neighborhoods to the east and west should consider its contextual surroundings by incorporating design elements that promote slower travel speeds and make it safe for pedestrians and cyclists using the roads for travel and to cross them; and

**WHEREAS**, to mitigate the physical and visual impacts of the freeway's location through downtown and adjacent neighborhoods, the freeway should be capped in order to physically reconnect the surrounding historic and adjacent urban neighborhoods that were destroyed when the freeway was initially constructed; and

**WHEREAS**, the proposed deck plaza is a viable method to achieve this through the concept's demonstrated success in cities across the country, including Klyde Warren Park in Dallas, Texas.

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

**THAT** in order to promote appropriate urban design to support and enhance our vibrant Downtown and neighborhoods and to reconnect the urban fabric currently separated by Interstate 10, the following design consideration be considered in the final design alternative for the Downtown segment and Segment 2 of Re-Imagine I-10:

- a. The elimination of frontage roads as currently conceived through Downtown and neighborhoods to be replaced with urban-context streets in alignment with the City's Street Design Manual;
- b. The removal of any "u-turns" through the downtown segment which present a safety hazard for pedestrians and cyclists;
- c. The new appropriately-scaled frontage roads should prioritize the safe passage of pedestrians and cyclists over the movement of freight and vehicles by reducing the width of the right-of-way to allow for safe crossing;
- d. Reduce design speeds of frontage roads to maintain the current 30 mph speed limit on Yandell Dr, Wyoming Ave, Missouri Ave, and Main St;
- e. Reduce the right-of-way width on the frontage roads to two lanes of vehicular travel and one lane of on-street parking;
- f. Enhance and support the existing downtown aesthetic through the provision of street trees in the adjacent parkways;
- g. Retain north-south connections of Oregon, Stanton and Campbell Streets;
- h. Maintain existing connections and enhance pedestrian and cyclist access to downtown from surrounding historic and adjacent urban neighborhoods;

i. Enhance structural supports and extend utility infrastructure to support future development on the deck including but not limited to parks and buildings;

j. Permit development to span the deck in order to physically reconnect Downtown and uptown.

Representatives Svarzbein, Annello, Rodriguez, and Rivera commented.

Ms. Kristen Hamilton-Karam, Senior Assistant City Attorney, commented.

The following members of the public commented:

1. Robert Storch
2. Scott White

**1<sup>st</sup> MOTION TO AMEND:**

Motion made by Representative Annello, seconded by Representative Rodriguez, and carried to **APPROVE** the following amendments to the Resolution:

- Page 1 – 2<sup>nd</sup> to last paragraph – replace “**in Downtown**” with “**in and around Downtown and adjacent neighborhoods to the east and west**” ...
- Page 1 – last paragraph – after “the freeways location through Downtown insert “**and adjacent neighborhoods,**”
- Page 2 – preamble to the Resolution after “vibrant Downtown” insert “**and neighborhoods**” and after “Downtown segment” insert “**and Segment 2**”
- Page 2 – item a – after “Downtown” insert “**and neighborhoods**”.
- Page 2 – item d – after “Wyoming Ave” insert “**Missouri and Main**”

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: Representative Molinar

ABSENT: Representative Hernandez

**2<sup>nd</sup> MOTION TO AMEND:**

Motion made by Representative Rodriguez, seconded by Representative Annello, to **AMEND** the Resolution as follows:

- Page 1, last paragraph – replace the word “should” with “could”

AYES: Representatives Annello, Salcido, and Rodriguez

NAYS: Representative Svarzbein, Molinar, Rivera, and Lizarraga

ABSENT: Representative Hernandez

**THE MOTION FAILED**

**3<sup>RD</sup> AND FINAL MOTION**

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and carried to **APPROVE** the Resolution **AS AMENDED**.

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: Representative Molinar  
ABSENT: Representative Hernandez

.....  
**REGULAR AGENDA – OPERATIONAL FOCUS UPDATES**  
.....

**Goal 6: Set the Standard for Sound Government and Fiscal Management**  
.....

**13.** Budget Update.

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

Representatives Molinar and Salcido commented.

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

.....  
**14.** Presentation and discussion providing a preview of the 2022 Strategic Plan Goal Team report series.

Ms. Julie Baldwin-Munoz, Performance Office Director, presented a PowerPoint presentation (copy on file in the City Clerk’s Office).

Representatives Svarzbein and Annello commented.

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

.....  
The Regular City Council meeting was **RECESSED** at 11:39 a.m. until noon for Call to the Public.

The Regular City Council meeting was **RECONVENED** at 12:03 p.m.

.....  
**CALL TO THE PUBLIC – PUBLIC COMMENT:**  
.....

The following members of the public commented:

1. Efrain Saucedo
2. Ron Comeau
3. Elyse Mize
4. Benjamin Alva
5. Barbara Valencia
6. Marc Salazar
7. Sabrina Soto

.....  
**REGULAR AGENDA – FIRST READING OF ORDINANCES:**  
.....

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Annello, 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 Svarzbein, Annello, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga  
NAYS: None  
ABSENT: Representative Hernandez

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

15. An Ordinance changing the zoning of a portion of the Southwest ¼ of the Northwest ¼ of Section 16, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 1500 Joe Battle Boulevard, City of El Paso, El Paso County, Texas from R-3 (Residential) to C-3 (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: 1500 Joe Battle Boulevard  
Applicant: City of El Paso, PZRZ21-00009

16. An Ordinance releasing all conditions placed on property by Ordinance No. 8786 which changed the zoning of a portion of Lots 2 and 3 and all of Lots 4, 5, 6, 7 and 8, and the east 10’ of Lot 9, Block 7, Golden Hill Addition, 1519 and 1525 Golden Hill Terrace Street, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed condition release 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: 1519 and 1525 Golden Hill Terrace Street  
Applicant: ML Real Property LLC, PZCR21-00001

**PUBLIC HEARING FOR ITEMS 15 AND 16 WILL BE HELD ON APRIL 12, 2022**

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

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

**17. ORDINANCE 019309**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.041 (SCHEDULE IVA - PARKING PROHIBITED DURING CERTAIN HOURS - SCHOOL DAYS ONLY) OF THE CITY CODE TO AMEND PARAGRAPH A TO DELETE CERTAIN STREETS AND TO ADD PARAGRAPH B TO PROHIBIT PARKING BETWEEN THE HOURS OF 7:00 A.M. TO 5:00 P.M. SCHOOL DAYS ONLY ON CERTAIN STREETS; AMENDING SECTION 12.88.030 (SCHEDULES III - PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS), PARAGRAPH 355, TO AMEND THE PROHIBITED PARKING AREA; AMENDING SECTION 12.88.200 (SCHEDULES XVII - RESTRICTIONS ON PARKING IN RESIDENTIAL DISTRICTS) TO AMEND ZONE K TO DELETE CERTAIN STREETS; AMENDING 12.88.200 (SCHEDULES XVII - RESTRICTIONS ON PARKING IN RESIDENTIAL DISTRICTS) TO AMEND ZONE N TO AMEND PROHIBITED PARKING TIMES AND ADD CERTAIN STREETS; THE PENALTY BEING PROVIDED IN CHAPTER 12.84 OF THE EL PASO CITY CODE.**

Ms. Hannah Allen, Traffic Engineer Associate, presented a PowerPoint presentation (copy on file in the City Clerk’s Office).

Representatives Molinar, Rodriguez, and Rivera commented.

Mr. Richard Bristol, Street and Maintenance Director, commented.

Motion duly made by Representative Rodriguez, seconded by Representative Salcido, 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 Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

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

18.

**ORDINANCE 019310**

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING THE 2025 PROPOSED THOROUGHFARE SYSTEM, AS INCORPORATED INTO PLAN EL PASO, TO DELETE THE FUTURE EXTENSION OF BILL BURNETT DRIVE FROM MERCANTILE AVENUE TO PASEO DEL ESTE BOULEVARD.**

Motion duly made by Representative Rodriguez, seconded by Representative Rivera, 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 Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

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

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**REGULAR AGENDA – OTHER BUSINESS:**

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

19.

**ITEM 11 AND 19 WERE TAKEN TOGETHER**

**R E S O L U T I O N**

**WHEREAS**, on March 13, 2020 the President of the United States declared a national emergency, Governor of the State of Texas declared a state of disaster, and the Mayor of the City of El Paso declared a local state of disaster in relation to Coronavirus Disease 19 (COVID-19); and

**WHEREAS**, on March 17, 2020 City Council issued an Emergency Ordinance Instituting Emergency Measures due to a Public Health Emergency (“Emergency Ordinance”); and

**WHEREAS**, on May 11, 2020 City Council approved appropriations for the CARES Act funds received by the City for eligible expenses from March 1, 2020 through August 31, 2021; and

**WHEREAS**, the City has on going COVID-19 related expenditures that have continued into FY 2022; and

**WHEREAS**, the COVID-19 pandemic is a public health crisis that has required immediate action from the City to relieve the emergency necessity of the municipality’s residents and to protect the health and safety of the community, resulting in expenditures by the City to respond to the COVID-19 public health emergency; and

**WHEREAS**, on March 11, 2021, the federal government enacted the American Rescue Plan Act (“ARPA”) which established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund (“CSLFRF”); and

**WHEREAS**, the Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of recovery funds not explicitly listed; and

**WHEREAS**, the City is a recipient of ARPA grant in the amount of \$154,365,135 from the fund to be received in two tranches, with the first received on May 12, 2021 in the amount of \$77,172,567.50, and the second half of equal value is expected to be received on or about May 12, 2022; and

**WHEREAS**, on July 27th, 2021 the City Council appropriated \$15,000,000 of ARPA grant funds; and

**WHEREAS**, on January 18th, 2022 the City Council appropriated \$7,821,018 of ARPA grant funds; and

**WHEREAS**, the City Council desires to appropriate the ARPA grant funds in the amount of \$6,600,000 in accordance with the requirements stipulated in the U.S. Department of Treasury’s Final Rule (“Final Rule”).

**WHEREAS**, the City Council now desires to fund a police Digital Video Recording System to promote public trust, enhance public safety, improve transparency and provide accountability for the safety and security of both the El Paso Police Department and the community it serves.

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

**THAT** as the recipient of the American Rescue Plan Act (“ARPA”) grant funds in the amount of \$154,365,135, the City Council approves the appropriation of \$6,600,000 of the grant funds from the CSLFR to cover expenses incurred for the purchase of Digital Video Recording System Funds in accordance and compliance with the requirements stipulated by the American Rescue Plan Act and federal guidelines in the Final Rule.

**THAT**, the above appropriation was obligated during the period starting March 3, 2021, and ending December 31, 2024.

**THAT**, the instant and previous appropriations are made in compliance with the Final Rule.

**THAT**, future appropriations of the remaining CSLFR funds shall be appropriated in a manner aligning to the needs and requirements of the City and in compliance with the Final Rule guidance.

**THAT**, the City Manager, or designee, be authorized to effectuate any budget transfers and execute any contracts and/or related documents necessary to ensure that the American Rescue Plan Act (“ARPA”) grant funds are properly expended to respond to the COVID-19 public health emergency.

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga  
NAYS: None  
ABSENT: Representative Hernandez

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

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**20. RESOLUTION**

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

That the City Manager, or designee, be authorized to sign a two year On-Call Agreement for Professional Services to perform geotechnical and materials testing consulting services on a task order basis between the City of El Paso and the following consultant:

1. LOI Engineers

The On-Call Agreement will be for an amount not to exceed Five Hundred Thousand and No/00 Dollars (\$500,000.00). In addition, the City Manager, or designee, is authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of the agreement. In addition, the City Manager, or designee, is authorized to increase contract amounts up to \$50,000.00 and sign any amendments to the agreement.

Motion made by Representative Rivera, seconded by Representative Rodriguez, and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Svarzbein, Annelo, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga  
NAYS: None  
ABSENT: Representative Hernandez

- 
21. Discussion and action that the City consents to the assignment of the rights, duties and obligations under the contract 2006-015 to Assignee, who agrees to perform all duties under

the contract as the Friedman contract is transferred to Waste Connections of El Paso, LB d/b/a BARCO. The termination clause will be amended such that the contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities including its investment in real estate in the amount of \$160,000 (Termination/Transfer fee) 1) if the City exercises its right to terminate for convenience 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the project or 3) if the Contractor terminates the Contract because of default by the City.

Representatives Svarzbein, Annello, Molinar, and Rodriguez commented.

Ms. Ellen Smyth, Managing Director of Environmental Services and Sun Metro, commented.

Mr. Scott Berry, Waste Connections District Manager, commented.

Mr. Rick Bonart, citizen, commented.

Motion made by Mayor Pro Tempore Svarzbein, seconded by Representative Annello, and carried to **POSTPONE** the item for **TWO-WEEKS**.

AYES: Representatives Svarzbein, Annello, Salcido, Rodriguez, and Rivera

NAYS: Representatives Molinar and Lizarraga

ABSENT: Representative Hernandez

.....  
**ADJOURN**  
.....

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** this meeting at 12:26 p.m.

AYES: Representatives Svarzbein, Annello, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representative Hernandez

.....  
APPROVED AS TO CONTENT:  
.....

\_\_\_\_\_  
Laura D. Prine, City Clerk

OSCAR LEESER  
MAYOR



CITY COUNCIL  
PETER SVARZBEIN, DISTRICT 1  
ALEXSANDRA ANNELLO, DISTRICT 2  
CASSANDRA HERNANDEZ, DISTRICT 3  
JOE MOLINAR, DISTRICT 4  
ISABEL SALCIDO, DISTRICT 5  
CLAUDIA L. RODRIGUEZ, DISTRICT 6  
HENRY RIVERA, DISTRICT 7  
CISSY LIZARRAGA, DISTRICT 8

TOMMY GONZALEZ  
CITY MANAGER

**AGENDA REVIEW MINUTES  
COUNCIL CHAMBERS AND VIRTUALLY  
CITY HALL, 300 N. CAMPBELL  
March 14, 2022  
9:00 A.M.**

.....  
The City Council met at the above place and date. Meeting was called to order at 9:01 a.m. Mayor Leeser present and presiding. The following Council Members answered roll call: Joe Molinar, Isabel Salcido, Henry Rivera, and Cissy Lizarraga. Aleksandra Anello participated via videoconference. Peter Svarzbein, Cassandra Hernandez, and Claudia Rodriguez requested to be excused.

The agenda items for the March 14, 2022 Regular City Council Meeting were reviewed.

.....  
**12. REGULAR AGENDA – MEMBERS OF THE CITY COUNCIL**

Discussion and action on a Resolution formally requesting Texas Department of Transportation (TxDOT) consider an alternative design for Segment 2 (Downtown) of the Reimagine I-10 Project which considers the urban context of the location where the improvements are proposed and supports the City’s successful Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant application.

Mayor Leeser commented.

Ms. Josette Flores, Senior Assistant City Attorney, commented.

.....  
**19. REGULAR AGENDA – OTHER BUSINESS**

Discussion and action on a Resolution authorizing the City Manager or his designee to establish appropriations in the amount of \$6,600,000, the City of El Paso is the recipient of the American Rescue Plan Act (“ARPA”) grant funds in the amount of \$154,365,135, the City Council approves the appropriation of the grant funds from the Coronavirus State and Local Fiscal Recovery funds to cover expenses incurred for the purchase of Digital Video Recording System funds in accordance and compliance with the requirements stipulated by the American Rescue Plan Act and federal guidelines in the Final Rule.

Representative Rivera commented.

Mr. Robert Cortinas, Chief Financial Officer, commented.

.....  
**21. REGULAR AGENDA – OTHER BUSINESS**

Discussion and action that the City consents to the assignment of the rights, duties and obligations under the contract 2006-015 to Assignee, who agrees to perform all duties under the contract as the Friedman contract is transferred to Waste Connections of El Paso, LB d/b/a BARCO. The termination clause will be amended such that the contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities

including its investment in real estate in the amount of \$160,000 (Termination/Transfer fee) 1) if the City exercises its right to terminate for convenience 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the project or 3) if the Contractor terminates the Contract because of default by the City.

Representative Rivera questioned the following City staff member:

- Ms. Ellen Smyth, Managing Director for Environmental Services and Sun Metro

.....  
Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** this meeting at 9:11 a.m.

AYES: Representatives Annello, Molinar, Salcido, Rivera, and Lizarraga

NAYS: None

ABSENT: Representatives Svarzbein, Hernandez and Rodriguez

.....  
APPROVED AS TO CONTENT:

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Laura D. Prine, City Clerk

OSCAR LEESER  
MAYOR

TOMMY GONZALEZ  
CITY MANAGER



CITY COUNCIL  
PETER SVARZBEIN, DISTRICT 1  
ALEXSANDRA ANNELLO, DISTRICT 2  
CASSANDRA HERNANDEZ, DISTRICT 3  
JOE MOLINAR, DISTRICT 4  
ISABEL SALCIDO, DISTRICT 5  
CLAUDIA L. RODRIGUEZ, DISTRICT 6  
HENRY RIVERA, DISTRICT 7  
CISSY LIZARRAGA, DISTRICT 8

**CITY COUNCIL WORK SESSION MINUTES**  
**March 14, 2022**  
**COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY**  
**9:05 AM**

.....  
The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:11 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Joe Molinar, Isabel Salcido, Henry Rivera, and Cissy Lizarraga. Alexandra Annello participated via videoconference. Late arrival: Claudia Rodriguez at 11:04 a.m. Peter Svarzbein and Casandra Hernandez requested to be excused.  
.....

**AGENDA**

.....  
**1. Presentation and discussion by the COVID-19 Response and Recovery Cross-Functional Team providing information on key activities, efforts and processes.**

1. Overview (Tommy Gonzalez)

Mr. Robert Cortinas, Deputy City Manager, began the presentation by pointing out the decrease in the number of new COVID-19 cases with the current positivity rate at 5% and a 40% decrease in the number of COVID related hospitalizations. He explained that the City's ranking according to the CDC was downgraded from high to medium and labeled as Stage 4 which is the best stage for the community. Mr. Cortinas stated that the City continued to lead the State and the Nation in vaccination rates adding that 80% of the El Paso population was fully vaccinated with 40% receiving a booster and concluded the overview by encouraging the eligible members of the community to seek a vaccinations and boosters available at City sites.

2. City Attorney Overview (Karla Nieman)

- a) Greg Abbott, in his official capacity as Governor of Texas, v. City of El Paso & Statewide Mask Mandate Litigation
- b) Additional Updates

Ms. Josette Flores, City Attorney, continued the presentation by providing a brief update on a few cases related to mask mandates in Texas and noted that there had not been a ruling in any of the cases and ended her update by stating that Municipal Courts would resume in person hearings in April and in person jury trials on June 23, 2022.

3. Team Lead Report:

- a) Health Focus (Hector Ocaranza, M.D.)
- b) Data Analysis (David Coronado)

Dr. Hector Ocaranza, Public Health Authority, continued the presentation by reiterating that the City of El Paso was currently in Stage 4 of the pandemic status and noted that the number of hospitalizations had improved with less than 100 COVID related hospitalizations. He continued to recommend booster shots and explained that scientists were still researching the benefits of additional booster shots and encouraged the community to continue practicing safety protocols such as face masks, hand washing, and vaccinations in addition to healthy habits.

Mr. David Coronado, Managing Director of Economic Development and International Bridges, provided statistical information related to bridge crossings and international trade. He explained that 2021 totals indicated that trade had surpassed previous records with \$84.8 billion in trade, of that 57% was attributed to imports and 43% to exports. Mr. Coronado explained that while trade had fully recovered, personal vehicle and pedestrian crossings were still recovering and hotel occupancy rates remained strong with a weekly average of 77%.

4. City Manager Wrap-up (Tommy Gonzalez)

Mr. Robert Cortinas, Deputy City Manager, closed the presentation by saying the City would continue to plan for seasonal surges and economic recovery amid the decline in cases.

Mayor Leeser and Representatives Molinar, Rivera, and Lizarraga commented.

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

2.

**RESOLUTION**

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

That the El Paso City Council approved the list of projects on Exhibit "A" attached hereto\*, totaling approximately \$177,966,294.00 which updates the document known as the "El Paso International Airport Proposed Five Year Capital Improvement Plan," as the established list of Airport Capital Improvement Program projects for FY2022 through FY2026 and the use of the identified funding sources and that the City Manager be authorized to make all necessary budget transfers prior to the execution of the projects.

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

Mr. Sam Rodriguez, Airport Director introduced the item and Ms. Shane Brooks, Capital Improvements Program Administrator for Aviation, presented a PowerPoint presentation (copy on file in the City Clerk's Office) and responded to questions from Members of the City Council.

Representatives Anello, Molinar, Salcido, and Rivera commented.

Motion made by Representative Molinar, seconded by Representative Salcido and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Annelo, Molinar, Salcido, Rivera, and Lizarraga  
NAYS: None  
NOT PRESENT FOR THE VOTE: Representative Rodriguez  
ABSENT: Representatives Svarzbein and Hernandez

- 
3. **Discussion and action requesting City Council support for submission of the application entitled “Reclaiming Aerospace and Defense Manufacturing Dominance through Frontier Technologies” to Phase II of the U.S. Economic Development Administration’s Build Back Better Regional Challenge by the West Texas Aerospace and Defense Manufacturing Coalition, led by the University of Texas at El Paso’s Aerospace Center and of which the City of El Paso is a part.**

Ms. Elizabeth Triggs, Director of Economic and International Development, presented a PowerPoint presentation (copy on file in the City Clerk’s Office).

Motion made by Representative Salcido, seconded by Representative Rivera and unanimously carried to **SUPPORT** the application.

AYES: Representatives Annelo, Molinar, Salcido, Rivera, and Lizarraga  
NAYS: None  
NOT PRESENT FOR THE VOTE: Representative Rodriguez  
ABSENT: Representatives Svarzbein and Hernandez

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4. **RESOLUTION**

**WHEREAS**, the City of El Paso (City) and the El Paso Chamber (EPC) are seeking to advance their clean energy initiatives, ensure equity and inclusion in the region’s energy transition, and modernize and achieve increased resiliency of energy infrastructure located within the El Paso region; and

**WHEREAS**, the City and the EPC recognize that the improved availability of regional electric vehicle charging infrastructure, development of carbon tracking mechanisms, and deployment of microgrids assist the region with advancing those initiatives; and

**WHEREAS**, the El Paso Electric Company (EPE) and General Motors LLC (GM) have expertise in a variety of areas vital to the success of these projects; and

**WHEREAS**, UTEP’s department of Aerospace and Mechanical Engineering program has faculty advisors and students that would like to participate in educational activities and learnings relative to a potential microgrid project at the El Paso International Airport; and

**WHEREAS**, the City, EPC, EPE, UTEP, and GM intend to collaborate and work together on three key projects that will advance the region’s clean energy initiatives, ensure equitability in the energy transition, and achieve increased resiliency in the El Paso region’s energy infrastructure;

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

**THAT** the City Manager be authorized to sign a Memorandum of Understanding between

the City, El Paso Chamber, El Paso Electric Company, the University of Texas at El Paso, and General Motors LLC to collaborate and work together on (i) Electric Vehicle DC Fast Charging deployment for the intra-city region of El Paso; (ii) developing short-interval carbon tracking for approximately thirty local businesses in the El Paso region that would provide insight into carbon reduction strategies; and (iii) deploying one or more microgrid demonstration projects, including but not limited to a proposed project at the El Paso International Airport, that leverage renewable energy and energy storage assets.

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

Motion made by Representative Rivera, seconded by Representative Lizarraga and unanimously carried to **APPROVE** the Resolution.

AYES: Representatives Annello, Molinar, Salcido, Rivera, and Lizarraga

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Rodriguez

ABSENT: Representatives Svarzbein and Hernandez

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**EXECUTIVE SESSION**

Motion made by Representative Salcido, seconded by Representative Molinar, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 10:23 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the executive session items:

Section 551.071 CONSULTATION WITH ATTORNEY

Section 551.072 DELIBERATION REGARDING REAL PROPERTY

Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Annello, Molinar, Salcido, Rivera, and Lizarraga

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Rodriguez

ABSENT: Representatives Svarzbein and Hernandez

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 11:28 a.m. and **RECONVENE** the meeting of the City Council at which time a motion was made.

AYES: Representatives Annello, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representatives Svarzbein and Hernandez

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**EX1. Application of El Paso Electric Company to Change Rates, Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071)**

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

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**EX2. Economic Incentives for a Mixed-Use Development located in the City of El Paso. Matter No. 21-1007-2803 (551.087)**

Motion made by Alternate Mayor Pro Tempore Lizarraga, seconded by Representative Rivera, and carried that the City Manager is authorized to negotiate and execute, on behalf of the **City of El Paso** for Economic Incentives to **Mills Plaza Properties V LP** and **Kress Tunnel LP**, Texas limited liability partnerships, for redevelopment, rehabilitation and improvement of a downtown building commonly known as the Kress Building located at the real property known and numbered as 211 N. Mesa Street, El Paso, El Paso County, Texas; in accordance with the "Term Sheet for the Kress Building Redevelopment" attached to this Motion as **Exhibit A\*** and in a form and substance approved by the City Attorney to accomplish the intent of this Motion.

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

AYES: Representatives Anello, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representatives Svarzbein and Hernandez

.....  
**EX3. Discussion on potential economic development opportunities in NE El Paso. Matter No. 22-1007-2864 (551.072) (551.087)**

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

.....  
**ADJOURN**

Motion made by Representative Rivera, seconded by Representative Molinar and unanimously carried to **ADJOURN** the meeting at 11:30 a.m.

AYES: Representatives Anello, Molinar, Salcido, Rodriguez, Rivera, and Lizarraga

NAYS: None

ABSENT: Representatives Svarzbein and Hernandez

.....  
APPROVED AS TO CONTENT:

\_\_\_\_\_  
Laura D. Prine, City Clerk



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-378, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

Excuse Representative Cassandra Hernandez from the March 29, 2022 Regular City Council Meeting.



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File #: 22-291, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 6**

Economic and International Development, Elizabeth Triggs, (915) 212-1619

**AGENDA LANGUAGE:**

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

That the City Manager be authorized to sign the 1<sup>st</sup> Amendment between the City of El Paso and Bella Vista Place LP, to reduce the abatement grant period by one year at the end of the term of the Tax Abatement Agreement to modify the word "Term", when used in reference to the term of the Agreement, shall mean a period not to exceed six (6) years from the effective date of the agreement.

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

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Elizabeth Triggs, 915-212-1619

**DISTRICT(S) AFFECTED:** 6

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

**SUBGOAL:** Goal 1.1 Stabilize and Expand El Paso's Tax Base

**SUBJECT:**

That the City Manager be authorized to sign the 1<sup>st</sup> Amendment between the City of El Paso and Bella Vista Place LP, to reduce the abatement grant period by one year at the end of the term of the Tax Abatement Agreement to modify the word "Term", when used in reference to the term of the Agreement, shall mean a period not to exceed six (6) years from the Effective Date of the Agreement.

**BACKGROUND / DISCUSSION:**

Bella Vista Place LP built an apartment complex on vacant land located at 9431 North Loop. The approximate square footage of the is 92,540 sq feet, and 96 proposed units. The total cost of the development was estimated to be approximately Five Million Eight Hundred Thousand and No/00 Dollars (\$5,800,000) and the agreement consists of a five (5) year property tax abatement, Development fee waivers (up to \$10,000), and a Sales Tax Rebate on Construction Materials and labor.

**PRIOR COUNCIL ACTION:**

On August 4, 2015, the City and the Applicant entered into a Chapter 312 Tax Abatement Agreement for the purposes of promoting local economic development within the City of El Paso.

**AMOUNT AND SOURCE OF FUNDING:**

General Fund

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**   X   YES    NO

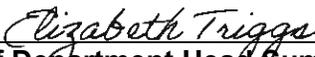
**PRIMARY DEPARTMENT:** Economic and International Development

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

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

# RESOLUTION

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

That the City Manager be authorized to sign the 1<sup>st</sup> Amendment between the City of El Paso and Bella Vista Place LP, to reduce the abatement grant period by one year at the end of the term of the Tax Abatement Agreement to modify the word “Term”, when used in reference to the term of the Agreement, shall mean a period not to exceed six (6) years from the Effective Date of the Agreement.

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

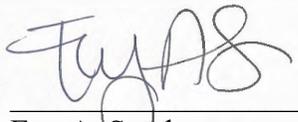
CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Evy A. Sotelo  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Elizabeth Triggs  
Interim Director, Economic and  
International Development

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**TAX ABATEMENT AGREEMENT**  
(Infill Development Incentive Policy)

This First Amendment to the Chapter 312 **TAX ABATEMENT AGREEMENT** (“Agreement”) is made this \_\_\_ day of \_\_\_, 2022 by and between the **CITY OF EL PASO, TEXAS**, a home-rule municipality of El Paso County, Texas (the “CITY”), and **Bella Vista Place LP**, a **Texas Limited Partnership** (the “APPLICANT”), for the purposes and considerations stated below:

**WHEREAS**, on August 4, 2015, the City and the Applicant entered into a Chapter 312 Tax Abatement Agreement (the “Agreement”), a copy of which is attached and labeled as Attachment “A”, for the purposes of promoting local economic development within the City of El Paso; and

**WHEREAS**, the City and Applicant agree to reduce the abatement grant period by one year at the end of the term.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, for the purpose of revising the Definition of the word “Term.”

**SECTION 2. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- A. **Term.** The word “Term”, when used in reference to the term of this Agreement, shall mean a period not to exceed six (6) years from the Effective Date of the Agreement.

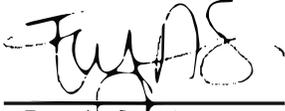
(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

This Agreement is performable in El Paso County, Texas, to be effective as of the \_\_\_\_\_ of \_\_\_\_\_, 2022 (the "EFFECTIVE DATE").

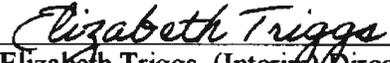
**CITY OF EL PASO, TEXAS**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Evy A. Sotelo  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Elizabeth Triggs, (Interim) Director  
Economic and International Development

**APPLICANT: Fred Marcus**

  
\_\_\_\_\_  
Name: **Fred Marcus**  
Title: Manager  
Date: 3/9/22

(ACKNOWLEDGMENTS BEGIN ON THE FOLLOWING PAGE)

ACKNOWLEDGMENT

STATE OF TEXAS §  
  §  
COUNTY OF EL PASO §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González as City Manager of the City of El Paso, Texas (CITY).

\_\_\_\_\_  
Notary Public, State of Texas  
Name printed: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

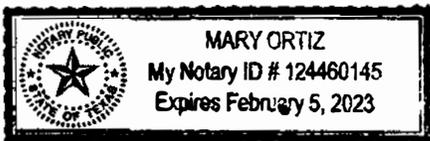
ACKNOWLEDGMENT

STATE OF Texas §  
  §  
COUNTY OF El Paso §

This instrument was acknowledged before me on the 9 day of March, 2022, by Fred Marcus, as Manager.

Mary Ortiz  
Notary Public, State of Texas

My Commission Expires:  
2-05-2023



STATE OF TEXAS            )  
   )  
 COUNTY OF EL PASO        )                   **TAX ABATEMENT AGREEMENT**  
   )                   (Infill Development Incentive Policy)

This **TAX ABATEMENT AGREEMENT** ("Agreement") is entered into by and between the **CITY OF EL PASO, TEXAS**, a home-rule municipality of El Paso County, Texas (the "CITY"), and **Bella Vista Place LP**, a Texas Limited Partnership (the "APPLICANT"), for the purposes and considerations stated below:

**RECITALS:**

- A. Section 312.002(a) of the Texas Tax Code requires the City to pass a resolution indicating the City's desire to become eligible to participate in tax abatement agreements.
- B. The City Council of the City of El Paso, Texas has previously adopted a resolution stating that the CITY elected to be eligible to participate in tax abatements.
- C. On November 27, 2012, City Council adopted Tax Abatement Guidelines and Criteria, pursuant to Section 312.002 of the Texas Tax Code, which are referred to as the GUIDELINES AND CRITERIA.
- D. The GUIDELINES AND CRITERIA constitute appropriate guidelines and criteria governing tax abatement agreements to be entered into by the CITY as contemplated by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, and are available from the CITY.
- E. On August 24, 2010, City Council adopted an Infill Development Incentive Policy, as a supplemental policy, to promote infill development through property tax abatements, among other incentives, for eligible projects meeting certain criteria.
- F. Section 2303.051(a-2) of the Texas Government Code requires the Texas Economic Development Bank of the Governor's Office to annually compile data identifying economically distressed counties within the State of Texas that automatically qualify for designation as enterprise zones under Chapter 2303 of the Texas Government Code.
- G. Section 2303.101(3) of the Texas Government Code provides that an area automatically qualifies for designation as a state enterprise zone under Chapter 2303 of the Texas Government Code if the area is an area located within a distressed county.
- H. The Texas Economic Development Bank of the Governor's Office has designated El Paso County as an economically distressed county within the State of Texas, and thus areas located within El Paso County automatically qualify for designation as an enterprise zone pursuant to Chapter 2303 of the Texas Government Code.
- I. Section 312.2011 of the Texas Tax Code provides that the designation of an area as an enterprise zone under Chapter 2303 of the Texas Government Code constitutes designation of the area as a tax abatement reinvestment zone under Chapter 312 of the Texas Tax Code, without further hearing or other procedural requirements other than those provided by Chapter 2303 of the Texas Government Code.

- J. Section 312.203 of the Texas Tax Code also provides that a reinvestment zone that is a state enterprise zone is designated for the same period as a state enterprise zone as provided by Chapter 2303 of the Texas Government Code.
- K. Under City of El Paso Ordinance No. 017116 dated May 26, 2009, the CITY affirmed its intent that all enterprise zone areas within the City, including its extraterritorial jurisdiction, be considered reinvestment zones in accordance with the Texas Tax Code, Chapter 312;
- L. APPLICANT is the owner of REAL PROPERTY located at 9431 North Loop, El Paso, Texas, 79907, and APPLICANT agrees to construct or rehabilitate a qualifying project on such REAL PROPERTY, which is located within the City of El Paso, El Paso County, Texas.
- M. The tax abatement contemplated herein will maintain and enhance the commercial economic base of the El Paso area thereby benefiting the CITY in accordance with the GUIDELINES AND CRITERIA and the Property Redevelopment and Tax Abatement Act, as well as promote infill development in accordance with the CITY's supplemental Infill Development Incentive Policy.
- N. The contemplated use and improvement of the REAL PROPERTY, as hereinafter defined, in the amounts and for the purposes set forth in this Agreement and the other terms hereof are consistent with encouraging development of said Enterprise Zone in accordance with the purposes for its creation and are in compliance with the GUIDELINES AND CRITERIA adopted by the CITY and all applicable law.
- O. This Tax Abatement Agreement was approved by the CITY at a regularly scheduled meeting consistent with Section 312.207(a) of the Texas Tax Code.

**NOW, THEREFORE,** in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. FINDINGS INCORPORATED.**

All the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

**SECTION 2. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- A. **Agreement.** The word "Agreement" means this Tax Abatement Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- B. **APPLICANT.** The word "APPLICANT" means **Bella Vista Place LP**, a Texas Limited Partnership.

- C. **Base Year Value** The words “Base Year Value” mean valuation of the real and personal property by the El Paso Central Appraisal District on the rolls as of January 1<sup>st</sup> of the year in which this Agreement was executed. However, under no circumstances shall the Base Year Value be interpreted to be equivalent or determinative for appraisal purposes or to be utilized in any way to determine market value.
- D. **CITY.** The word “CITY” means the **City of El Paso, Texas.**
- E. **Infill.** The word “Infill” means, a property on which at least two of the following factors are present: the property is wholly or partially located within a designated tax increment financing district, or the property is wholly or partially located within an empowerment zone, or the property is wholly or partially located within a designated redevelopment area pursuant to Chapter 20.14 of El Paso City Code, or the property is located within a designated historic district, or the property is within an older neighborhood of the City. An older neighborhood of the City is defined as a legally recorded and developed subdivision for at least 30 years. The most current definition of Infill in the El Paso City Code will control and govern for this Agreement.
- F. **Attainable Rental Housing.** The words “Attainable Rental Housing” mean residential rental housing (single-family or multifamily) for persons having an annual household income at or below 120% of area median income for the El Paso Region, as determined annually by the United States Department of Housing and Urban Development.
- G. **Vacant Building.** The words “Vacant Building” means a building that is 60% or more unoccupied and is registered as a vacant building with the City of El Paso, pursuant to Title 18, Chapter 18.40, El Paso City Code.
- H. **Qualifying Project.** The words “Qualifying Project” mean the construction or rehabilitation of a vacant parcel of land, which is located within either the First Level or Second Level of the eligible Infill Development Incentive Policy boundaries for the CITY, as identified in **Exhibit B**, which is attached hereto and incorporated herein for all purposes.
- I. **REAL PROPERTY.** The words “REAL PROPERTY” mean the real property owned by APPLICANT located at 9431 North Loop, El Paso, Texas 79907, and as more fully described in **Exhibit A**, which is attached hereto and incorporated herein for all purposes. The REAL PROPERTY is the location for APPLICANT’s proposed qualifying facility.
- J. **Term.** The word “Term”, when used in reference to the term of this Agreement, shall mean a period not to exceed seven (7) years from the Effective Date of this Agreement.

### **SECTION 3. PROPERTY ELIGIBLE FOR TAX ABATEMENT.**

The APPLICANT has a fee simple interest in the REAL PROPERTY, which is more fully described in **Exhibit A**. The REAL PROPERTY is located within El Paso County, which is designated as a distressed county by the Governor’s Texas Economic Development Bank. The

APPLICANT shall be responsible for the construction or rehabilitation of the qualifying project on the REAL PROPERTY. The REAL PROPERTY shall be eligible for tax abatement, subject to the terms and conditions of this Agreement.

**SECTION 4. TAX ABATEMENT.**

Subject to the terms and conditions of this Agreement, the APPLICANT’s fulfillment of any and all requirements of the El Paso Central Appraisal District (CAD) and subject to the rights and holders of any outstanding bonds of the CITY, a portion of ad valorem real taxes from the improvements on the REAL PROPERTY of the APPLICANT otherwise owed to the CITY shall be abated as follows:

- A. Abatement Period. The tax abatement period in which the APPLICANT is eligible for REAL PROPERTY abatement shall be five (5) consecutive years, with the first year of abatement being the first tax year that begins after: (i) the issuance of the Certificate of Occupancy for the REAL PROPERTY; and, (ii) the APPLICANT having met the investment amount noted in subsection B, Table 1 below, subject to verification by the CITY and inspection of the REAL PROPERTY to ensure compliance with the Infill Development Incentive Policy requirements. Failure of the APPLICANT to receive its Certificate of Occupancy and meet its investment requirement within two (2) years of the Effective Date of this Agreement shall result in an event of default of this Agreement without any further action required by the CITY.
  
- B. Abatement Amount. The tax abatement rate for each abatement year during the tax abatement period shall be based upon the applicable investment level, the location of the REAL PROPERTY in either the First Level or Second Level (identified in **Exhibit B**), and the abatement year schedule, as shown in Table 1 below. The tax abatement rate will apply to the portion of the value of REAL PROPERTY that is subject to abatement, as set forth in Section 3 and such qualifications as noted elsewhere in this Agreement.

**TABLE 1:**

First Level (First Ring)

<u>Investment:</u> Single family attainable rental housing	<u>Investment:</u> Commercial (including multi- family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
\$25,000	\$50,000	100%	50%	25%	0%	0%
\$50,000	\$100,000	100%	75%	50%	25%	0%
\$100,000	\$200,000	100%	100%	75%	50%	25%
	\$400,000	100%	100%	75%	66%	50%
	\$800,000+	100%	100%	75%	75%	66%

Second Level (Second Ring)

<u>Investment:</u> Single family attainable rental housing	<u>Investment:</u> Commercial (including multi- family attainable rental housing)	Year 1	Year 2	Year 3	Year 4	Year 5
\$25,000	\$50,000	100%	0%	0%	0%	0%
\$50,000	\$100,000	100%	50%	0%	0%	0%
\$100,000	\$200,000	100%	66%	33%	0%	0%
	\$400,000	100%	75%	50%	25%	0%
	\$800,000+	100%	100%	75%	50%	25%

Said tax abatement shall be based upon the increased value of the REAL PROPERTY over the value in the base year, which is hereby established as 2015, the year in which this Agreement is executed in accordance with the terms of this Agreement and all applicable federal, state, and local laws and regulations.

APPLICANT acknowledges that based on Table 1 above, the minimum investment requirement for the REAL PROPERTY described herein is Eight Hundred Thousand and No/100 Dollars (\$800,000); the REAL PROPERTY is located in the SECOND LEVEL (SECOND RING) and is eligible for the abatement of the designated percentage of the CITY's portion of ad valorem property taxes based on the following schedule:

YEAR 1:	100%
YEAR 2:	100%
YEAR 3:	75%
YEAR 4:	50%
YEAR 5:	25%

- C. Subsequent Failure to Meet Abatement Requirements. Failure of the APPLICANT to meet the requirements necessary for abatement in any subsequent year after the abatement period has begun shall not extend the abatement period. Rather, the APPLICANT shall forfeit its eligibility for abatement in any year in which it fails to meet any and all abatement requirements.
- D. Property Value. APPLICANT covenants and agrees that during the term of this Agreement APPLICANT shall not challenge or permit anyone else to take actions on APPLICANT's behalf to challenge any assessments by the El Paso Central Appraisal District Three Hundred Sixty Two Thousand Two Hundred Sixty Nine and 00/100 Dollars (\$362,269.00) or lower. It is the expectation of the parties that the assessed minimum value of REAL PROPERTY on the tax rolls have at least a base value of Three Hundred Sixty Two Thousand Two Hundred Sixty Nine and 00/100 Dollars (\$362,269.00) during the term of this Agreement and any affirmative act by APPLICANT to reduce the assessed value to an amount lower than Three Hundred Sixty Two Thousand Two Hundred Sixty Nine and 00/100 Dollars (\$362,269.00 ) will be an event of default, which will result in recapture of taxes that were abated prior to the default, and will result in termination of this Agreement. This property value should in

no way be interpreted to affect the values set by the Central Appraisal District for tax purposes.

## **SECTION 5. USE OF THE REAL PROPERTY.**

In exchange for the City's consideration documented herein, APPLICANT agrees that it will diligently and faithfully in a good and workmanlike manner pursue the completion of the construction and the commencement of operations of the qualifying project on the REAL PROPERTY consistent with the requirements set forth herein. APPLICANT agrees that all construction, repairs and improvements to the REAL PROPERTY will be in accordance with all applicable federal, state, and local laws and regulations. The REAL PROPERTY shall be limited in its use to those uses consistent with the development and operation of the qualifying project consistent with the CITY's development goals, which include the encouraging of development or redevelopment of the reinvestment zone.

## **SECTION 6. REPRESENTATIONS AND OBLIGATIONS OF APPLICANT.**

A. APPLICANT warrants, represents and agrees that:

- (i) APPLICANT will expend a minimum investment Eight Hundred Thousand and No/100 Dollars (\$800,000) in total real property improvements on the REAL PROPERTY, excluding its acquisition costs;
- (ii) The Qualifying Project includes new construction on a vacant lot or renovation of an existing vacant or blighted building(s) to be used for any of the following land uses: single-family homes for attainable rental housing, office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local laws;
- (iii) Except in cases of vacant land, APPLICANT purchased the REAL PROPERTY within the one-year period preceding the Effective Date of this Agreement;
- (iv) APPLICANT has neither caused nor contributed to the present condition of the REAL PROPERTY;
- (v) The Qualifying Project does not include the demolition of properties with a historic overlay or properties that are deemed historic, or having a contributing historic structure; and
- (vi) The REAL PROPERTY is: (a) a platted, unimproved lot; (b) contains a vacant building; (c) contains a building that has a CAD (Central Appraisal District) physical condition factor of 30 or lower; or (d) will be renovated for use as attainable rental housing.

For purposes of this Section, subsection 6(A)(iii) does not apply if the Qualifying Project incorporates an adaptive reuse that does not expand the existing building by more than fifty (50) percent.

B. Declaration Of Restrictive Covenants

If the REAL PROPERTY is to be used as attainable rental housing, the City of El Paso will require submission of income data documentation, recordation of declaration of restrictive covenants placed on the land and have a set affordability period of five (5) years for rental units with controls on

rental prices changed to income qualified households. If the property is already subject to affordability covenants of record that are consistent with these requirements, this criteria will be deemed to be satisfied provided the City is given documentation to confirm compliance with the same during the term of the incentives contract.

## **SECTION 7. DEFAULT, CURE AND DELINQUENT TAXES.**

### **A. Event of Default.**

The City Manager may declare the APPLICANT in default of this Agreement, if the APPLICANT:

- (i) fails to comply with APPLICANT's obligations under this Agreement; or
- (ii) files a voluntary petition in bankruptcy, a proceeding in bankruptcy is instituted against the APPLICANT and the APPLICANT is thereafter adjudicated bankrupt, or a receiver for the APPLICANT's assets is appointed; or
- (iii) breaches any of the terms or conditions of this Agreement.

### **B. Ability to Cure.**

In the event that APPLICANT defaults -as specified in subsections (i)-(iii) above, the City Manager shall give APPLICANT written notice of such default. APPLICANT shall have thirty (30) days from the date of the notice to cure any such default (the "Cure Period").

### **C. Other Agreements.**

1. Failure of the APPLICANT to comply with or to perform any term, obligation, covenant or condition contained in any other agreement with the City related to the development project at this property ("Other Agreement") will be deemed an event of default of every Other Agreement. Failure of the Applicant to comply with or to perform any term, obligation, covenant or condition of this agreement will be deemed an event of default in any "Other Agreement." If such failure cannot be cured within such thirty (30) day period in the exercise of all due diligence, but APPLICANT fails or refuses to commence such cure within such thirty (30) day period or fails or refuses to continuously thereafter diligently prosecute such cure, except to the extent such failure is caused by any act or failure to act on the part of the CITY, such actions or omissions shall be deemed events of default.
2. Accordingly, a notice of default under the terms of this agreement will also constitute notice of default in every Other Agreement. A notice of default under the terms of any "Other Agreement" will also constitute notice of default of this Agreement.

### **D. Recapture of Abated Taxes.**

If the default cannot be cured within the Cure Period in the exercise of all due diligence, and APPLICANT fails to commence to cure within the Cure Period or fails to continuously thereafter diligently prosecute the cure of such failure, APPLICANT is liable for and shall pay to the CITY within thirty (30) days from the expiration of the Cure Period all taxes abated by virtue of this Agreement with interest at the statutory rate for delinquent taxes as determined by Section 33.01 of the Texas Tax Code, as amended.

The parties further agree that any abated taxes, including interest thereon, as a result of this Agreement shall be recoverable against the APPLICANT, its successors and assigns and shall constitute a tax lien against the APPLICANT's REAL PROPERTY and PERSONALTY made subject to this Agreement. CITY shall have all remedies for collection of the abated taxes as are provided generally in the Tax Code for the collection of delinquent property tax. The abated tax amount shall incur penalties as provided for delinquent taxes in the Tax Code and penalties shall commence to accrue after the thirty (30) day payment period.

- D. Termination. Failure to cure an event of default within the Cure Period and/or failure to pay the abated taxes pursuant to Section 7C above, shall be grounds for the CITY to terminate this Agreement for cause. APPLICANT agrees that upon termination the amount of taxes abated by virtue of this Agreement, together with any interest and penalties that have accrued, shall constitute a tax lien against the subject property or if found invalid by a court of law, said amount shall constitute liquidated damages to the CITY.
- E. Delinquent Taxes. Should APPLICANT allow its real or personal property taxes owed the CITY to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such taxes, this Agreement shall automatically terminate without notice and so shall the abatement of the taxes for the tax year of the delinquency. Further, the total taxes assessed without abatement for that tax year shall be paid within sixty (60) days from the date of the termination.

#### **SECTION 8. RIGHT OF ACCESS FOR INSPECTION.**

APPLICANT further agrees that the CITY, its agents and employees, shall have reasonable rights to access the REAL PROPERTY to inspect the construction and improvements and other items subject to this Agreement in order to ensure that the construction and improvements are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the construction and improvements, the CITY shall have the continuing right of inspection to ensure that such are thereafter maintained and operated in accordance with this Agreement. All inspections will be made only after giving at least twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and or operations of the APPLICANT. All inspections will be made with one (1) or more representatives of the APPLICANT, and in accordance with its safety standards, if any.

#### **SECTION 9. ANNUAL CERTIFICATION.**

On or before March 31 of each year, APPLICANT shall provide to CITY's Economic Development Department written certification that APPLICANT is in compliance with each applicable term and condition of this Agreement. Such certification shall be in a form reasonably satisfactory to the CITY, and shall include, at a minimum, information supporting APPLICANT's conclusions that it met (or expects to meet) each condition and requirement to abatement set forth in this Agreement. Any failure of the CITY to request or demand such certification shall not constitute a waiver of such certification or any future certification. Further, it will be the responsibility of APPLICANT to

provide the reports as required herein. The CITY is not obligated to request the annual certifications, and will not certify APPLICANT's eligibility to receive any tax abatement without the reports. Failure to provide these required reports in a timely manner shall constitute grounds for termination of this Agreement.

**SECTION 10. CANCELLATION, TERMINATION OR MODIFICATION.**

The CITY and APPLICANT agree that the CITY may cancel, terminate or modify this Agreement if APPLICANT fails to comply with this Agreement.

**SECTION 11. AUTHORIZATION TO SIGN THIS AGREEMENT.**

The CITY's execution of this Agreement was authorized by Resolution of the City Council at a regularly scheduled City Council meeting authorizing the City Manager to execute the Agreement on behalf of the CITY. Each person signing this Agreement on behalf of the APPLICANT represents and warrants that he or she has the authority to legally bind the APPLICANT to the provisions hereof and that the representations made to the CITY as inducement to enter into this Agreement are still true and correct.

**SECTION 12. NOTICE.**

All notices, communications and reports required under this Agreement shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, or overnight delivery to the addresses below, unless and until either party is notified in writing of such other address prescribed for receipt:

**Notice to APPLICANT:**

Bella Vista Place LP  
Fred Marcus  
Manager  
2110 Wyoming Avenue  
El Paso, Texas 79903

**Notice to CITY:**

City Manager  
City of El Paso  
P.O. Box 1890  
El Paso, TX 79950-1890

**Copy to CITY:**

City of El Paso  
Economic Development Department Director  
P.O. Box 1890  
El Paso, Texas 79950-1890

**SECTION 13. MISCELLANEOUS PROVISIONS.**

- A. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. It is the

intention and agreement of the parties to this Agreement that each such illegal, invalid or unenforceable provision shall be amended by the parties hereto to the extent necessary to make it legal, valid and enforceable while achieving the same objective of such provision, or, if that is not possible, by substituting therefore another provision that is legal, valid and enforceable and achieves the same objectives (or, if such provision cannot be amended or a provision substituted therefore in a manner that is legal, valid and enforceable and achieves the same objectives, then such provision shall be amended or a new provision substituted therefore that achieves as closely as possible the same objectives or economic position as the illegal, invalid or unenforceable provision, irrespective of whether such amendment or substituted provision is materially different than the illegal, invalid or unenforceable provision).

- B. Notwithstanding any provision in this Agreement to the contrary, APPLICANT's and CITY's only liability for breaching any provision of this Agreement shall be the remedies expressly set forth in this Agreement.
- C. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. However, APPLICANT cannot assign this Agreement unless written permission is first granted by the CITY. Any attempt to transfer without the prior written consent of the CITY shall be void and shall constitute an event of default that will result in the termination of this Agreement and recapture of the taxes abated prior to the attempted transfer.
- D. It is understood and agreed between the parties that the APPLICANT, in performing its obligations hereunder, is acting independently, and the CITY assumes no responsibility or liability in connection therewith to third parties. **THE APPLICANT FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTIONS, INCLUDING ATTORNEYS' FEES, OF ANY NATURE WHATSOEVER ARISING OUT OF APPLICANT'S OBLIGATIONS HEREUNDER.**
- E. This Agreement shall be construed under the laws of the State of Texas. Venue for any action arising under state law under this Agreement shall be the State District Court of El Paso County, Texas.
- F. A certified copy of this Agreement in recordable form shall be recorded in the Real Property Records of El Paso County, Texas by the CITY upon APPLICANT's request and payment of all recordation fees.
- G. The confidentiality of any records related to the CITY's economic development considerations and incentives provided herein will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code. Specifically, the CITY will maintain the confidentiality of any proprietary information to the extent permitted by law and agrees that, as required by the Public Information Act, it will notify Applicant if a request relating to such proprietary information is received. Applicant represents that it understands that the Public Information Act excepts disclosure of trade secret and confidential commercial

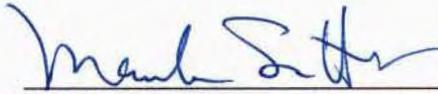
information and that it will need to assert the proprietary interest of Applicant as a basis for nondisclosure.

- H. It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.
- I. During the term of this Agreement, APPLICANT agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001. If convicted of a violation under 8 U.S.C. Section 1324a(f), APPLICANT shall repay the amount of the payments received by APPLICANT from the CITY as of the date of such violation not later than one hundred twenty (120) days after the date APPLICANT is notified by the CITY of a violation of this section, plus interest from the date the payment(s) was paid to APPLICANT, at the rate of seven percent (7%) per annum. The interest will accrue from the date the payment(s) were paid to APPLICANT until the date the payments are repaid to the CITY. The CITY may also recover court costs and reasonable attorney's fees incurred in an action to recover the payment(s) subject to repayment under this section. APPLICANT is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom APPLICANT contracts.

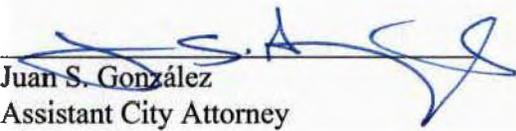
(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

This Agreement is performable in El Paso County, Texas, to be effective as of the 4<sup>th</sup>  
of August, 2015 (the "EFFECTIVE DATE").

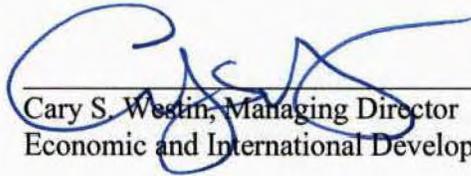
**CITY OF EL PASO, TEXAS**

*for*   
\_\_\_\_\_  
Tomás González  
City Manager

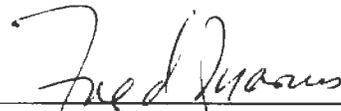
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Juan S. González  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Cary S. Westin, Managing Director  
Economic and International Development

**APPLICANT: Bella Vista Place LP**

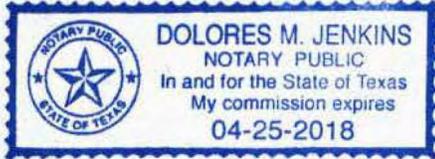
  
\_\_\_\_\_  
Name: Fred Marcus  
Title: Manager  
Date: 7/15/15

(ACKNOWLEDGMENTS BEGIN ON THE FOLLOWING PAGE)

ACKNOWLEDGMENT

STATE OF TEXAS §  
§  
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 10<sup>th</sup> day of August, 2015, by Tomás González as City Manager of the City of El Paso, Texas (CITY).  
*Mark Sutter Deputy City Mgr.*



Dolores M. Jenkins  
Notary Public, State of Texas  
Name printed: Dolores M. Jenkins

My Commission Expires:  
04/25/2018

ACKNOWLEDGMENT

STATE OF Texas §  
§  
COUNTY OF El Paso §

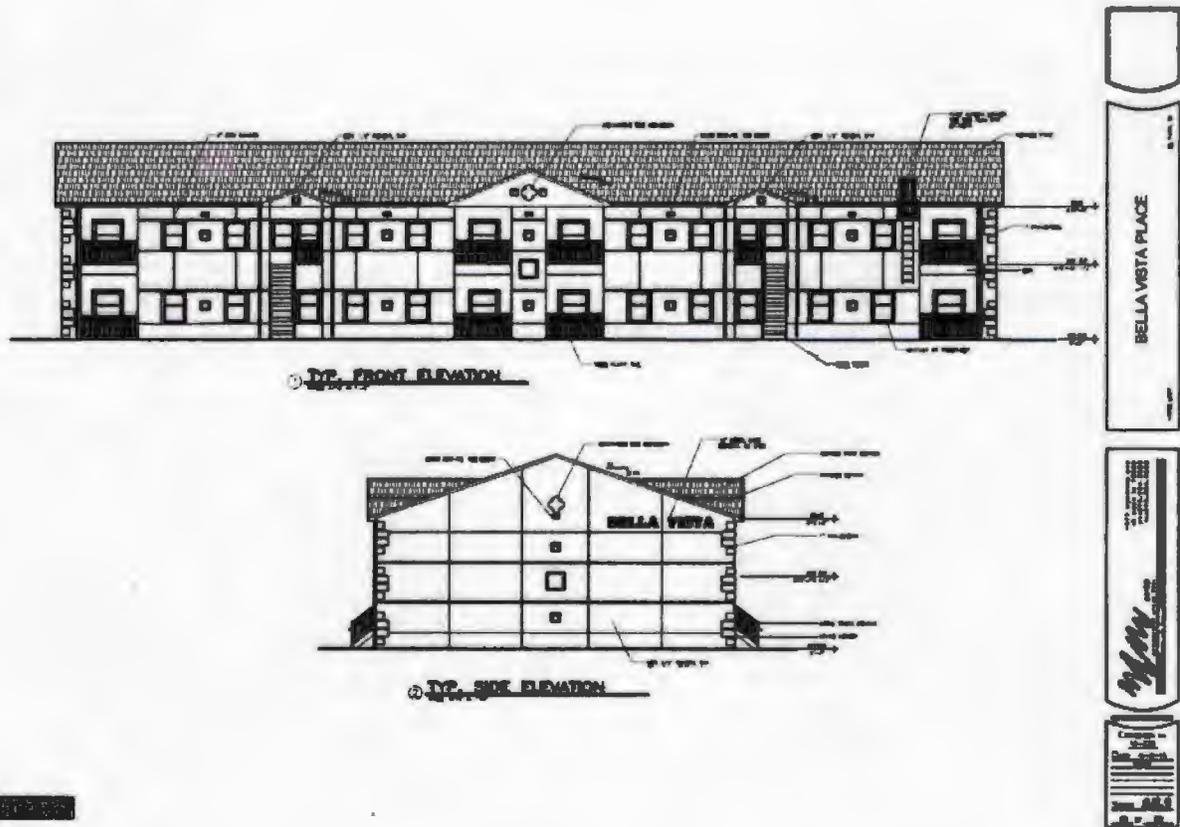
This instrument was acknowledged before me on the 15 day of July, 2015, by Fred Marcus, as Manager of Bella Vista Place LP.

Mary Ortiz  
Notary Public, State of Texas

My Commission Expires:  
2-05-19



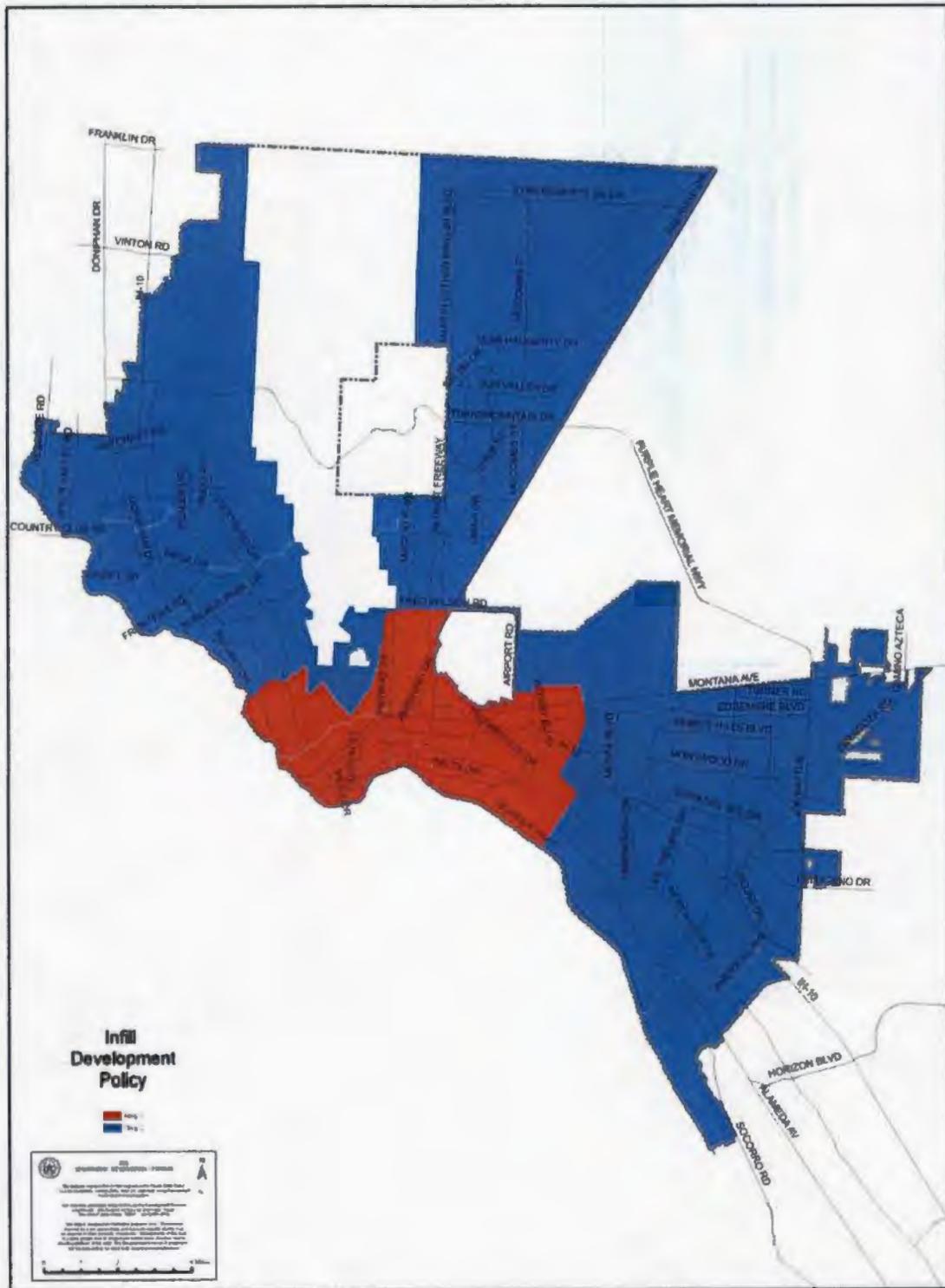




**Summary of Project:**

APPLICANT proposes to build an apartment complex on vacant land located at 9431 North Loop. The approximate square footage of the proposed development will be 92,540 sq feet, and there will be 96 proposed units. The total cost of the development will be approximately Five Million Eight Hundred Thousand and No/00 Dollars (\$5,800,000).

**Exhibit B**  
**INFILL DEVELOPMENT POLICY - ELIGIBLE AREAS (FIRST and OUTER RINGS)**



#423488 / 15-1007-1472 / Bella Vista Place, LP  
 9431 North Loop – Chapter 312 / JSG

**EXHIBIT "B"**

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**File #: 22-323, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

A Resolution authorizing the City Manager or designee to submit grant application 3007107 for the City of El Paso Police Department project identified as "El Paso 2021 OPSG" through the Office of the Governor of the State of Texas, Homeland Security Grant Division, including all related paperwork, including but not limited to , authorization of budget transfers, and/or revisions to the operation plan, and to accept, reject, amend, and/or terminate the grant which will provide financial assistance to the City of El Paso. In the event of loss or misuse of grant funds, the City of El Paso assures that it will return the funds to the Office of the Governor in full. Requesting \$1,371,163.35, no cash match required. Grant period will be from March 01, 2022 - February 28, 2023.

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

**DEPARTMENT:** Police

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:**

**CONTACT PERSON NAME AND PHONE NUMBER:** Chief Gregory Allen (915)212- 4302  
Assistant Chief Humberto Talamantes, (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 grant application 3007107 for the City of El Paso Police Department project identified as "El Paso 2021 OPSG" through the Office of the Governor of the State of Texas, Homeland Security Grant Division, including all related paperwork, including but not limited to , authorization of budget transfers, and/or revisions to the operation plan, and to accept, reject, amend, and/or terminate the grant which will provide financial assistance to the City of El Paso. In the event of loss or misuse of grant funds, the City of El Paso assures that it will return the funds to the Office of the Governor in full. Requesting \$1,371,163.35, no cash match required. Grant period will be from March 01, 2022 – February 28, 2023.

**BACKGROUND / DISCUSSION:**

The El Paso Police Department has received the Operation StoneGarden (OPSG) grant since FY 2009. Funding will be used for intelligence gathering, interdiction, and anti-terrorism operations.

**PRIOR COUNCIL ACTION:**

The grant application for FY2020 StoneGarden project was approved by city council on March 16, 2021.

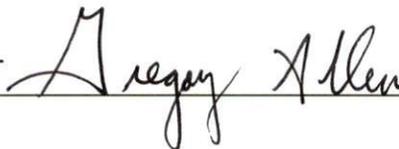
**AMOUNT AND SOURCE OF FUNDING:**

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** Gregory Allen



## RESOLUTION

**WHEREAS**, the City of El Paso (the “City”) is eligible to apply for grants through the Homeland Security Grant Division of the Office of the Governor of the State of Texas (“HSGD”); and

**WHEREAS**, the El Paso City Council seeks to receive grant funding through the HSGD grant/application number 3007107 for the El Paso Police Department project identified as “El Paso 2021 OPSG”; and

**WHEREAS**, the El Paso City Council designates the City Manager or his designee as the City’s authorized official.

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

1. **THAT**, the El Paso City Council authorizes the grant application submission to the Office of the Governor of the State of Texas, Homeland Security Grant Division, grant application number 3007107, for the City of El Paso Police Department project identified as “El Paso 2021 OPSG” to provide financial assistance to the City of El Paso.
2. **THAT**, the City of El Paso shall provide all applicable matching funds for said grant if applicable;
3. **THAT**, the City Manager or designee is authorized to apply for, accept, reject, alter and/or terminate said grant; and
4. **THAT**, the City Council agrees that in the event of loss or misuse of said grant funds, the City of El Paso will return all funds for said grant to the State of Texas Office of the Governor, Homeland Security Grant Division.
5. **BE IT FURTHER RESOLVED THAT**, the City Manager or designee is authorized to sign any related paperwork, including but not limited to, the actual grant contract, the authorization of budget transfers, and/or revisions to the operation plan, as well as any grant amendments, corrections or extensions of the grant agreement which increase, decrease or de-obligate program funds, provided that no additional City funds are required.

ADOPTED this \_\_\_ day of \_\_\_\_\_, 2022

**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser  
Mayor

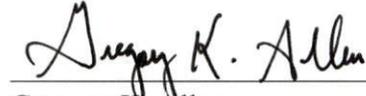
ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric Gutierrez  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Gregory K. Allen  
Chief of Police

Print This Page

**Agency Name:** El Paso, City of  
**Grant/App:** 3007107 **Start Date:** 3/1/2022 **End Date:** 2/28/2023

**Project Title:** El Paso-2021 OPSG  
**Status:** Application Pending Submission

**Eligibility Information**

**Your organization's Texas Payee/Taxpayer ID Number:**  
17460007499014

**Application Eligibility Certify:**

Created on:2/24/2022 11:24:47 AM By:OOG Grant Writer

**Profile Information**

**Applicant Agency Name:** El Paso, City of  
**Project Title:** El Paso-2021 OPSG  
**Division or Unit to Administer the Project:** City of El Paso Police Department  
**Address Line 1:** 911 N. Raynor  
**Address Line 2:**  
**City/State/Zip:** El Paso Texas 79903-1402  
**Start Date:** 3/1/2022  
**End Date:** 2/28/2023

**Regional Council of Governments(COG) within the Project's Impact Area:** Rio Grande Council of Governments  
**Headquarter County:** El Paso  
**Counties within Project's Impact Area:** El Paso

**Grant Officials:**

**Authorized Official**

**Name:** Elda Hefner  
**Email:** rodriguez-hefnere@elpasotexas.gov  
**Address 1:** 300 N. Campbell  
**Address 1:**  
**City:** El Paso, Texas 79901  
**Phone:** 915-212-1795 Other Phone: 915-212-1162  
**Fax:**  
**Title:** Ms.  
**Salutation:** Ms.  
**Position:** Grants Administrator

**Financial Official**

**Name:** Margarita Munoz  
**Email:** munozmm@elpasotexas.gov  
**Address 1:** 300 N. Campbell st  
**Address 1:**  
**City:** City of El Paso, Texas 79901  
**Phone:** 915-212-1174 Other Phone:  
**Fax:**  
**Title:** Ms.  
**Salutation:** Ms.  
**Position:** Comptroller

**Project Director**

**Name:** Ricardo Medina  
**Email:** 2014@elpasotexas.gov  
**Address 1:** 911 Raynor  
**Address 1:**  
**City:** El Paso, Texas 79903  
**Phone:** 915-212-4003 Other Phone:  
**Fax:**  
**Title:** Mr.  
**Salutation:** Lieutenant

**Position:** Lieutenant

### **Grant Writer**

**Name:** Isela Hooper

**Email:** hooperix@elpasotexas.gov

**Address 1:** 911 Raynor St

**Address 1:**

**City:** El Paso, Texas 79901

**Phone:** 915-212-4285 Other Phone:

**Fax:**

**Title:** Ms.

**Salutation:** Ms.

**Position:** Grant Project Manager

### **Grant Vendor Information**

**Organization Type:** Unit of Local Government (City, Town, or Village)

**Organization Option:** applying to provide homeland security services

**Applicant Agency's State Payee Identification Number (e.g., Federal Employer's Identification (FEI) Number or Vendor ID):** 17460007499014

**Unique Entity Identifier (UEI):** KLZGKXNFVTL4

### **Narrative Information**

#### **Overview**

The purpose of the Homeland Security Grant Program (HSGP) is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery based on allowable costs.

The funding announcement, located on the [eGrants Calendar](#) page, describes the organization types, activities, and costs that are eligible under the announcement. The PSO's [eGrants User Guide to Creating an Application](#) guides applicants through the process of creating and submitting an application in eGrants. Information and guidance related to the management and use of grant funds can be found in the The PSO's Guide to Grants, located on the [PSO Resource for Applicants and Grantees webpage](#).

#### **Primary Mission and Purpose**

**Operation Stonegarden (OPSG):** Supports enhanced cooperation and coordination among Customs and Border Protection (CBP), United States Border Patrol (USBP), and local, Tribal, territorial, state, and Federal law enforcement agencies. The OPSG Program funds investments in joint efforts to secure the United States' borders along routes of ingress from international borders to include travel corridors in states bordering Mexico and Canada, as well as states and territories with international water borders.

#### **OPSG Objectives**

OPSG is intended to support Border States in accomplishing the following objectives:

- Increase capability to prevent, protect against, and respond to border security issues.
- Increase coordination and collaboration among Federal, state, local, and Tribal law enforcement agencies.
- Continue the distinct capability enhancements required for border security and border protection.
- Provide intelligence based operations through USBP Sector Level experts to ensure safety and operational oversight of Federal, state, local, and Tribal enforcement agencies participating in OPSG operational activities.
- Support requests to the Governor to activate, deploy, or redeploy specialized National Guard Units/Packages and/or elements of state law enforcement to increase or augment specialized/technical law enforcement operational activities.
- Continue to increase operational, material and technological readiness of state, local, and Tribal law enforcement agencies.

## **National Incident Management System (NIMS) Implementation**

Grantees are required to implement NIMS. The NIMS uses a systematic approach to integrate the best existing processes and methods into a unified national framework for incident management across all homeland security activities including prevention, protection, response, mitigation, and recovery. Grantees must use standardized resource management concepts for resource typing, credentialing, and an inventory to facilitate the effective identification, dispatch, deployment, tracking and recovery of resources.

## **Emergency Management Plans**

Cities and counties must have a current emergency management plan or be a legally established member of an inter-jurisdictional emergency management program with a plan on file with the Texas Department of Public Safety, Texas Division of Emergency Management (TDEM). Plans must be maintained throughout the entire grant performance period and must be at least at the Intermediate Level. If you have questions concerning your Emergency Management Plan (preparedness) level, contact your Emergency Management Coordinator (EMC) or your regional Council of Governments (COG). For questions concerning plan deficiencies, contact TDEM at [tdem.plans@tdem.texas.gov](mailto:tdem.plans@tdem.texas.gov).

## **Eligibility Requirements**

### **Program Income**

Applicant agrees to comply with all federal and state rules and regulations for program income and agrees to report all program income that is generated as a result of the project's activities. Applicant agrees to report program income through a formal grant adjustment and to secure PSO approval prior to use of the program income. Applicant agrees to use program income for allowable costs and agrees to expend program income immediately after PSO's approval of a grant adjustment and prior to requesting reimbursement of funds.

Deduction Method - Program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless PSO authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the PSO award and grantee match rather than to increase the funds committed to the project.

Asset Seizures and Forfeitures - Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (e.g., law enforcement entity).

## **Program Requirements**

### **OPSG Operational Capability**

OPSG funds must be used to provide an enhanced law enforcement presence and to increase operational capabilities of Federal, state, local, and Tribal law enforcement, promoting a layered, coordinated approach to law enforcement within the Texas Border Region.

### **Operational Overtime Costs**

OPSG funds should be used for operational overtime costs associated with law enforcement activities, in support of border law enforcement agencies for increased border security enhancement. Costs associated with overtime (OT) shall be reimbursed following the grantee's overtime policy and the requirements as stated below:

- a. OT is time actually worked that exceeds the required number of hours during an employee's designated work period.
- b. The OT rate will be no more than one-and-one-half (1.5) times the employee's regular pay rate.
- c. Exempt salaried employees may not be reimbursed for overtime unless the grantee's overtime policy specifically allows for it.
- d. HSGD will only reimburse the grantee for OT that does not exceed a total of 16-hours (regular + OT) worked during any 24-hour period.

### **Integrated Planning Team**

OPSG uses an integrated approach to address transnational criminal activity. Federal, state, local, and Tribal partners are required to establish and maintain an OPSG Integrated Planning Team (IPT) with representation from all participating law enforcement agencies.

### **Reporting Requirements**

Participation in OPSG requires accurate, consistent, and timely reporting of how funds are used and how operations have impacted border security. Each partner agency must identify a single point of contact to

represent their agency as a member of the IPI and to coordinate submission of reports. Required reports include:

- **Daily Activity Report** - submit ongoing results and outputs from OPSG operations conducted. A monthly report detailing the daily activities must be submitted to the Border Patrol Sector by 10th day of the following month.
- **After Action Report** - articulates outcomes, outputs, and results for each OPSG operation conducted.

### **Cybersecurity Self-Assessment**

Grantees are strongly encouraged to complete the Nationwide Cybersecurity Review (NCSR). The NCSR is a no-cost, anonymous, annual self-assessment designed to measure gaps and capabilities of state, local, tribal and territorial governments' cybersecurity programs. For more information about the NCSR, visit: <https://www.cisecurity.org/ms-isac/services/ncsr/>

### **Coordination**

All operational plans should be crafted in cooperation and coordination among Federal, state, local, and Tribal partners. All jurisdictions must coordinate with the USBP Sector Headquarters with geographic responsibility for the jurisdiction's location in developing and submitting an Operations Order to the Governor's Office, Homeland Security Grants Division.

After awards are announced, prospective recipients will re-scope the draft Operations Order and resubmit it as a final Operations Order based on actual dollar amounts awarded. Final Operations Orders will be approved by the appropriate Sector Headquarters and forwarded to Headquarters, Office of Border Patrol, Washington, D.C., before funding is released.

Recipients may not begin operations, obligate, or expend any funds until the final Operations Order has been approved by FEMA Grants Program Directorate and USBP Headquarters.

### **Operational Cycle**

The overarching operational cycle involves three stages; application, concept of operations to formulate a Campaign Plan and one or more tactical operational periods, which are all developed by the IPT.

#### Application

Jurisdictions must develop their Operations Order in coordination with state and Federal law enforcement agencies, to include, but not limited to CBP/USBP. Operations Orders that are developed at the county level should be inclusive of city, county, Tribal, State, and other local law enforcement agencies that are eligible to participate in OPSG operational activities. Operations Order details should include the names of the agencies, points of contacts, and individual funding requests. The USBP sector office will forward the application to the Governor's Homeland Security Grants Division for final review before submission to DHS/FEMA.

#### Concept of Operations to Formulate a Campaign Plan

Participants receiving an award will create and submit an Operations Order that forms a campaign plan and captures the initial, generalized budgetary intent to their IPT. The campaign plan should articulate the participant agency's long-term border security objectives and goals designed to mitigate border security risk. The operations plan will project planned expenditures in the following categories: overtime, equipment, instruction, travel, maintenance, fuel, and administrative funds. Once the operations plan is approved, the area IPT will meet to initiate the last stage in the planning process.

#### Tactical Operations Plan

Once the participant is ready to conduct operations, the area IPT will begin planning tactical operations. Tactical operations will be conducted on a periodic basis and are composed of six critical elements:

1. A pre-planning meeting with the IPT
2. Specific beginning and end dates
3. Intelligence driven with a nexus to border security
4. Use of targeted enforcement techniques
5. Clearly stated objectives
6. After action meeting

### **Program Income**

Applicant agrees to comply with all federal and state rules and regulations for program income and agrees to report all program income that is generated as a result of the project's activities. Applicant agrees to report

program income through a formal grant adjustment and to secure PSO approval prior to use of the program income. Applicant agrees to use program income for allowable costs and agrees to expend program income immediately after PSO's approval of a grant adjustment and prior to requesting reimbursement of funds.

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Asset Seizures and Forfeitures - Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (e.g., law enforcement entity).

### **Overall Certification**

Each applicant agency must certify to the specific requirements detailed above as well as to comply with all requirements within the PSO Funding Announcement, the *Guide to Grants*, the *Grantee Conditions and Responsibilities*, any authorizing or applicable state and federal statutes and regulations to be eligible for this program.

**X I certify to all of the application content and requirements.**

### **Project Summary :**

Briefly summarize the project, including proposed activities and intended impact.

The El Paso Police Department will enhance the capability to detect, prevent, and deter transnational criminal organizations terrorist acts, smuggling of contraband, money laundering and human trafficking. By increasing the presence and number of qualified, law enforcement personnel in the area, the probability of detecting illegal activities transiting El Paso will increase. Participation associated with this Tactical Operation will also increase the probability of detecting potential terrorist and weapons of mass destruction moving from the immediate border to the major population centers in the US. This funding is designated to enhance cooperation and coordination between Federal, State, and local law enforcement agencies in a joint mission to secure the United States (US) borders along routes of ingress and egress leading to and from the US/Mexico border. The intent of OPSG is to enhance law enforcement preparedness and operational readiness along the land borders of the US. The objective of the program is to increase coordination and local capability in support of DHS. Operation Stonegarden (OPSG) is funded by the Department of Homeland Security (DHS), led by Customs and Border Protection (CBP) Border Patrol, which supports overtime costs, and reimbursement for operation to state, local, and tribal, agencies for the purpose of enhancing border security. The criminal element in the El Paso-Cd. Juarez area varies from highly organized Trans National/ Drug Trafficking Organizations (DTO's), to alien smuggle organizations (ASO's). The drug war in Cd. Juarez and the violent crime on the border has members directly linked to El Paso and to the rest of the US, who are identified as working for the cartels, providing services to smuggle drugs, weapons, people and cash across the border. The ability to track and gather intelligence has become increasingly difficult. The criminal element is sophisticated with increased counter-intelligence capabilities. Any intelligence gathered quickly becomes obsolete causing safety concerns for the public as well as for law enforcement. These groups have an extensive network on both sides of the border with generations of knowledge in smuggling routes and various criminal techniques. Those techniques include the distribution of narcotics in and outside of the El Paso County as a well as large money-laundering networks. El Paso continues to be a major hub to transport narcotics throughout the country with estimated 4 to 6 billion dollars laundered.

### **Problem Statement :**

Provide a detailed account of the issues, threats or hazards that your project will target. For federal Homeland Security Grants, include specific references to the regional or state *Threat and Hazard Identification and Risk Assessment (THIRA)*, as applicable.

The El Paso Police Department officers involved in Operation Stonegarden sponsored activities will likely encounter illegal activity such as: felony arrest, major drug offenses, trans-national criminal activities, Mexican drug trafficking activities and various traffic offenses. However, because of this presence of major criminal elements operating along the border region of El Paso County, there is a high probability of contact and involvement with multi-millions of dollars in trade based money laundering and drug and human smugglers. This laundering of money could finance and enable those people seeking entrance into the US with terrorism intentions. Combating these activities will assist in reducing crime in the border community and improve the quality of life for the El Paso community.

### **Existing Capability Levels :**

Describe the existing capability levels, including resources that are currently in place to support this project prior to the use of grant funds.

An Average of 2 supervisors and 10 officers per operation. Approximately 32 operations per month.

### **Capability Gaps:**

Describe the capability gaps which will be addressed by the project. For federal Homeland Security Grants, include specific references to the regional or statewide State Preparedness Report (SPR).  
 The overtime awarded from the project will allow for the enhancement of patrols to be deployed in order to address border security issues with greater continuity.

**Impact Statement :**

Describe the project goals/objectives and how this project will maintain capabilities or reduce capability gaps.  
 The El Paso Police Department will enhance the capability to detect, prevent, and deter trans national organizations, terrorist acts, smuggling of contraband, human trafficking, weapons of mass effect, and money laundering. By increasing the presence and number of qualified, law enforcement personnel in the area, the probability of detecting illegal activities transiting El Paso County will increase. Participation of the involved agencies associated with this Tactical Operation will also increase the probability of detecting potential terrorist and weapons of mass destruction moving from immediate border area to major population centers in the US.

**Homeland Security Priority Actions:**

Identify the Texas Homeland Security Priority Action most closely aligned with this project. Each Priority Action is linked with an *Objective from the Texas Homeland Security Strategic Plan (HSSP)*. List the Priority Action by number and text (e.g. 1.2.3 Expand and enhance the network of human sources that can provide detailed and relevant information on known or suspected terrorist and criminal enterprises.)

1.3.1. In conjunction with federal agencies, conduct unified state and local law enforcement operations to deny the use of the Texas border region to criminal organizations and terrorist, particularly between the ports of entry

**Target Group :**

Identify the target group and population expected to benefit from this project.  
 The City of El Paso

**Long-Term Approach:**

Describe how the applicant agency will maintain the capabilities supported by this project without additional federal or state funds. If sustainment is dependent upon federal or state grants, describe the ongoing need for future grants, as applicable.

The City of El Paso would not be able to provide enhanced patrols for border security due to major budget constraints. The El Paso Police Department is very dependent on Federal and State Grant funding to respond to border security issues/threats.

**Project Activities Information**

**HSGP Instructions for Project Activity Selection**

Homeland Security Grant Program (HSGP) applicants should only select one project activity. The eGrants system will allow multiple selections, but each HSGP subrecipient project must fit into one and only one of the Investment Categories that are listed as project activities under the "Activity List".

**Selected Project Activities:**

ACTIVITY	PERCENTAGE:	DESCRIPTION
Border Security	100.00	The collective mission of this project is to conduct high visibility saturation patrols on the local highways, primarily in close proximity to the ports of entries, as well as off road patrol as a second line of defense to detect/deter, identify, classify, and bring about law enforcement resolution for those involved in criminal activities using routes of egress within the EL Paso County. The El Paso Police Department will utilize an intelligence driven methodology to assess the risks in our AOR (Area of Responsibility) based on the threats and vulnerabilities identified. Through a whole government approach, we will work directly with our law enforcement partners at the local and federal levels to maximize the efficiency and effectiveness of our Stonegarden patrols.

**Measures Information**

Objective Output Measures

OUTPUT MEASURE	TARGET LEVEL
Number of hours of overtime for all law enforcement support personnel (i.e. dispatchers)	0

or jailers) agency-wide.	
Number of hours of overtime for grant-funded law enforcement support personnel (i.e. dispatchers or jailers) supporting the border initiative.	0
Number of hours of overtime for peace officers agency-wide.	220405
Number of hours of overtime of grant-funded officers supporting the border initiative.	18165
Number of hours of regular time for all law enforcement support personnel (i.e. dispatchers or jailers) agency-wide.	0
Number of hours of regular time for grant-funded law enforcement support personnel (i.e. dispatchers or jailers) supporting the border initiative.	0
Number of hours of regular time for peace officers agency-wide.	1934539
Number of hours of regular time of grant-funded peace officers supporting the border initiative.	0
Number of miles patrolled by grant-funded officers.	158581
Number of reports submitted - BIARs to a Regional DPS-JOIC (for LBSP) or DARs to US Border Patrol (for OPSG).	250
Number of traffic stops conducted by all peace officers agency-wide.	74928
Number of traffic stops conducted by grant-funded officers supporting the border initiative.	20
Number of traffic stops yielding findings related to border security offenses, conducted by all peace officers agency-wide.	800
Number of traffic stops yielding findings related to border security offenses, conducted by grant-funded officers.	20
Number of weapons seized by all peace officers agency-wide.	50
Number of weapons seized by grant-funded officers supporting the border initiative.	5

#### Objective Outcome Measures

<b>OUTCOME MEASURE</b>	<b>TARGET LEVEL</b>
Number of arrests (felony) made by all peace officers agency-wide.	5959
Number of arrests (felony) made by grant-funded officers supporting the border initiative.	20
Number of arrests (misdemeanor) made by all	7500

peace officers agency-wide.	
Number of arrests (misdemeanor) made by grant-funded officers supporting the border initiative.	20
Number of forfeitures (cash and other assets) attributed to all peace officers agency-wide.	42
Number of forfeitures (cash and other assets) attributed to grant-funded officers supporting the border initiative.	0
Number of major (Tier 1 and Tier 2) gangs targeted in the border initiative.	1
Number of major cartels targeted in the border initiative.	2
Value of all forfeitures (cash and other assets) attributed to all peace officers agency-wide.	689501
Value of all forfeitures (cash and other assets) attributed to grant-funded officers supporting the border initiative.	0

#### Custom Output Measures

CUSTOM OUTPUT MEASURE	TARGET LEVEL
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#### Custom Outcome Measures

CUSTOM OUTCOME MEASURE	TARGET LEVEL
------------------------	--------------

### Resolution from Governing Body

Applications from nonprofit corporations, local units of governments, and other political subdivisions must include a [resolution](#) that contains the following:

1. Authorization by your governing body for the submission of the application to the Public Safety Office (PSO) that clearly identifies the name of the project for which funding is requested;
2. A commitment to provide all applicable matching funds;
3. A designation of the name and/or title of an authorized official who is given the authority to apply for, accept, reject, alter, or terminate a grant (Note: If a name is provided, you must update the PSO should the official change during the grant period.); and
4. A written assurance that, in the event of loss or misuse of grant funds, the governing body will return all funds to PSO.

Upon approval from your agency's governing body, upload the [approved](#) resolution to eGrants by going to the **Upload.Files** tab and following the instructions on Uploading eGrants Files.

### Contract Compliance

Will PSO grant funds be used to support any contracts for professional services?

Select the appropriate response:

Yes

No

For applicant agencies that selected **Yes** above, describe how you will monitor the activities of the sub-contractor(s) for compliance with the contract provisions (including equipment purchases), deliverables, and all applicable statutes, rules, regulations, and guidelines governing this project.

Enter a description for monitoring contract compliance:

### Lobbying

For applicant agencies requesting grant funds in excess of \$100,000, have any federally appropriated funds 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 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?

Select the appropriate response:

Yes

No

N/A

For applicant agencies that selected either **No** or **N/A** above, have any non-federal funds 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 in connection with this federal contract, loan, or cooperative agreement?

Yes

No

N/A

### Fiscal Year

Provide the begin and end date for the applicant agency's fiscal year (e.g., 09/01/20xx to 08/31/20xx).

Enter the Begin Date [mm/dd/yyyy]:

9/1/2022

Enter the End Date [mm/dd/yyyy]:

8/31/2023

### Sources of Financial Support

Each applicant must provide the amount of grant funds expended during the most recently completed fiscal year for the following sources:

Enter the amount (in Whole Dollars \$) of Federal Grant Funds expended:

117426663

Enter the amount (in Whole Dollars \$) of State Grant Funds expended:

3787766

### Single Audit

Applicants who expend less than \$750,000 in federal grant funding or less than \$750,000 in state grant funding are exempt from the Single Audit Act and cannot charge audit costs to a PSO grant. However, PSO may require a limited scope audit as defined in 2 CFR Part 200, Subpart F - Audit Requirements.

Has the applicant agency expended federal grant funding of \$750,000 or more, or state grant funding of \$750,000 or more during the most recently completed fiscal year?

Select the appropriate response:

Yes

No

Applicant agencies that selected **Yes** above, provide the date of your organization's last annual single audit, performed by an independent auditor in accordance with the State of Texas Single Audit Circular; or CFR Part 200, Subpart F - Audit Requirements.

Enter the date of your last annual single audit:

8/31/2020

## Debarment

Each applicant agency will certify that it and its principals (as defined in 2 CFR Part 180.995):

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal Court, or voluntarily excluded from participation in this transaction by any federal department or agency;
- Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
- Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in the above bullet; and have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

Select the appropriate response:

I Certify

Unable to Certify

Enter the debarment justification:

## FFATA Certification

**Certification of Recipient Highly Compensated Officers** – The Federal Funding Accountability and Transparency Act (FFATA) requires Prime Recipients (HSGD) to report the names and total compensation of each of the five most highly compensated officers (a.k.a. positions) of each sub recipient organization for the most recently completed fiscal year preceding the year in which the grant is awarded if the subrecipient answers **YES** to the **FIRST** statement but **NO** to the **SECOND** statement listed below.

In the sub recipient's preceding completed fiscal year, did the sub recipient receive: (1) 80 percent or more of its annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; AND (2) \$25,000,000 or more in annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements?

Yes

No

Does the public have access to information about the compensation of the senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986?

Yes

No

If you answered **YES** to the **FIRST** statement and **NO** to the **SECOND** statement, please provide the name and total compensation amount of each of the five most highly compensated officers (a.k.a. positions) within your agency for the current calendar year. If you answered NO to the first statement you are NOT required to provide the name and compensation amounts. NOTE: "Total compensation" means the complete pay package of each of the sub recipient's compensated officers, including all forms of money, benefits, services, and in-kind payments (see SEC Regulations: 17 CCR 229.402).

Position 1 - Name:

Position 1 - Total Compensation (\$):

0

Position 2 - Name:

Position 2 - Total Compensation (\$):

0

Position 3 - Name:

Position 3 - Total Compensation (\$):

0

Position 4 - Name:

Position 4 - Total Compensation (\$):

0

Position 5 - Name:

Position 5 - Total Compensation (\$):

0

## Homeland Security Information

## FUND SOURCE INFORMATION AND REQUIREMENTS

**DHS Project Type:** Enhance capability to support international border and waterway security

### Capabilities

**Core Capability:** Intelligence and Information Sharing

**Identify if this investment focuses on building new capabilities or sustaining existing capabilities. :** Existing Capabilities (Sustain)

**Are the assets or activities Deployable or Shareable:** Shareable

Check if this Investment requires new construction or renovation, retrofitting, or modification of existing structures

Check if these funds will support a project that was previously funded with HSGP funding

### Project Management Step Involved:

Check the step that most closely resembles the phase of the project activities to be completed during the grant period.

**Step:** Execute

**Description:** The period within the project lifecycle during which the actual work of creating the project's deliverables is carried out.

**Process:** Involves directing, accomplishing, managing, and completing all phases and aspects of work for a given project.

### Milestones

**Milestone:** Begin Tactical Operations Activities; **Completion Date:** 04-01-2022

**Milestone:** Conclude Tactical Operations Activities; **Completion Date:** 02-28-2023

**Milestone:** Complete Final Progress Report; **Completion Date:** 03-15-2023

### NIMS Resources

Check if this project supports a NIMS typed resource

**Enter the name of the typed resources from the Resource Type Library Tool:**

**Enter the ID of the typed resources from the Resource Type Library Tool:**

## **Fiscal Capability Information**

### **Section 1: Organizational Information**

\*\*\* FOR PROFIT CORPORATIONS ONLY \*\*\*

Enter the following values in order to submit the application

Enter the Year in which the Corporation was Founded: 0

Enter the Date that the IRS Letter Granted 501(c)(3) Tax Exemption Status: 01/01/1900

Enter the Employer Identification Number Assigned by the IRS: 0

Enter the Charter Number assigned by the Texas Secretary of State: 0

Enter the Year in which the Corporation was Founded:

Enter the Date that the IRS Letter Granted 501(c)(3) Tax Exemption Status:

Enter the Employer Identification Number Assigned by the IRS:

Enter the Charter Number assigned by the Texas Secretary of State:

### **Section 2: Accounting System**

The grantee organization must incorporate an accounting system that will track direct and indirect costs for the organization (general ledger) as well as direct and indirect costs by project (project ledger). The grantee must establish a time and effort system to track personnel costs by project. This should be reported on an hourly basis, or in increments of an hour.

Is there a list of your organization's accounts identified by a specific number (i.e., a general ledger of accounts)?

Select the appropriate response:

- Yes
- No

Does the accounting system include a project ledger to record expenditures for each Program by required budget cost categories?

Select the appropriate response:

- Yes
- No

Is there a timekeeping system that allows for grant personnel to identify activity and requires signatures by the employee and his or her supervisor?

Select the appropriate response:

- Yes
- No

If you answered 'No' to any question above in the Accounting System section, in the space provided below explain what action will be taken to ensure accountability.

Enter your explanation:

### **Section 3: Financial Capability**

Grant agencies should prepare annual financial statements. At a minimum, current internal balance sheet and income statements are required. A balance sheet is a statement of financial position for a grant agency disclosing assets, liabilities, and retained earnings at a given point in time. An income statement is a summary of revenue and expenses for a grant agency during a fiscal year.

Has the grant agency undergone an independent audit?

Select the appropriate response:

- Yes
- No

Does the organization prepare financial statements at least annually?

Select the appropriate response:

- Yes
- No

According to the organization's most recent Audit or Balance Sheet, are the current total assets greater than the liabilities?

Select the appropriate response:

- Yes
- No

If you selected 'No' to any question above under the Financial Capability section, in the space provided below explain what action will be taken to ensure accountability.

Enter your explanation:

### **Section 4: Budgetary Controls**

Grant agencies should establish a system to track expenditures against budget and / or funded amounts. Are there budgetary controls in effect (e.g., comparison of budget with actual expenditures on a monthly basis) to include drawing down grant funds in excess of:

a) Total funds authorized on the Statement of Grant Award?

Yes  
 No

b) Total funds available for any budget category as stipulated on the Statement of Grant Award?

Yes  
 No

If you selected 'No' to any question above under the Budgetary Controls section, in the space provided below please explain what action will be taken to ensure accountability.

Enter your explanation:

**Section 5: Internal Controls**

Grant agencies must safeguard cash receipts, disbursements, and ensure a segregation of duties exist. For example, one person should not have authorization to sign checks and make deposits.

Are accounting entries supported by appropriate documentation (e.g., purchase orders, vouchers, receipts, invoices)?

Select the appropriate response:

Yes  
 No

Is there separation of responsibility in the receipt, payment, and recording of costs?

Select the appropriate response:

Yes  
 No

If you selected 'No' to any question above under the Internal Controls section, in the space provided below please explain what action will be taken to ensure accountability.

Enter your explanation:

**Budget Details Information**

**Budget Information by Budget Line Item:**

CATEGORY	SUB CATEGORY	DESCRIPTION	OOG	CASH MATCH	IN-KIND MATCH	GPI	TOTAL	UNIT/%
Personnel	Overtime Costs for M&A Staff (M&A)	EPPD Civilians M&A: Estimated hours of 1,032 hours at an average rate of \$23.76 that includes 22.36% fringe benefits for Wkms Compensation, Unemployment, Life Insurance, Pension Plan, and FICA-MED, for a total of approximately \$30,008.17.	\$30,008.17	\$0.00	\$0.00	\$0.00	\$30,008.17	100
Personnel	Operational Overtime for Law Enforcement (Organization)	Border Security Operations: Estimated hours of 17,715 at an average rate of \$60.95, which includes 24.21% fringe benefits for Wkms	\$1,341,155.18	\$0.00	\$0.00	\$0.00	\$1,341,155.18	100

		Compensation, Unemployment, FICA-MED, for a total of approximately \$1,341,155.18						
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**Source of Match Information**

**Detail Source of Match/GPI:**

DESCRIPTION	MATCH TYPE	AMOUNT
-------------	------------	--------

**Summary Source of Match/GPI:**

Total Report	Cash Match	In Kind	GPI Federal Share	GPI State Share
\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

**Budget Summary Information**

**Budget Summary Information by Budget Category:**

CATEGORY	OOG	CASH MATCH	IN-KIND MATCH	GPI	TOTAL
Personnel	\$1,371,163.35	\$0.00	\$0.00	\$0.00	\$1,371,163.35

**Budget Grand Total Information:**

OOG	CASH MATCH	IN-KIND MATCH	GPI	TOTAL
\$1,371,163.35	\$0.00	\$0.00	\$0.00	\$1,371,163.35

**Condition Of Fundings Information**

Condition of Funding / Project Requirement	Date Created	Date Met	Hold Funds	Hold Line Item Funds
Other Condition of Funding. Please review M&A category and indicate how funding will be expended.	2/25/2022 9:42:22 AM		No	Yes
Please be advised that OOG has added a Condition of Funding (CoF) that will hold funds on a specific budget line item(s) that must be met. You can review the CoF by going to the Summary tab and Clicking on the View Condition of Funding link.	2/25/2022 9:42:22 AM		No	No

Assuming all other Conditions of Funding noted on the Statement of Grant award have been met, you will be able to request reimbursement for any line item except for the one(s) with the fund hold until that fund hold is cleared.				
Costs for fuel (vehicle or boat) are allowable only for the hours officers are working on grant-paid overtime. Vehicle and boat maintenance costs must be prorated to show the use of vehicles/boats for regular law enforcement duties and the use of vehicles/boats while officers are working grant-paid overtime patrols. Only actual vehicle/boat expenses supported by invoiced gas, oil, and maintenance expenses may be reimbursed under this grant. Please retain all receipts and be prepared to make available upon request.	2/25/2022 9:42:33 AM		No	No
Cybersecurity Training: Local units of governments must comply with the Cybersecurity Training requirements described in Section 772.012 and Section 2054.5191 of the Texas Government Code. Local governments determined to not be in compliance with the cybersecurity requirements required by Section 2054.5191 of the Texas Government Code are ineligible for OOG grant funds until the second anniversary of the date the local government is determined ineligible. Government entities must annually certify their compliance with the training requirements using the <a href="#">Cybersecurity Training Certification for State and Local Governments</a> . A copy of the Training Certification must be uploaded to your eGrants application/grant. For more information or to access available training programs, visit the Texas Department of Information Resources <a href="#">Statewide Cybersecurity Awareness Training</a> page.	2/25/2022 9:45:04 AM		Yes	No
Elected/Appointed Officials: As of March 1, 2021, no portion of the salary of, or any other compensation for, an elected or appointed government official shall be paid with grant funds that are administered by the Office of the Governor, Public Safety Office. Elected or appointed officials include but are not limited to the following: County Judge, County Sheriff, County Constable, City Mayor, Chief of Police, and City Marshal.	2/25/2022 9:46:34 AM		No	No
Operations Order Required: By participating in the OPSG, the state, local, and Tribal agencies agree to conduct operations designed to reduce border-security risk. Tactical operations will be conducted on a periodic basis meeting the criteria outlined below. Tactical operational periods are composed of six critical elements: 1) a pre-planning meeting with the IPT; 2) specified beginning and ending dates; 3) intelligence driven, with a nexus to border security; 4) use of targeted enforcement techniques; 5) clearly stated objectives; and 6) an after-action meeting. A campaign should involve several tactical operational periods. These periods require deliberate on-going planning to ensure command, staff, and unit activities synchronize to current and future operations. Please prepare and submit the next Operations Order. Fund holds on specific budget line items will be released as Operations Orders are approved.	2/25/2022 9:46:48 AM		No	No
Overtime: Grantees must upload a copy of the overtime policy approved by its governing board. This policy will be considered the official policy for grant purposes and must be used throughout the grant period. The policy must: 1) clearly describe how overtime will be calculated; 2) be consistent with the agency's overtime policy; and 3) treat grant-paid personnel the same as non-grant paid personnel. OOG will monitor overtime expenditures based on this policy. OOG will release the Condition of Funding once OOG approves the overtime policy.	2/25/2022 9:47:01 AM		Yes	No
PROHIBITION ON CERTAIN SERVICES OR EQUIPMENT: This grant includes line items that may contain services or equipment expressly prohibited under the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018). This act prohibits the purchase of certain telecommunications and video surveillance services or equipment from specified entities. For more information on this prohibition please refer to Public Law No. 115-232 at <a href="https://www.congress.gov/bill/115th-congress/house-bill/5515/text?format=txt">https://www.congress.gov/bill/115th-congress/house-bill/5515/text?format=txt</a> .	2/25/2022 9:47:14 AM		No	No
Resolution: Applications from nonprofit corporations, local units of governments, and other political subdivisions must submit a resolution electronically using the 'Upload' function in the eGrants system. The <a href="#">resolution</a> must contain the following: <ul style="list-style-type: none"> <li>• Authorization by your governing body for the submission of the application to OOG that clearly identifies the name of the project for which funding is requested;</li> <li>• A commitment to provide all applicable matching funds;</li> <li>• A designation of the name and/or title of an authorized official who is given the authority to apply for, accept, reject, alter, or terminate a grant (Note: If a name is</li> </ul>	2/25/2022 9:47:30 AM		Yes	No

<p>provided, you must update OOG should the official change during the grant period.); and</p> <ul style="list-style-type: none"> <li>• A written assurance that, in the event of loss or misuse of grant funds, the governing body will return all funds to OOG.</li> </ul>				
<p>This grant must be administered by the Police Department, Sheriff's Office, Constable Precinct, or other Law Enforcement Division/Department within the grantee organization as submitted in the original application. Deviation from the approved budget or project scope requires prior authorization from the Public Safety Office. Failure to comply with this requirement could result in the termination of your grant.</p>	<p>2/25/2022 9:47:40 AM</p>		<p>No</p>	<p>No</p>

You are logged in as **User Name:** ihooper



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-353, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Museums and Cultural Affairs, Ben Fyffe, (915) 212-1766

**AGENDA LANGUAGE:**

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

A Resolution to approve the FY2023 Cultural Funding Guidelines.

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

**AGENDA DATE:** March 29, 2022 (for consent)

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Ben Fyffe, (915) 212-1766

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:**

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

**SUBJECT:**

Resolution to approve the FY2023 Cultural Funding Guidelines

**BACKGROUND / DISCUSSION:**

MCAD was awarded adjusting guidelines to comply with federal requirements of the National Endowment for the Arts (NEA). NEA funds will be used in the FY2023 Cultural Funding Program to augment HOT funds used.

**PRIOR COUNCIL ACTION:**

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

Council routinely approved updates to Cultural Funding Guidelines.

**AMOUNT AND SOURCE OF FUNDING:**

\$250,000 from the National Endowment for the Arts

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES \_\_\_ NO**

---

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



---

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

**RESOLUTION**

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

That the City of El Paso Museums and Cultural Affairs Department Cultural Funding Guidelines for Fiscal Year 2023 (attached as Exhibit “A”) be approved, as recommended by the Museums and Cultural Affairs Staff. The Cultural Funding Guidelines for Fiscal Year 2023 include the Artist Incubator Program (AIP), the Operating Support Program (OSP) and the new Arts Activate Program (AAP).

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser, Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Danielle Escontrias  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ben Fyffe, Director  
Museums and Cultural Affairs Department

CITY OF EL PASO MUSEUMS AND CULTURAL AFFAIRS DEPARTMENT (MCAD)  
FISCAL YEAR 2023  
GENERAL FUNDING GUIDELINES

**THE CULTURAL FUNDING PROGRAM**

**The Cultural Funding Program (CFP), established in 2006, amplifies** the capacity of artists and organizations in El Paso and encourages cultural and economic vitality. CFP provides seed funding, project, and operational support to the local creative community through a competitive granting program that has been recognized as a model of transparency by the Texas Commission on the Arts. The goal of the CFP is to foster respect and pride in El Paso’s distinctive artistic and cultural heritage through the funding of artists and organizations that create and present innovative arts-based experiences for El Pasoans and visitors.

Funding for the CFP is derived from primarily from Hotel Occupancy Tax (HOT) revenue and some City general funds. For FY23, the Arts Activate Program will be funded through the National Endowment for the Arts – American Rescue Plan.

**ELIGIBILITY**

**THE CITY OF EL PASO WILL FUND:**

**ORGANIZATIONS**

- Non-profit 501(c)(3) arts and cultural organizations, including service organizations to arts and culture, operating and providing programs and services within the City of El Paso *or* other 501(c)(3) organizations that have a documented history or engagement in the arts within the City of El Paso
- Applicants must verify that the organization is not excluded or disqualified from doing business with the federal or local government due to delinquent fines, taxes, etc.
- Organizations/Artists willing and able to enter into a contract with the City of El Paso
- Activities and services that occur within the City of El Paso and for the benefit of residents and visitors of El Paso, with a primary focus on providing services to residents and promoting tourism
- Organizations that have administrative offices located permanently in the City of El Paso
- Organizations that have an active volunteer board of directors that meets at least four (4) times per year
- Organizations that are in-compliance with local, state, and federal laws prohibiting discrimination
- Activities and services that are open and accessible to the public and meet the requirements established by the Americans with Disabilities Act (ADA) and related City ordinances
- Liability Insurance is required for organizations as determined by the City’s Risk Manager and contract document. A Certificate of Insurance (COI) must be submitted to the City covering the entire term of the contract. During the contract term, applicants are required to maintain all necessary licenses, permits, insurance and other approvals required by law for the provision of services.
- Organizations authorized to transact business in the State of Texas
  - Applicants must be in good standing or *active* with the Texas Comptroller’s office at the time of the application process.
  - **To check the status of your organization with the State Comptroller’s, applicants can visit: <https://mycpa.cpa.state.tx.us/coa/Index.html>**
- All non-profit applicants must also submit the following:
  - Charter, articles of incorporation, and by-laws

- A copy of the organization's Internal Revenue Service letter of determination
- Organizational Chart
- A copy of the most recently filed IRS 990
- Strategic Plan

## INDIVIDUAL ARTISTS

- Who are residents of the City of El Paso
- Who can demonstrate a three (3) year history of producing art, arts education, or community arts programming in the City of El Paso
- Who can verify that the individual artist is not excluded or disqualified from doing business with the federal or local government due to delinquent fines, taxes, etc.
- Must be willing and able to enter into a contract with the City
- Insurance may be required for AAP, and AIP.
  - Insurance requirements will be determined by the Office of the Risk Management.
  - A Certificate of Insurance (COI) must be submitted to the City covering the entire term of the contract.
  - Applicants are required to obtain and maintain all necessary licenses, permits, insurance and other approvals required by law for the provision of services.

## WHAT IS NOT FUNDED

The City of El Paso **will not** fund the following entities or activities through the Cultural Funding Programs:

- Activities covered by restrictions outlined in the City of El Paso contract document
- Activities restricted to organization's members, or which do not benefit the general public
- Activities that occur outside of the El Paso City limits.
- Activities which do not have a cultural or artistic focus, or whose primary focus is religious
- Applicants that have a delinquent status with the City of El Paso or were unable to comply with the terms of a City Contract within the last two (2) funding cycles
- Applicants who are excluded or disqualified from doing business with the federal or local government due to delinquent fines, taxes, etc.
- Annual Meetings, Competitions, Conferences, Reunions, Summits
- Cash services or endowments of any kind
- Colleges/University and/or school projects that are part of a course or curriculum
- Fundraisers or fundraising activities
- Government agencies or public authorities
- Individual artists who are not residents of the City of El Paso, or organizations that do not have administrative offices located permanently in the City of El Paso
- Licensing fees of any kind
- Loans, fines, penalties, cost of litigation or associated interest payments
- Stand-alone Parades or Processions
- Leasing of studio space for an individual artist
- Political contributions or activity, i.e., lobbying
- Previously completed activities, or activities that have occurred prior to the fiscal year; and according to the dates delineated in the application and the contract.
- Re-granting programs
- Scholarships, awards, cash prizes, tuition expenses, or fellowship/grants to individuals
- Students enrolled in a University or College

- Travel fees, except for visiting artists to come to El Paso to participate in public programming
- Unincorporated Organizations
- Underwriting of capital expenditures (buildings, land, permanent equipment, or acquiring of artwork that have a life expectancy of more than three (3) years and a monetary value of more than \$500.)
- Youth applicants, or organizations that are administered by youth who are in school and have not completed the 12th grade (for the primary delivery of the artistic product)

**RESTRICTIONS**

1. Due to budgetary constraints, only one (1) application will be accepted per organization or artist one category. Review the CFP to choose the appropriate category to apply under.
2. Operating Support Program (OSP) and Arts Activate Program (AAP) organizational applicants must be registered 501(c) (3) organizations in order to apply for MCAD funding.
3. Funded applicants who forfeited their funding and/or failed to meet requirements of the previous year’s contract may not apply for funding for two consecutive funding cycles.
4. MCAD employees and family members who live in the same household may not apply for cultural funding. Former MCAD employees are not eligible to apply for funding until one (1) year after date of separation from MCAD.
5. Museums and Cultural Affairs Board (MCAAB) members are not eligible to apply for cultural funding.

**APPLICATION DEADLINES**

All applicants are required to submit applications for funding on an annual basis. After the application deadline passes, no further funding requests will be considered. No paper applications are accepted.

All applications must be submitted online at <https://elpasomcad.submittable.com/submit>

**Cultural Funding Program Application Deadline:** 11:59 pm MST on June 1, 2022.

**MANDATORY ORIENTATION SESSIONS**

MCAD will provide multiple orientation sessions for prospective applicants. Attendance at one orientation session is mandatory. The schedule of orientation sessions will be posted on our website at [www.elpasoartsandculture.org](http://www.elpasoartsandculture.org)

\*Failure to attend an orientation session will result in the disqualification of the application; no exceptions will be made.

**CULTURAL FUNDING PROGRAM CATEGORIES AND DESCRIPTIONS**

**Art and Cultural services, programs or projects must take place during the City’s fiscal year 2023 (September 1 – August 31).**

The City of El Paso will award cultural services contracts through the following funding programs:

- Operating Support Program
- Artist Incubator Program
- Arts Activate Program – American Rescue Plan
- Local Filmmakers Program (on hiatus for FY23)

## **PROGRAM DESCRIPTIONS:**

**OPERATING SUPPORT PROGRAM (OSP):** Provides two-year operating support to large, non-profit arts and cultural organizations providing a season of activities that are open to the public, active community outreach and related activities that have a cultural tourism appeal. OSP is designed to support the organizational stability of El Paso's arts and cultural assets as well as to cultivate organizational growth and professional development.

**Funding Levels:** Awards range from \$10,000 to \$20,000

### **This category is for:**

- Organizations that have an operating budget of \$100,000 or more
  - The organization must maintain this budget threshold during the two-year award period
- Organizations that have a 501(c)(3) Letter of Determination
- Organizations whose funding request will not exceed 50% of the organization's previous year's expenditures as determined by the IRS 990 Form
- Organizations that have a professional part-time or full-time Executive Director or Business Manager
- General operating expenditures, including artistic and administrative expenses.

### **OSP Requirements:**

- Organizations must have a three (3) year consecutive history of funding support by MCAD.
- Organizations must provide a 1:1 cash match
- Provide quarterly reporting on activities and programs presented by the organization, attendance and venue.
- Provide a mid-year report in March 15, 2023, and final report by August 15, 2023 with updated financials.
- Must submit a notice to renew the second year of award funding by August 15, 2023, along with an updated list of project activities, operational budget and proof of liability insurance. Failure to provide these items by the deadline will result in the cancellation of Year 2 Funding.
  - Failure to meet the requirements of the OSP funding category during year 1 of funding will result in the cancellation of year 2.

**Arts Activate Program (\*Funded through the American Rescue Plan for FY23):** provides project-based support for the creation and presentation of innovative arts and cultural project activities that are reflective of the El Paso region's rich and diverse art, culture and heritage. AAP encourages creative interaction and collaboration among artists, non-profits, residents, neighborhoods and community-based organizations that support community arts development.

- **Funding Level:** Awards range from \$1,000 to \$20,000
- **Maximum funding request for Individual Artists:** \$10,000
- **Maximum funding request for Organizations:** \$20,000

### **This category is for:**

- Individual artists who are residents of the City of El Paso or 501(c)(3) arts and cultural organizations whose administrative offices are permanently located within the El Paso City limits.
- Applicant Organizations must be incorporated as private 501(c)(3) non-profit. This does not apply to individual artists.
  - Organizations with fiscal sponsors are ineligible to receive funding per the American Rescue Plan guidelines.
  - Applicant organizations must have a federal DUNS or UEI number to apply for AAP-ARP funding.
- Applicants who have a record of presenting arts and cultural activities for at least two (2) consecutive years in the City of El Paso.
- Artists and Organizations that have qualified artistic and administrative leadership capable of completing the proposed project with a commitment to funding artists and artistic products alike.
- Individual artists and arts and cultural organizations performing and presenting across all artistic and cultural disciplines.
- Interactive Arts and Cultural Workshops, Performances, Arts and Cultural Festivals, Collaborative Murals, Mixed/Multi-media installations are all examples of allowable projects.
- Innovative, accessible and appealing project activities created with and for local residents and visitors.
- Organizations that have at least a part-time Executive Director or Business Manager.
- Activities that start by September 1, and end no later than August 15 of the City of El Paso's fiscal year.

AAP APPLICANT REQUIREMENTS:

- **For Organizations - Allowable administrative costs are limited to any or all of the following:**
  - Salary support, full or partial, for one or more staff positions.
  - Fees/stipends for contractual personnel to support the services they provide for specific activities. Jobs or positions supported through ARP may be existing or new.
  - Facilities costs such as rent and utilities, e.g., electric, phone, gas bills. *Note:* Costs related to home offices or home studios, upgrades to HVAC/ventilation systems, and other capital improvements are unallowable.
  - Costs associated with health and safety supplies for staff and/or visitors/audiences (e.g., personal protective equipment, cleaning supplies, hand sanitizer, etc.).
  - Costs associated with marketing, promotion.
- Organizational applicants must have a 2:1 *cash match* to all the awards.
- **For Individuals - Allowable Costs**
  - Artist fees/stipends to carry out specific projects and activities consistent with the programmatic objectives of MCAD.
- Individual Artist applicants must have a 1:1 *in-kind match*
- All awardees must provide quarterly reporting including attendance, venue and cost.
  - Projects which are completed before the end of the fiscal year, will report on activities during the quarter in which planning and execution of the project takes place.
- The total funding from the City of El Paso will not exceed 50% of the organization's previous year's expenditures as determined by the IRS 990 Form.
- Administrative costs cannot exceed 25% of the funding request
- All applicants must be able to verify a minimum record of accomplishment or organizational history of at least two (2) years in the City of El Paso.

## AAP RESTRICTIONS:

- Per MCAD CFP Guidelines, AAP will not fund recurring projects. Applicants should update project proposals from previous fiscal year awards.
- MCAD will not fund individuals who are applying for projects for arts and cultural organizations. In this case, the the organizations are encouraged to apply.

Film projects are ineligible for AAP with the exception of filmmaking workshops. Filmmakers are encouraged to apply to the *Artist Incubator Program*.

**ARTIST INCUBATOR PROGRAM (AIP):** This program is highly competitive and will provide funding directly to individual emerging and professional artists to create new work.

- Funding Levels: AIP grants range from \$1,500 to \$4,000.

### **This category is for:**

- Individual emerging and professional artists
- The creation of new body of work by professional and emerging visual, literary, performing and multidisciplinary artists living in El Paso. AIP encourages artists to broaden the scope of their previous artistic production to develop new work during the award period.

## AIP Requirements:

- A new body of work must be proposed through the AIP
  - Work must not be a continuation of a previous project
- AIP applicants can use funding for – production and artistic fees, supplies and materials, promotional costs, fabrication costs.
- Final public exhibition, performance or viewing of AIP project
- AIP Artists will provide a report at the conclusion of a program or event that includes attendance, location, an evaluation of the program, and financial statement.

## AIP Restrictions

- **Previously Funded** Individuals can apply every other year for AIP funding. Funded applicants can receive up to three AIP awards from MCAD.

## REVIEW PANEL PROCESS

MCAD convenes a review panel to score each application. Reviewers represent diverse artistic disciplines, community perspectives, and field expertise in arts and cultural organization and the non-profit sector.

Panel participation is open to people with relevant experience and who are able to volunteer adequate time and energy to the process. Members of the El Paso community, colleagues within other local and national arts agencies, the public and City personnel may nominate panelists. Potential reviewers may be nominated by

submitting a completed Review Panel Nomination Form to MCAD office. A Nomination can be submitted online ([www.elpasotexas.gov/mcad](http://www.elpasotexas.gov/mcad)) by clicking on Art Funding.

- All applications are subject to the Review Panel Process.
- The panel review process will take place online during the summer of 2022
- Panelists will score and rank applicants on a 100-point system in accordance with established criteria for each funding program.
- Provide a quantitative evaluation of the applications submitted to MCAD
- Comment on the reasonability of the funding requested in relationship to the proposed project or service
- Provide knowledgeable guidance to MCAD in working with a given applicant in the future
- All scores are averaged and the applicants are ranked based on their total score
- Panelists do not make funding decisions. The Panel will score the projects to identify those that will be eligible. The Panelists will also provide feedback on the strengths and weakness of the applications. MCAD will be responsible for making the final selections as to awarded projects and amounts. Award notifications include scoring and comments for applicants to review.

## **EVALUATION AND SCORING CRITERIA**

All applications will be reviewed according to the criteria set for each funding category. All applicants must score a 70 or above to be eligible for funding. Scoring a 70 or above does not guarantee that an applicant will be funded. Funding will be assigned to eligible applications according to the availability of funds, panel scores and ranking, diversity of applicant proposals and verification of contract compliance for previous applicants.

### **OSP**

#### **Artistic Excellence and Innovation (30 points)**

- Does the organization maintain high artistic standards in programming and services?
- Does the proposed programming/project demonstrate a continuation or building of artistic excellence?
- Does the organization produce/present professional quality work that contributes to the unique artistic/cultural community of El Paso?

#### **Audience Development and/or Tourism Promotion (20 points)**

- Does the applicant offer, market, and promote its programs and services to the widest possible constituency, including residents, visitors and commuters?
- Are programs and services easily accessible to tourists and other visitors?
- Does the applicant have an audience development plan that addresses attracting future new audiences through educational programs, ticket give-away, and/or free outreach programs?
- How do you use social media to promote your events/activities?

### **Diversity and Outreach (15 points)**

- Is there measurable involvement of diverse populations on the board and staff, and in the development and preservation of the artistic product?
- Does the applicant cultivate ethnically, culturally and socially diverse audiences and patrons?
- Does the applicant develop productive partnerships with diverse organizations and artists to broaden the reach of its programs and services?
- Does the applicant demonstrate active community outreach?
- Does the organization do outreach through educational programs?
- Does the organization do outreach to underserved populations?

### **Administrative Health (Capacity) (20 points)**

- Based on submitted financial statement, is the organization fiscally sound?
- Is the budget and/or funding request appropriate?
- Does the organization have diverse funding sources?
- Is the Organization's Strategic Plan clear and feasible?

### **Impact/Services to El Paso Residents (15 points)**

- Does the proposed programming/project meet identified social or cultural needs?
- Does the organization/project demonstrate a history of attracting a broad audience (or service constituency) and documents such?

### **AAP:**

### **Artistic Excellence and Artistic Merit (25 points)**

- Does the applicant's work samples reflect the qualifications of the artist/organization based on quality of work, training and/or professional experience?
- Does the applicant maintain high artistic standards in programming and services?
- Does the applicant produce/present professional quality work that contributes to the unique artistic/cultural Community of El Paso?
- Does the proposed programming capitalize on prior successes?

### **Capacity (20 points)**

- Does the applicant demonstrate the capacity to successfully provide the proposed service(s) as evidenced by previous projects?
- Based on submitted financial statements and budget, is the applicant fiscally sound?
- Is the budget and/or funding request appropriate for the proposed project?
- For Organizations:
  - Does the organization demonstrate business, production, and administrative skills needed to complete the proposed programming/project?
  - Does the organization have diverse funding sources?

- Is the organization's Strategic Plan clear and feasible?

For individuals:

- Does the artist have an in-kind match?
- Does the applicant demonstrate the support system to carry out the proposed project?
- Has the artist successfully completed projects of this scope in the past?

### **Audience Development and/or Tourism Promotion (20 points)**

- Does the applicant offer, market, and promote its programs and services to the widest possible constituency, including residents, visitors and commuters?
- Are programs and services easily accessible to residents, tourists and other visitors?
- Does the applicant have an audience development plan that addresses attracting future new audiences through educational programs, ticket giveaways, and/or free outreach programs?
- Does the applicant use social media to promote your events/activities?

### **Impact (20 points)**

- Does the proposed programming/project meet identify social or cultural needs?
- Does the organization/project demonstrate a history of attracting a broad audience (or service constituency) and document the audiences?
- Does the project have the ability to positively impact the targeted audience?

### **Diversity and Outreach (15 points)**

- For organizations:
  - Is there measurable involvement of diverse populations on the board and staff of the organization, and in the development and preservation of the artistic product?
- For individuals:
  - Does the artist engage with the artistic community as evidenced by letter of support and marketing strategy?
- Does the applicant cultivate ethnically, culturally, and socially diverse audiences and supporters?
- Does the applicant develop productive partnerships with diverse organizations and artists to broaden the reach of its programs and services?
- Does the applicant demonstrate active community outreach?
- Does the applicant have a community partner identified for this program?

### **AIP:**

### **Artistic Merit (60 points):**

The proposal clearly identifies the creation of new work and is supported by work samples that show the professional qualifications or record of artistic achievement by the applicant

### **Impact on Tourism and/or Community Audience (25 points)**

The proposal has a clear benefit to the general public and a plan to market the project to develop an audience artist and present the work to the community through a public venue The Project demonstrates the ability to be presented in communities outside of El Paso.

### **Feasibility of the Project and Reasonableness of Proposed Expenses (15 points)**

The application is clear and concise and had a detailed and organized timeline with a feasible budget. The proposal demonstrates the artist's record of successful completion of arts projects of similar scale and scope and the capacity to complete the project

The applicant has demonstrated the ability to seek out additional support and funding to complete the proposed project

### **Reasonableness of Proposed Expenses (up to 15 points)**

The application is clear and concise and had a detailed and organized timeline with a feasible budget. The proposal demonstrates record of successful completion of film projects of similar scale and scope and the capacity to complete the project

## **FUNDING RECOMMENDATIONS**

MCAD will receive the scoring and feedback from the Review Panel. MCAD will make its final recommendation to the Museums and Cultural Affairs Advisory Board ("MCAAB"). MCAAB has the final authority to approve the projects that will be funded through the CFP each year. The MCAD recommendation for funding of applicants is based on the following criteria:

- Availability of funds
- Panel Ranking/Scores
- Quality and Innovation of the proposed project or program
- Capacity to complete the proposed project
- Compliance at all levels of the funding process with the appropriate procedures
- Diverse geographic and ethnic representation reflected within the pool of awarded projects.
- Recommended funding will also be based upon Fiscal Year 2023 appropriation levels approved by the City Council of the City of El Paso
- Contract performance for returning applicants will be shared with panelists and considered
- For returning applicants in AAP and OSP: Programs show growth and increased capacity for providing quality artistic and cultural services to local and tourist community and audience development efforts.
- 50% Rule: An organization's Maximum Eligible Request (MER) is not to exceed 50% of the organization's previous year's cash revenues as determined by the IRS 990/990EZ Form for the two most recently completed fiscal years (in most cases fiscal years 2019 and 2020). All organizations are required to file a 990 IRS form annually. The IRS form 990 for 2019 and 2020 determines the accuracy of Maximum Eligible Request (MER) If MCAD doesn't receive this form from the organization applying for funds or cannot verify your 990 it will have an impact on your award.

## **AWARD PROCESS:**

Applicants who are recommended and declined for funding will be notified by email. Scoring, award and contract inquiries will only be discussed with parties represented on the application. All successful applicants must accept or decline the award via email by **September 15 2022**. Applicants must sign a Contract with the City no later than **November 15, 2022** in order to receive the awarded funding. Failure to execute a contract with the City will result in the award being retracted and possibly reallocated for other applications or purposes at the discretion of MCAD.

Any changes to the scope of work must be submitted and approved by MCAD before the services are implemented. Award recipients will have five (5) working days from receipt of award letter to revise and submit any changes to the scope of work

- MCAD must approve the change before proceeding to the contract phase of the application
- The correct scope of work must be included in the contract, since it describes the type of service that is going to be delivered

At the time of contract execution, ALL funded applicants will be required to:

- Confirm compliance with several local ordinances and state and federal statutes/regulations which will be indicated in the contract document
- Ensure that the project or program is not fostering, encouraging, promoting or funding any project, production, workshop and/or program that includes obscene material as defined in Section 43.21, Penal Code of Texas
- Maintain auditable financial records reflecting generally accepted accounting standards related to its overall activities, submit itemized reports or expenditures as required by established City procedures and submit timely reports reflecting the progress made in achieving its approved goals and objectives

OSP applicants must provide proof of insurance as required by the City's Risk Manager prior to the implementation of the project which includes the City of El Paso as an additional insurer

- A new COI must be submitted to MCAD. Funds cannot be disbursed without proof of insurance.
- The City of El Paso's risk manager may determine whether general liability insurance is needed for all funding programs.

## **APPEAL PROCESS**

An applicant individual and/or organization considered for funding by the City of El Paso, may contact MCAD staff for an explanation of the level of funding awarded, or to find out why a proposal was declined.

Applicant individuals and/or organizations considering an appeal must first discuss the outcome of the panel process with the MCAD Cultural Funding Coordinator.

An applicant may submit an appeal in writing to the MCAD Cultural Program Manager regarding the funding recommendation only if he/she can demonstrate that:

- MCAD failed to follow published application and review procedures

- Influence was placed on a review panel member with an undisclosed conflict of interest
- Grant application system error (documented by MCAD or applicant) prevented review of the full application review.
  - o User error or failure to properly utilize the grant system does not qualify for grounds of appeal
  - o Undocumented claims of grant application system error or malfunction will not be addressed.

If the application meets the grounds for reconsideration, the request for appeal must set forth the reason(s) why the applicant believes reconsideration is appropriate. A formal, written intent of appeal letter must be sent to MCAD within ten (10) business days from the date of the funding notification letter.

**CONFERENCE**

Following the receipt and review of the intent of appeal letter the Cultural Funding Coordinator will forward the application to the Managing Director of Cultural Affairs and Recreation who will hear the appeal and make a decision. The Managing Director will schedule a conference with the applicant. The purpose of this conference will be to review and discuss the recommendations made by the review panel, and to allow the applicant to express his/her belief of how the process was tainted and/or violated. Based on the findings of this conference, a report/response document will be developed by the Managing Director identifying the findings, and will be provided to the appellant within ten (10) business days. The decision of the Managing Director of MCAD is final.

**CANCELLATION OF CONTRACT**

Applicants that fail to provide contractual services, fail to provide timely reporting or meet program eligibility will result in a recommendation of no funding or a reduction in funding for the next fiscal year. The City will maintain a list of all artists and organizations that have breached contract and reporting requirements. **Failure to execute the terms of your contract will result in future disqualification from funding for 2 funding cycles.**

**AMERICANS WITH DISABILITIES ACT (ADA)**

At the time of contract execution, successful grant applicants will be required to submit specific ADA-related documents to confirm compliance with local ordinances and state and federal statutes/regulations.

**AUDITING**

The Contractor shall keep complete and accurate books and records indicating when, how, by whom, and for what purposes the funds received under the Contract are spent by the Contractor, and the Contractor shall make such books and records available to the City for examination upon request.

All Funds disbursed under this Contract shall be handled by the Contractor in accordance with the standards of the American Institute of Certified Public Accountants, which include provisions for sound fiscal practices and fiscal reporting. In addition, the Contractor shall furnish the City at its request with balance sheets and statements of operation, which accurately account for expenditure of Contract funds, and a written narrative report reflecting the same.

The City reserves the right to audit the books and records of the Contractor, upon reasonable notice to the Contractor and during regular working hours, in order to ensure fiscal and programmatic compliance with the assurances in this contract.

Should any serious discrepancy appear in such reports or statements, the City shall notify the Contractor. If such discrepancy is not rectified to the satisfaction of the City within thirty (30) days, the City may withhold all or part of the funds from the contractor or an expenditure of Contract funds for a purpose which is not authorized by this Contract. Should the City determine that any provision of this Contract has been violated, the City may terminate this Contract immediately. Written notice of termination will be sent to the Contractor.

## **CONTACT**

For more information or questions regarding these guidelines please contact the Museums and Cultural Affairs Department:

Rebecca Muñoz  
Cultural Program Manager  
915-212-1770, [munozra@elpasotexas.gov](mailto:munozra@elpasotexas.gov)



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File #: 22-326, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

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

**AGENDA LANGUAGE:**

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

A Resolution to find that taxpayer, Sabal James 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$466.33, for the property with the following legal description: 20 CORONADO CTRY CLB FTHILLS #5 LOT 8 (10780 SQ FT).

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Maria O. Pasillas, (915) 212-1737

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.11 Provide efficient and effective services to taxpayers

**SUBJECT:**

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

A Resolution to find that taxpayer, Sabal James 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$466.33, for the property with the following legal description: 20 CORONADO CTRY CLB FTHILLS #5 LOT 8 (10780 SQ FT).

**BACKGROUND / DISCUSSION:**

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

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

**PRIOR COUNCIL ACTION:**

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

Council has previously considered this type of item in the past.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer? N/A**

Revised 04/09/2021

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES \_\_\_ NO

PRIMARY DEPARTMENT: Tax Office

SECONDARY DEPARTMENT: N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

*Maia O. Pasillas*

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

**RESOLUTION**

**WHEREAS**, pursuant to Section 33.011(a)(1) of the Tax Code, the governing body of a taxing unit shall waive penalties and may provide for the waiver of interest on a delinquent tax in an act or omission of an officer, employee, or agent of the taxing unit or appraisal district in which the taxing unit participates caused or resulted in the taxpayer’s failure to pay the tax before delinquency and if the tax is paid not later than the 21<sup>st</sup> day after the taxpayer knows or should know 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 181<sup>st</sup> day after the delinquency date; and

**WHEREAS**, pursuant to Section 33.011(d) of the Tax Code, taxpayer, SABAL JAMES (“Taxpayer”) requested a waiver of penalties and interest on February 12, 2022, before the 181<sup>st</sup> day after the delinquency date, in the amount of \$466.33 for the 2021 delinquent taxes for the property with the following legal description:

20 CORONADO CTRY CLB FTHILLS #5 LOT 8 (10780 SQ FT)

**WHEREAS**, the Taxpayer paid the taxes owed on the property on February 9, 2022, which is not later than the 21<sup>st</sup> day after the date the taxpayer knew or should have known of the delinquency; and

**WHEREAS**, the Taxpayer’s failure to pay the tax before the delinquency date was a result of an act or omission of the appraisal district.

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

**THAT** the Taxpayer, Sabal James 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$466.33, for the property with the following legal description:

20 CORONADO CTRY CLB FTHILLS #5 LOT 8 (10780 SQ FT)

*(Signatures Begin on Following Page)*

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**CITY OF EL PASO:**

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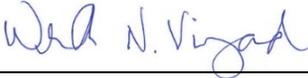
Oscar Leeser  
Mayor

**ATTEST:**

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Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

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Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

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Maria O. Pasillas, RTA  
City Tax Assessor/Collector

**From:** David Sabal <[dsabal18@gmail.com](mailto:dsabal18@gmail.com)>  
**Sent:** Saturday, February 12, 2022 4:58 PM  
**To:** Pasillas, Maria O. <[PasillasMO@elpasotexas.gov](mailto:PasillasMO@elpasotexas.gov)>  
**Subject:** Sabal - Request for Waiver

David Sabal  
101 Northwind Drive  
El Paso, TX 79912  
(915) 203-0020  
[dsabal18@gmail.com](mailto:dsabal18@gmail.com)

February 12, 2022

Re: Property IDs 271065 and 74503

El Paso City Tax Office,

This email is a formal request for a waiver of penalties and interest for delinquent tax on the two properties, above, due to an error on the City Tax Office website.

I began the payment process in the third week of January 2022. Each of the two credit cards I tried to use to make full payment were both pre-approved for the entire amount plus the service fees. Repeatedly, I received the notice: "Payment Failed – Your payment was unsuccessful." on two different computers, for each of both cards. The cards were not declined nor were there any problems with either of them. Consistently, the error message I received read, "java.io.FileNotFoundException: Response: '403:Forbidden' for url: <https://checkout.securepds.com/checkout/checkout.svc/json/ConvPayPayment>"

I contacted the City Tax Office on January 28, 2022, seeking help for this issue and spoke with Ms. Pasillas. She was very helpful. Despite repeated attempts on her part to make a payment with me on the phone, and after conferring with her programmers, she and they were also not successful in making a payment and continued to receive the same error message as I had. This went on through the end of January and the first week of February. On February 9<sup>th</sup>, I received an email from Ms. Pasillas asking me to try making a payment again. This time it worked and the total amount of tax due on both properties plus added penalties, interest, and service fees was paid in full.

I intended to pay all property tax owed before delinquency and tried to do so many times. My failure to pay the tax before the delinquency date was caused by an error on the El Paso City Tax Office online payment website which took some time to resolve. The tax was properly paid by credit card on February 09, well before the 21st day after the delinquency date of February 01, 2022.

I respectfully request a waiver of penalties and interest and a full refund of all sums paid above the original amount plus service fees due on January 31, 2022.

Thank you for your attention to this matter and for your understanding of the circumstances.

Best regards,  
David Sabal



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File #: 22-358, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

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

**AGENDA LANGUAGE:**

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

A Resolution to find that taxpayer, Sabal David 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$195.79, for the property with the following legal description: 66 HIGHLAND PARK 13 & 14 (6000 SQ FT).

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Maria O. Pasillas, (915) 212-1737

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.11 Provide efficient and effective services to taxpayers

**SUBJECT:**

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

A Resolution to find that taxpayer, Sabal David 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$195.79, for the property with the following legal description: 66 HIGHLAND PARK 13 & 14 (6000 SQ FT).

**BACKGROUND / DISCUSSION:**

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

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

**PRIOR COUNCIL ACTION:**

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

Council has previously considered this type of item in the past.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer? N/A**

Revised 04/09/2021

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES \_\_\_ NO

PRIMARY DEPARTMENT: Tax Office

SECONDARY DEPARTMENT: N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

*Maia O. Pasillas*

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

**RESOLUTION**

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

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**WHEREAS**, the Taxpayer’s failure to pay the tax before the delinquency date was a result of an act or omission of the appraisal district.

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

**THAT** the Taxpayer, Sabal David 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 2021 delinquent taxes pursuant to Section 33.011(a)(1) of the Tax Code in the amount of \$195.79, for the property with the following legal description:

66 HIGHLAND PARK 13 & 14 (6000 SQ FT)

*(Signatures Begin on Following Page)*

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**CITY OF EL PASO:**

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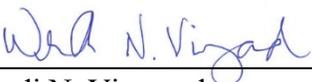
Oscar Leeser  
Mayor

**ATTEST:**

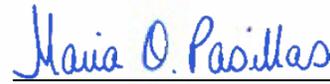
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Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Maria O. Pasillas, RTA  
City Tax Assessor/Collector

**From:** David Sabal <[dsabal18@gmail.com](mailto:dsabal18@gmail.com)>  
**Sent:** Saturday, February 12, 2022 4:58 PM  
**To:** Pasillas, Maria O. <[PasillasMO@elpasotexas.gov](mailto:PasillasMO@elpasotexas.gov)>  
**Subject:** Sabal - Request for Waiver

David Sabal  
101 Northwind Drive  
El Paso, TX 79912  
(915) 203-0020  
[dsabal18@gmail.com](mailto:dsabal18@gmail.com)

February 12, 2022

Re: Property IDs 271065 and 74503

El Paso City Tax Office,

This email is a formal request for a waiver of penalties and interest for delinquent tax on the two properties, above, due to an error on the City Tax Office website.

I began the payment process in the third week of January 2022. Each of the two credit cards I tried to use to make full payment were both pre-approved for the entire amount plus the service fees. Repeatedly, I received the notice: "Payment Failed – Your payment was unsuccessful." on two different computers, for each of both cards. The cards were not declined nor were there any problems with either of them. Consistently, the error message I received read, "java.io.FileNotFoundException: Response: '403:Forbidden' for url: <https://checkout.securepds.com/checkout/checkout.svc/json/ConvPayPayment>"

I contacted the City Tax Office on January 28, 2022, seeking help for this issue and spoke with Ms. Pasillas. She was very helpful. Despite repeated attempts on her part to make a payment with me on the phone, and after conferring with her programmers, she and they were also not successful in making a payment and continued to receive the same error message as I had. This went on through the end of January and the first week of February. On February 9<sup>th</sup>, I received an email from Ms. Pasillas asking me to try making a payment again. This time it worked and the total amount of tax due on both properties plus added penalties, interest, and service fees was paid in full.

I intended to pay all property tax owed before delinquency and tried to do so many times. My failure to pay the tax before the delinquency date was caused by an error on the El Paso City Tax Office online payment website which took some time to resolve. The tax was properly paid by credit card on February 09, well before the 21st day after the delinquency date of February 01, 2022.

I respectfully request a waiver of penalties and interest and a full refund of all sums paid above the original amount plus service fees due on January 31, 2022.

Thank you for your attention to this matter and for your understanding of the circumstances.

Best regards,  
David Sabal



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File #: 22-322, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Public Health, Angela Mora, (915) 212-6502

**AGENDA LANGUAGE:**

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

That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso and the El Paso County Hospital District d/b/a University Medical Center of El Paso ("UMC"), for a two-year term, whereby the parties agree to share information for purposes of contributing to each party meeting the immunization metrics required under the Delivery System Reform Incentive Program operated by the Centers for Medicare and Medicaid Services. This Interlocal Agreement does not require an exchange of money between the parties.

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

**AGENDA DATE:**  
**PUBLIC HEARING DATE:**

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL:**

**SUBGOAL:**

**SUBJECT:**

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

**BACKGROUND / DISCUSSION:**

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

**PRIOR COUNCIL ACTION:**

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

**AMOUNT AND SOURCE OF FUNDING:**

*How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?*

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_\_\_ YES \_\_\_ NO**

**PRIMARY DEPARTMENT:**

**SECONDARY DEPARTMENT:**

---

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** *Angela Mora*

---

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

**RESOLUTION**

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

That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso and the El Paso County Hospital District d/b/a University Medical Center of El Paso (“UMC”), for a two-year term, whereby the parties agree to share information for purposes of contributing to each party meeting the immunization metrics required under the Delivery System Reform Incentive Program operated by the Centers for Medicare and Medicaid Services. This Interlocal Agreement does not require an exchange of money between the parties.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2022.

**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

**APPROVED AS TO CONTENT**

  
\_\_\_\_\_  
Angela Mora, Director  
Department of Public Health

STATE OF TEXAS )  
 ) INTERLOCAL AGREEMENT WITH THE  
 ) EL PASO COUNTY HOSPITAL DISTRICT  
COUNTY OF EL PASO ) (Delivery System Reform Incentive Program)

This Interlocal Agreement is entered into and effective on the latest date reflected on the signature pages at the end of this Agreement, by and between the City of El Paso, Texas (“City”), a Texas Municipal Corporation, and the El Paso County Hospital District d/b/a University Medical Center of El Paso (“UMC”), a political subdivision of the State of Texas, pursuant to the Interlocal Cooperation Act, Article 791.001 *et seq.*, Texas Government Code.

**WITNESSETH**

**WHEREAS**, the City’s Public Health Department, a health care provider, performs the governmental function of various immunization and health screening programs to ensure and improve the public health and welfare of the City of El Paso; and

**WHEREAS**, UMC, a health care provider, provides comprehensive health care and hospital services pursuant to its mandate under the laws of the State of Texas to include the administration of immunizations/health screenings to patients to ensure and improve the health and well-being of the citizens of El Paso County; and

**WHEREAS**, UMC is the anchor for the Texas Region 15 1115 Waiver program, and more specifically, the Delivery System Reform Incentive Program (“DSRIP”), a program operated by the Centers for Medicare and Medicaid Services whose mission is to improve the patient experience, improve the health of the population, and reduce the cost of healthcare; and

**WHEREAS**, City is a participant in the DSRIP program included in Region 15; and

**WHEREAS**, under DSRIP, both UMC and City are charged with meeting certain metrics, including increasing the amount of individuals who receive medical care, immunizations, and health screenings, as well as mental health services; and

**WHEREAS**, each party possesses certain records regarding the provision of health care services of mutually shared patients; and

**WHEREAS**, these records regarding mutually shared patients are a crucial component in satisfying the metrics set forth under DSRIP; and

**WHEREAS**, the Health Insurance Portability and Accountability Act (“HIPAA”) allows for the disclosure by a health care provider to another health care provider for “treatment, payment, and operations” without an authorization from the patient.

**NOW, THEREFORE**, for good and valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

1. **Purpose of Agreement.** Each party agrees on the terms and conditions of this

Agreement to collaborate and cooperate with the other in order to obtain information which will contribute to each party's meeting the immunization metrics under DSRIP.

2. **Designated Representative.** Each party hereby designates a representative (each a "Designated Representative") to whom all information under this Agreement shall be sent and who shall be designated by such party to have responsibility to distribute such information to the appropriate employees or other representatives of such party for review, action and/or decision. The Designated Representative of each party as of the date of this Agreement is identified on **Exhibit A** to this Agreement. Each party may, at any time, change its Designated Representative by a notice in writing delivered to the other party.

3. **Data Sharing.** It is the intent of the parties for City to develop and provide to UMC a listing of individuals who have received health care services through the Public Health Department beginning on January 01, 2022 and continuing on a monthly basis up until the termination of this Agreement. The data provided by City shall be minimally necessary and be limited to the individual's first and last name, date of birth, insurance status, primary care provider, date(s) of immunization, and immunization(s) received. For those individuals identified as being patients of UMC, UMC will provide minimally necessary information to City, limited to the patient's first and last name, insurance status, primary care provider, date of birth, date(s) of immunization and immunization(s) received. For those individuals identified as being patients of UMC, UMC will provide minimally necessary information to City, limited to patients first and last name, insurance status, primary care provider, date of birth, date(s) of service(s), type of medical service defined with current procedural terminology (CPT) code, international classification of disease ((CD) code, and immunization(s) received. Information shall be transmitted via secure, encrypted channels. No later than six months following receipt, UMC agrees to destroy any record provided by City, whether electronic or in paper format, of individuals not matching those patients in UMC's records.

4. **Parties' Relationship.** City and UMC shall have exclusive control of the management, assets, and affairs of their respective institutions. Each of the parties hereto shall be responsible only for its own acts and omissions with respect to patient care, and neither party by virtue of this Agreement assumes any liability for any debts or obligations of either a financial or a legal nature incurred by the other party to this Agreement.

5. **Term.** This Agreement shall be effective for the period beginning January 01, 2022 and ending December 31, 2024. Notwithstanding the foregoing, this Agreement may be terminated by either party for any reason by giving thirty (30) days prior written notice to the other party of its intention to withdraw from this Agreement.

6. **Exclusion from Federal Health Care Programs; Health Law Compliance.** City represents and warrants that neither City, nor to its knowledge, its employees, agents, or assigns, have been (a) convicted of a criminal offense related to healthcare (unless such person or entity has implemented a compliance program as part of an agreement with the federal government); or (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation under 42 U.S.C. 1320a-7, the OIG List of Excluded Individuals/Entities and/or the General Services Administration ("GSA") list of debarred contractors. City shall notify UMC within three (3) days of the time City receives notice of any

action being taken against City or its employees, agents, or assigns which could result in its exclusion from participating in the Federal health care programs. City acknowledges that UMC may terminate this Agreement without penalty or further payment upon the resolution of a pending criminal charge or proposed disbarment or exclusion which results in a conviction, disbarment or exclusion of City or its employees, agents, or assigns. Pursuant to Public Law 96-499, see. 952 (Sec. 1861 (v)(1) of the Social Security Act), the parties agree that: City shall, until the expiration of four (4) years after the furnishing of the services under this Agreement, retain and make available, under written request by the secretary of the U.S. Department of Health and Human Services, or upon written request, by the U.S. Comptroller General, or any of their duly authorized representatives, the contract and books, documents, and records of Contractor that are necessary to verify the nature and extent of the cost of the services under this Agreement. If City carries out any of the duties of this Agreement through a subcontract, with a value or cost of ten thousand dollars (\$10,000.00) or more over a twelve (12) month period with a related organization, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall retain and make available, upon written request by the Secretary of the U.S. Department of Health and Human Services, or upon written request by the U.S. Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents or records of such organization that are necessary to verify the nature and extent of such costs of the subcontracted services. In the event of a request for access, City agrees to notify UMC what response will be made to that request.

7. **Notices.** Any notices permitted or required by this Agreement will be deemed made on the day personally delivered in writing or mailed by certified mail, postage prepaid, to the other party at the address set forth below or to such other person and address as either party may designate in writing:

If to UMC:  
University Medical Center  
Attention: President & Chief Executive  
Officer  
4815 Alameda Avenue, 8<sup>th</sup> Floor  
El Paso, Texas 79905

If to City:  
City of El Paso  
Attention: City Manager  
P. O. Box 1890  
El Paso, Texas 79950-1890

COPY TO: City of El Paso  
Department of Public Health  
Attention: Director  
5115 El Paso Drive  
El Paso, Texas 79905

8. **Confidentiality.**

(a) **Patient Identifying Information.** All medical information and data concerning specific patients (including, but not limited to, the identity of the patients), derived from the business relationship set forth in this Agreement, shall be treated and maintained in a confidential manner by the parties to this Agreement and their employees and agents and shall not be released, disclosed, or published to any party other than as required or permitted under applicable laws. The parties to this Agreement shall comply with all applicable state and federal laws and regulations regarding confidentiality of patient records, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and the Privacy and Security

Standards (45 C.F.R. Parts 160 and 164) and the Standards for Electronic Transactions (45 C.F.R. Parts 160 and 162) (collectively, the “Standards”) promulgated or to be promulgated by the Secretary of Health and Human Services. To the extent either party believes the Standards require any additional agreement regarding the access to Protected Health Information, both parties agree to sign any such additional agreement. In the event either party requests the other party to sign such an agreement and the other party refuses, the party shall have the right to immediately terminate this Agreement.

(b) **Survival.** The provisions of this section shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

9. **Miscellaneous.**

(a) **Severability.** The invalidity or unenforceability of any provisions of this Agreement will not affect the validity or enforceability of any other provision.

(b) **Interpretation.** The headings used herein are for convenience only and do not limit or expand the contents of this Agreement.

(c) **No Waiver.** No waiver of a breach of any provision of this Agreement will be construed to be a waiver of any other breach of this Agreement, whether of a similar or dissimilar nature.

(d) **Survival.** Any provisions of this Agreement creating obligations extending beyond the term of this Agreement will survive the expiration or termination of this Agreement, regardless of the reason for such termination.

(e) **Amendments.** Any amendments to this Agreement will be effective only if in writing and signed by the parties hereto.

(f) **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

(g) **Assignment.** Neither party may assign its rights or obligations hereunder without the prior written approval of the other; provided, however, that such an assignment may be made to an entity which is directly or indirectly, wholly-owned or controlled by the same entity as the assigning party.

(h) **Changes in Law or Regulation.** In the event that legislation is enacted or regulations are promulgated or a decision of a court or administrative tribunal is rendered which affects or may affect, in the opinion of legal counsel of City or UMC, the legality of this Agreement or adversely affect the ability of either party to perform its obligations or receive the benefits intended hereunder, then, within fifteen (15) days following notice, each party will negotiate in good faith an amendment to this Agreement which will carry out the original intention of the parties to the extent possible in light of such legislation, regulation, or decision, and each party will execute such amendment. In the event that the parties cannot reach agreement on the terms and provisions of any such amendment within sixty (60) days following the notice provided in this paragraph, this Agreement may be terminated upon not less than thirty days’ prior written notice of termination from Primary-Care Safety-Net Provider to Hospital.

(i) **Referrals.** Nothing in this Agreement shall be construed as an offer or payment by one party to the other party or any affiliate of the other party of any cash or other remuneration, whether directly or indirectly, overtly or covertly, specifically for patient referrals or for recommending or arranging the purchase, lease, or order of any item or service.

(j) **No Violation.** Neither party shall be deemed to be in violation of this Agreement if it is, or reasonably determines it is, prevented from performing any of its duties or

obligations for any reason beyond such party's control, including, without limitation, flood, storm, strikes, acts of God or the public enemy, or statute, ordinance, regulation, rule or action of any applicable governmental entity.

(k) **No Joint Venture.** It is understood and agreed by the parties that nothing contained in this Agreement shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship between the parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. In no event shall either party be liable for the debts or obligations of the other of them, except as otherwise specifically provided in this Agreement.

(l) **Notice of Request for Information.** Each party shall notify the other party within five (5) days of any request by any governmental agency, whether local, state or federal, of any request for information of any kind pertaining to the other party. Said notice shall be given pursuant to the directions and requirements contained in this Agreement.

*(Signatures begin on following page.)*

IN WITNESS WHEREOF, this Agreement has been executed by the parties as reflected by the signatures which follow.

**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser  
Mayor

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Angela Mora, Director  
Department of Public Health

**EL PASO COUNTY HOSPITAL DIST.  
D/B/A UNIVERSITY MEDICAL  
CENTER OF EL PASO:**

\_\_\_\_\_  
R. Jacob Cintron  
President and Chief Executive Officer

Date: \_\_\_\_\_

**EXHIBIT A**

**Designated**

**Representatives Designated Representative for City**

Name: Claudia Lozano

Title: Medicaid Waiver Program Manager

Address: 5115 El Paso Drive

El Paso, TX 79905

Telephone: 915-212-6629

Emergency  
Telephone: 915-235-5662

E-mail: LozanoCS@elpasotexas.gov

**Designated Representative for UMC**

Name: Oscar Perez

Title: DSRIP Program Manager

Address: 4815 Alameda

El Paso, TX 79905

Telephone: 915-544-1200 ext 80508

Emergency  
Telephone: 575-312-2339

E-mail: oscar.perez@umcelpaso.org



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-335, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

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

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

**AGENDA LANGUAGE:**

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

Danny Padilla to the Greater El Paso Civic, Convention and Tourism Advisory Board by Representative Henry Rivera, District 7.

DATE: March 21, 2022

TO: City Clerk

FROM: City Representative Henry Rivera

ADDRESS: 300 N. Campbell St., 2<sup>nd</sup> Floor TELEPHONE (915) 212-0007

Please place the following item on the (Check one): CONSENT X REGULAR \_\_\_\_\_

Agenda for the Council Meeting of March 29, 2022  
Appointment of Danny Padilla to the Greater El Paso Civic, Convention and Tourism Advisory  
Item should read as follows: Board by City Representative Henry Rivera, District 7

**BOARD COMMITTEE/COMMISSION APPOINTMENT/REAPPOINTMENT FORM**

NAME OF BOARD/COMMITTEE/COMMISSION: Greater El Paso Civic, Convention and Tourism Advisory Board

NOMINATED BY: City Representative Henry Rivera DISTRICT: 7

NAME OF APPOINTEE Danny Padilla  
(Please verify correct spelling of name)

E-MAIL ADDRESS: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CITY: El Paso ST: TX ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: TX ZIP: \_\_\_\_\_ PHONE: ( \_\_\_\_\_

DOES THE PROPOSED APPOINTEE HAVE A RELATIVE WORKING FOR THE CITY? YES: \_\_\_\_\_ NO X

IF SO, PLEASE PROVIDE HIS OR HER NAME, CITY POSITION AND RELATIONSHIP TO THE PROPOSED APPOINTEE: N/A

HAS APPOINTEE BEEN A MEMBER OF OTHER CITY BOARDS/COMMISSIONS/COMMITTEES? IF SO, PLEASE PROVIDE NAMES AND DATES: Greater El Paso Civic, Convention and Tourism Advisory Board (2012-2016)  
**LIST ALL REAL ESTATE OWNED BY APPOINTEE IN EL PASO COUNTY (BY ADDRESS):**

WHO WAS THE LAST PERSON TO HAVE HELD THIS POSITION BEFORE IT BECAME VACANT?  
Wolfgang Jonas

NAME OF INCUMBENT: \_\_\_\_\_

EXPIRATION DATE OF INCUMBENT: 08/27/2022

REASON PERSON IS NO LONGER IN OFFICE (CHECK ONE): TERM EXPIRED: \_\_\_\_\_  
RESIGNED \_\_\_\_\_  
REMOVED x

DATE OF APPOINTMENT: 03/29/2022

TERM BEGINS ON : 03/30/2022

EXPIRATION DATE OF NEW APPOINTEE: 08/27/2022

PLEASE CHECK ONE OF THE FOLLOWING: 1<sup>st</sup> TERM: \_\_\_\_\_  
2<sup>nd</sup> TERM: \_\_\_\_\_  
UNEXPIRED TERM: x



# Danny Padilla

## PROFESSIONAL SUMMARY

Serviced-focused General Manager dedicated to delivering positive customer experiences to promote loyalty and repeat business. Orchestrates optimal resource utilization to handle expected operational needs. Sales leader with sound judgment, good planning abilities and interpersonal communication strengths.

## SKILLS

- Department Oversight
- Employee Motivation
- Finance and Accounting Oversight
- Team Leadership
- Recruitment and Hiring
- Performance Assessment
- Budget Control
- Quality Assurance
- Training Management
- Human Resources Oversight
- Financial Statement Review

## WORK HISTORY

### GENERAL MANAGER

09/2001 to CURRENT

#### Hyatt Place El Paso Airport | El Paso, Texas

- Managed budget implementations, employee reviews, training, schedules and contract negotiations.
- Developed and maintained relationships with customers and suppliers through account development.
- Maximized efficiency by coaching and mentoring personnel on management principles, industry practices, company procedures and technology systems.
- Implemented operational strategies and effectively built customer and employee loyalty.
- Organized budgets, oversaw P&Ls and achieved margin targets consistently to stay on track with growth plans.
- Reduced costs, managed delivery schedules and performed risk analysis to improve overall profitability.
- Drove year-over-year business growth while leading operations, strategic vision and long-range planning.
- Assessed reports to evaluate performance, develop targeted improvements and implement changes.
- Enhanced operational efficiency and productivity by managing budgets, accounts and costs.



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-360, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

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

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

**AGENDA LANGUAGE:**

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

Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees by Mayor Oscar Leeser.

DATE: March 22, 2022

TO: City Clerk

FROM: Mayor Oscar Leoser

ADDRESS: 300 N. Campbell, 2<sup>nd</sup> Floor TELEPHONE (915) 212-0021

Please place the following item on the (Check one): CONSENT X REGULAR \_\_\_\_\_

Agenda for the Council Meeting of March 29, 2021

Item should read as follows: Appointment of Deborah G. Hamlyn to the City of El Paso Employees Retirement Trust Board of Trustees by Mayor Oscar Leoser

**BOARD COMMITTEE/COMMISSION APPOINTMENT/REAPPOINTMENT FORM**

NAME OF BOARD/COMMITTEE/COMMISSION: City of El Paso Employees Retirement Trust Board of Trustees

NOMINATED BY: Oscar Leoser DISTRICT: Mayor

NAME OF APPOINTEE Deborah G. Hamlyn  
(Please verify correct spelling of name)

E-MAIL ADDRESS: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: TX ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

CITY: El Paso ST: TX ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

**DOES THE PROPOSED APPOINTEE HAVE A RELATIVE WORKING FOR THE CITY?** YES: \_\_\_\_\_ NO x  
**IF SO, PLEASE PROVIDE HIS OR HER NAME, CITY POSITION AND RELATIONSHIP TO THE PROPOSED APPOINTEE:**

**HAS APPOINTEE BEEN A MEMBER OF OTHER CITY BOARDS/COMMISSIONS/COMMITTEES? IF SO, PLEASE PROVIDE NAMES AND DATES:** AD HOC CHARTER ADVISORY COMMITTEE - 2018  
**LIST ALL REAL ESTATE OWNED BY APPOINTEE IN EL PASO COUNTY (BY ADDRESS):**

WHO WAS THE LAST PERSON TO HAVE HELD THIS POSITION BEFORE IT BECAME VACANT?

NAME OF INCUMBENT: Nicholas J. Constanzo

EXPIRATION DATE OF INCUMBENT: 4/30/2022

REASON PERSON IS NO LONGER IN OFFICE (CHECK ONE): TERM EXPIRED: x  
RESIGNED \_\_\_\_\_  
REMOVED \_\_\_\_\_

DATE OF APPOINTMENT: 3/29/2022

TERM BEGINS ON : 5/1/2022

EXPIRATION DATE OF NEW APPOINTEE: 4/30/2024

PLEASE CHECK ONE OF THE FOLLOWING: 1<sup>st</sup> TERM: x

2<sup>nd</sup> TERM: \_\_\_\_\_

UNEXPIRED TERM: \_\_\_\_\_

## DEBORAH G. HAMLYN

### SUMMARY

Retired native El Pasoan and locally recognized leader with close to 40 years of proven public service experience with the City of El Paso in a variety of progressively responsible positions of senior management and executive levels. Held several city planning, grant and senior leadership positions; was the first female Department Head of a large umbrella department; served as an Assistant Chief Administrative Officer and Deputy City Manager. Specific areas of expertise included: capital project implementation, monitoring/compliance and technical assistance; strategic and collaborative planning; development of policies and procedures; executive coaching, recruiting and hiring; grantsmanship; problem-solving and consensus-building; research; community capacity building; creative affordable housing, neighborhood and community development projects; and strong relationships and knowledge of El Paso arts and culture community.

Primary Characteristics include:

- Proven leader, honest, trustworthy
- Strong organization and process skills
- Self-motivated, 'people person'
- Consensus-builder, good communicator
- Positive attitude, great energy
- Know and embrace the community
- Conversant in Spanish, but not fully bilingual.

### Consultant – 2012-Present

Successful Executive Recruiting; Administrative Management & Oversight; Community Consensus Building; Planning & Development; Grant Writing and Implementation; Human Resource Assessment and Solutions; Procurement and Project Management; Art, Music & Cultural Strategic Planning and Implementation.

### Highlights include:

---**Downtown Management District – (DMD)-** served as the Interim DMD Director for approximately 8 months and led the recruitment for the new DMD Director from Omaha, Nebraska. Joe Gudenrath was retained and continues to successfully hold that position.

---**Center Against Sexual and Family Violence – (CASFV) –** had a long term seat on the Board of Directors (including Chairman) and assisted the Director in conducting a Capital Campaign to raise \$7.4 million dollars to construct a new State of the Art Shelter.

---**Temple Mount Sinai - (TMS)** – as a member of the Board of Trustees for TMS, I co-chaired the

recruitment of a new Rabbi. Conducted a year long search with a dedicated Committee to successfully retain Rabbi Ben Zeidman who came from Temple Emanu-El, the first Reform Jewish congregation in New York City.

### **City of El Paso, Texas**

#### **Deputy City Manager – Quality of Life/ Community Services 2005 to 2012**

Hired as Deputy City Manager (DCM) in 2005 by Joyce Wilson, first City Manager, immediately following a community vote on a charter amendment to create a Council/Manager form of government. DCM responsibilities included oversight of the operation of a large Portfolio of highly diversified City Departments with a myriad of different and sometimes competing issues---Community and Human Development; Economic Development/Planning; Parks and Recreation; Health and Animal Services; Library; Museums and Cultural Affairs; Convention and Visitors Bureau; and Zoo. Tasks included but were not limited to daily problem solving between Departments and elected officials; highly responsible and complex administrative management; oversight of internal operations service delivery; and assuring high productivity and efficiency while delivering great customer service.

#### **Significant achievements accomplished immediately preceding retirement:**

- 2012 Quality of Life Bond Issue – Team leader for development & implementation of successful \$474 solicited proposals & consolidated program for City Council approval to send to the voters for November, 2012 Election . Positive outcome- large turnout.
- Collaborated with an internal consultant to conduct an extensive assessment of the Planning, Building Permitting and Inspection functions to determine how to better serve the public in a more direct and expeditious manner. Result--- creation of a new and successful One Stop Business Center which accelerated the permitting process for residential construction and short term projects.

#### **Assistant Chief Administrative Officer Quality of Life Portfolio 2003 to 2005**

Appointed by Mayor Wardy to this position as the City transitioned to the Council/Manager form of government. Duties included assisting in the consolidation of approximately 30 City Departments into 4 separate large portfolios with similar missions, goals and objectives. Duties included oversight of the Quality of Life Departments – conducted individual detailed SWAT Analysis and identified gaps in resources going forward. Created strong networking capabilities between departments and provided leadership and guidance to assure continuity and strong team effort.

#### **Director - Community and Human Development Department 1987-2002**

Appointed first woman Department Head in the City of El Paso. Task- to lead a large federally funded grant department. Facilitated over \$280 million in public work projects, affordable housing, emergency shelter and social services to create more viable neighborhoods for low and moderate income families.

Significant achievements included:

- Created a multi-million dollar program to renovate the Old San Francisco Historic District. Received Best Proactive Showcase Award for innovative reuse of National Historic District.
- Team leader in crafting the successful application of El Paso Empowerment Zone Designation. Tremendous bottoms up process involving hundreds of residents.
- Created an Innovative Collaborative Planning Process of distribution of social service funding. Received Best Practice Award and subsequently duplicated nationally.

**1974 to 1987** -held various progressively successful Planning and Grant positions within the City of El Paso Municipal government.

**EDUCATION AND TRAINING**

1971-B.A. – Sociology – University of Texas-Austin  
 1974-M.A. – Urban Studies – Loyola University of Chicago

**PROFESSIONAL AFFILIATIONS/AWARDS**

El Paso Inc. Woman of Impact  
 Spirit of Amigo Award  
 El Paso Inc. Featured Precognición  
 Conquistador Award  
 Leadership Texas  
 YWCA 2007 REACH Award  
 Leadership El Paso  
 Woman of the Year in City Government  
 Who’s who in the Southwest

**CURRENT PROFESSIONAL AFFILIATIONS:**

Temple Mt. Sinai – Board of Trustees – First Vice President  
 El Paso Holocaust Museum & Study Center – Board Member  
 Woman’s Executive Forum – member & Past President  
 Dedon Verde Garden Club

**PREVIOUS PROFESSIONAL AFFILIATIONS:**

Hospitals of Providence – East Campus Governing Board Chairman  
 Center against Family & Sexual Violence – Board Member & Capital Campaign Committee  
 El Paso Humane Society  
 El Paso Jewish Federation  
 Rotary Club of El Paso  
 El Paso Empowerment Zone Corporation  
 El Paso Center for Non Profit Management  
 Greater El Paso Housing Development Corporation  
 El Paso Service Education Labor Corporation  
 American Planning Association  
 El Paso Pro Musica  
 El Paso Opera Company

El Paso Symphony Orchestra  
United Way of El Paso  
Kern Place Association



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-380, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

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

Members of the City Council, Representative Cissy Lizarraga (915) 212-0008

**AGENDA LANGUAGE:**

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

Alexandria Serra to the Ethics Review Commission by Representative Cissy Lizarraga, District 8.

DATE: March 23, 2022

TO: City Clerk

FROM: City Representative Cissy Lizarraga

ADDRESS: 300 N. Campbell St. TELEPHONE 915-212-0008

Please place the following item on the (Check one): CONSENT X REGULAR \_\_\_\_\_

Agenda for the Council Meeting of March 29, 2022

Item should read as follows: Appointment of Alexandria Serra to the Ethics Review Commission

**BOARD COMMITTEE/COMMISSION APPOINTMENT/REAPPOINTMENT FORM**

NAME OF BOARD/COMMITTEE/COMMISSION: Ethics Review Commission

NOMINATED BY: Cissy Lizarraga DISTRICT: 8

NAME OF APPOINTEE Alexandria Serra  
(Please verify correct spelling of name)

E-MAIL ADDRESS: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CITY: El Paso ST: TX ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_

CITY: El Paso ST: TX ZIP: \_\_\_\_\_ PHONE: \_\_\_\_\_

**DOES THE PROPOSED APPOINTEE HAVE A RELATIVE WORKING FOR THE CITY? YES: \_\_\_\_\_ NO X**  
**IF SO, PLEASE PROVIDE HIS OR HER NAME, CITY POSITION AND RELATIONSHIP TO THE PROPOSED APPOINTEE:**

**HAS APPOINTEE BEEN A MEMBER OF OTHER CITY BOARDS/COMMISSIONS/COMMITTEES? IF SO, PLEASE PROVIDE NAMES AND DATES: NO**

**LIST ALL REAL ESTATE OWNED BY APPOINTEE IN EL PASO COUNTY (BY ADDRESS):**

**WHO WAS THE LAST PERSON TO HAVE HELD THIS POSITION BEFORE IT BECAME VACANT?**

NAME OF INCUMBENT: Jesus Olivas

EXPIRATION DATE OF INCUMBENT: 02/20/2021

REASON PERSON IS NO LONGER IN OFFICE (CHECK ONE): TERM EXPIRED: X  
RESIGNED \_\_\_\_\_  
REMOVED \_\_\_\_\_

DATE OF APPOINTMENT: 03/29/2022

TERM BEGINS ON : 02/21/2022

EXPIRATION DATE OF NEW APPOINTEE: 02/20/2024

PLEASE CHECK ONE OF THE FOLLOWING: 1<sup>st</sup> TERM: X  
2<sup>nd</sup> TERM: \_\_\_\_\_  
UNEXPIRED TERM: \_\_\_\_\_

# ALEXANDRIA SERRA

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## EXPERIENCE

### **SERRA LAW, PLLC**

JULY 2016 – PRESENT

*Owner* (El Paso, TX)

- Manage a docket of 3,000+ active cases from Class C misdemeanors to 1<sup>st</sup> Degree felonies
- Supervise support staff as an active jury trial attorney
- Conduct legal research and draft appellate briefs
- Oversee all aspects of the business

### **YEE & ASSOCIATES, PC**

MAY 2011 – DECEMBER 2021

*Various legal and administrative positions* (Dallas, TX)

- Registered patent attorney
- Served as liaison between firm and local legal community to establish firm's brand in the Dallas legal market
- Managed a five-person team of legal professionals and facilitated firm recruiting at local universities
- Collaborated with a diverse team of engineers and corporate counsel from major aerospace companies on intellectual property issues

### **EL PASO COUNTY PUBLIC DEFENDER'S OFFICE**

NOVEMBER 2014 – JULY 2016

*Deputy Public Defender* (El Paso, TX)

- Served as court-appointed counsel for indigent clients
- Built trusting, productive relationships with clients and their families
- Analyzed documents, investigated facts, interviewed witnesses, and consulted experts

## EDUCATION

### **SMU DEDMAN SCHOOL OF LAW, Dallas, TX**

Juris Doctor, December 2013, *Magna Cum Laude*, Order of the Coif

*Activities:* The Innocence Project, The Death Penalty Project, Legal Research & Writing Tutor, Pro Bono Program, Hispanic Law Student Association, ADR Board, and Mock Trial Competition

*Honors:* Dorsey & Whitney Diversity Fellowship, Dean's List, and State Bar of Texas Scholarship

### **KANSAS STATE UNIVERSITY, Manhattan, KS**

B.S. Kinesiology, May 2008; Minors in Leadership Studies, Business, and Women's Studies, *Magna Cum Laude*

*Activities:* Leadership Ambassadors, AMERICORP Community Service Program, and Phi Kappa Phi

*Honors:* McKelvie Public Service Scholarship and American Forensics Association All-American (2008)

## **PROFESSIONAL AFFILIATIONS/COMMUNITY INVOLVEMENT**

PROJECT RAISING THE BAR, INC. – FOUNDER  
TEXAS CRIMINAL DEFENSE LAWYERS ASSOCIATION  
HISPANIC CHAMBER OF COMMERCE - DIPLOMAT  
KANSAS STATE UNIVERSITY – EL PASO ALUMNI PRESIDENT  
EL PASO LEADERSHIP ACADEMY – FORMER BOARD MEMBER

YSLETA ISD PARTNER IN EDUCATION  
QUEER BAR ASSOCIATION – FORMER VP  
STATE BAR OF TEXAS  
ATTORNEYS SERVING THE COMMUNITY  
WESTSIDE EL PASO DEMOCRATS

## **TEACHING/COACHING EXPERIENCE**

**EL PASO HIGH SCHOOL** FEBRUARY 2017–PRESENT

*Volunteer Debate Coach* (El Paso, TX)

- Coach high school cross-examination debaters and critique mock debates
- Led students to qualify for UIL state tournament as sophomores

**UNIVERSITY OF TEXAS – EL PASO** AUGUST 2015–DECEMBER 2017

*Volunteer Writing Tutor* (El Paso, TX)

- Reviewed, edited, and critiqued undergraduate students in writing
- Volunteered time to facilitate student collaboration and idea generation for writing projects
- Taught students about the legal system and help them conduct legal research for their writing assignments

**IVY CHRISTIAN ACADEMY** MARCH 2009 – MAY 2010

*Debate Instructor & Mock Trial Coach* (Fairfax, VA)

- Coached policy debate and impromptu speaking for South Korean middle school students
- Conducted mock trial speaking events
- Facilitated participation in the Academy's first English-only speech and debate tournament

**GEORGE WASHINGTON UNIVERSITY** JULY 2009 – MARCH 2010

*Legal Research & Writing Instructor*, School of Law (Washington, DC)

- Tutored high-risk minority law students in writing
- Taught legal writing principles in small classroom setting

**GEORGE MASON UNIVERSITY** JUNE 2008 – MAY 2011

*Assistant Forensics Coach*, Department of Communication (Fairfax, VA)

- Supervised, edited, and critiqued student speeches for intercollegiate speaking competitions
- Coached students in all aspects of extemporaneous speaking, impromptu speaking, and persuasion
- Led students to finish second in the nation and win two international titles



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File #: 22-327, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

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

**AGENDA LANGUAGE:**

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

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 greater than \$2,500.00. (See Attachment A)

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Maria O. Pasillas, (915) 212-1737

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** Goal 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.11 Provide efficient and effective services to taxpayers

**SUBJECT:**

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

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 greater than \$2,500.00. (See Attachment A)

**BACKGROUND / DISCUSSION:**

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

Approve property tax overpayment refunds greater than \$2,500.00, per the Texas Property Tax Code, Sec. 31.11 – Refunds of Overpayments or Erroneous Payments.

**PRIOR COUNCIL ACTION:**

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

Council has considered this previously on a routine basis.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?   X   YES    NO**

**PRIMARY DEPARTMENT:** Tax Office

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Sheryl R. Mack for Maria O. Pasillas*

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

TAX REFUNDS  
March 29, 2022

1. Laura P. Tercero, in the amount of \$3,828.19 made an overpayment on February 10, 2022 of 2021 taxes.  
(Geo. # 18PP-999-6464-4042)
2. Nathan and Ana Bentley, in the amount of \$4,382.41 made an overpayment on January 30, 2022 of 2021 taxes.  
(Geo. # H788-010-0460-0050)
3. Commercial Escrow, in the amount of \$2,586.50 made an overpayment on January 20, 2022 of 2021 taxes.  
(Geo. # H793-024-0100-0240)
4. TexStar Escrow, in the amount of \$3,503.78 made an overpayment on January 30, 2022 of 2021 taxes.  
(Geo. # T820-999-0080-0200)

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Laura D. Prine  
City Clerk

*Sheryl R. Mack for Maria O. Pasillas*  
Maria O. Pasillas, RTA  
Tax Assessor Collector



TAX OFFICE RECEIVED

MAR 09 2022

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 www.elpasotexas.gov/tax-office

LAURA P TERCERO  
8430 ALAMEDA AVE  
EL PASO, TX 79907

OP  
+2500

Geo No. 18PP-999-6464-4042	Prop ID 673809
Legal Description of the Property DEALER MOTOR VEH INV P140066 8430 ALAMEDA AVE	
OWNER: URBINA AUTO SALES	

2021 OVERAGE AMOUNT \$3,828.19 ✓

1: CITY OF EL PASO, 5: YSLETA 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 PROPERTY TAX REFUND: This application must be completed, signed, and submitted with supporting documentation to be valid.

<b>Step 1. Identify the refund recipient.</b> Show information for whomever will be receiving the refund.	Who should the refund be issued to:			
	Name: Laura P. Tercero			
	Address: 8430 Alameda Ave.			
	City, State, Zip: El Paso, TX 79907			
Daytime Phone No.: 915-330-8886		E-Mail Address: pattye09@live.com		
<b>Step 2. Provide payment information.</b> Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	Payment made by:	Check No.	Date Paid	Amount Paid
	Echeck	4359393	2/10/22	3828.19
<b>TOTAL AMOUNT PAID (sum of the above amounts)</b>				
<b>Step 3. Provide reason for this refund.</b> Please list any accounts and/or years that you intended to pay with this overage.	Please check one of the following:			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
<input type="checkbox"/> This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):				
<b>Step 4. Sign the form.</b> Unsigned applications cannot be processed.	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 guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )			
	SIGNATURE OF REQUESTOR (REQUIRED)		PRINTED NAME & DATE	
[Signature]		Laura Tercero 3-24-22		
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied		By: N.H. Date: 3-10-22		

Notes

Go To:

LUZR  
ACT80122 v1.90

03/11/2022 12:18:51  
ACTEP

DEPOSIT Remittance Detail

Summary Query

Summary

Deposit No.	Account No.	Remit Seq No.	Check No.	Payment Amount	Payment Agreement No.
EC021122	18PP99964644042				

Check/Receipt Images	Deposit No.	Receipt Date	Remit Seq No.	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No.	Payer
	EC021122	02/10/2022	50157133	CC004359393	EC	\$3,828.19	\$3,828.19	LG	18PP99964644042	31017159-LAURA P TERC
	RC220310	02/10/2022	50157133	CC004359393	EC	\$3,828.19	\$3,828.19	TR	18PP99964644042	31117582-TERCERO LAUI
	RC220310	02/10/2022	50157133	CC004359393	EC	\$3,828.19	\$3,828.19	TR	18PP99964644042	31017159-LAURA P TERC
	P20210000001	01/31/2022	50149658	1840	CH	\$6,111,023.51	\$3,577.74	PA	18PP99964644042	88888-COUNTY TAX OFFI
	RD3714085	03/17/2021	40726106	0000233724	CH	\$623.83	\$623.83	RD	18PP99964644042	29607443-TERCERO LAUI
	P20200000001	01/31/2021	46902105	1817	CH	\$6,036,397.91	\$3,596.68	PA	18PP99964644042	URBINA AUTO SALES
	P20190001	01/31/2020	43721639	1791	CH	\$5,651,502.86	\$1,423.86	PA	18PP99964644042	URBINA AUTO SALES
	IP02111998	02/08/2019	40726106	CC002409820	CR	\$623.83	\$623.83	PA	18PP99964644042	27187518-LAURA TERCEI
	R030219498	02/08/2019	40726106	CC002409820	CR	\$0.00	\$623.83	TR	18PP99964644042	27187518-LAURA TERCEI
	R030219498	02/08/2019	40726106	CC002409820	CR	\$0.00	\$623.83	LG	18PP99964644042	27187518-LAURA TERCEI
	RC210304	02/08/2019	40726106	CC002409820	CR	\$623.83	\$623.83	TR	18PP99964644042	29607443-TERCERO LAUI
	RC210304	02/08/2019	40726106	CC002409820	CR	\$623.83	\$623.83	TR	18PP99964644042	27187518-LAURA TERCEI
<b>Applied Total</b>							\$13,009.49			



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 www.elpasotexas.gov/tax-office

TAX OFFICE RECEIVED

MAR 07 2022

Geo No. H788-010-0460-0050	Prop ID 14504
Legal Description of the Property 46 HORIZON HEIGHTS #10 LOT 5 ( 14080.00 SQ FT) 316 BAIN CT 79928	
OWNER: BENTLEY NATHAN E & ANA C	
2021 OVERAGE AMOUNT \$4,382.41	

IVR PAYMENT

OP  
+2,500.00

6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO, 9: SOCORRO ISD, 14: HORIZON REGIONAL MUD, 15: EMERG. SERVICES DIST #1, 31: TOWN OF HORIZON CITY

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 PROPERTY TAX REFUND: This application must be completed, signed, and submitted with supporting documentation to be valid.

Step 1. Identify the refund recipient. Show information for whomever will be receiving the refund.	Who should the refund be issued to			
	Name: Nathan and/or Ana Bentley			
	Address: 316 Bain Ct.			
	City, State, Zip: Horizon City, TX 79928			
Step 2. Provide payment information. Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement.	Daytime Phone No.	E-Mail Address: bentfest@hotmail.com		
	Payment made by	Check No.	Date Paid	Amount Paid
	Nathan Bentley	0838	1-17-22 2-3-22	\$4,382.41
	<b>TOTAL AMOUNT PAID (sum of the above amounts)</b>			
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			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input checked="" type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
Step 4. Sign the form. Unsigned applications cannot be processed.	<input type="checkbox"/> This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):			
	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 guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )			
	SIGNATURE OF REQUESTOR (REQUIRED)		PRINTED NAME & DATE	
[Signature]		Ana Bentley		
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied By: N.H. Date: 3-11-22				

DEPOSIT Remittance Detail

## Summary Query

Summary

Deposit No.	Account No.	Remit Seq No.	Check No.	Payment Amount	Payment Agreement No.					
EC013122	H78801004600050									
Check/Receipt Pages	Deposit No.	Receipt Date	Remit Seq No.	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No.	Payer
	EC013122	01/31/2022	49841496	CC004303947	EC	\$4,382.41	\$4,382.41	LG	H78801004600050	30851665-IVR PAYMENT
	RC220311	01/31/2022	49841496	CC004303947	EC	\$4,382.41	\$4,382.41	TR	H78801004600050	31122977-BENTLEY NATH
	RC220311	01/31/2022	49841496	CC004303947	EC	\$4,382.41	\$4,382.41	TR	H78801004600050	30851665-IVR PAYMENT
	B02012265	01/30/2022	49800619	0838	CH	\$4,382.41	\$4,382.41	PA	H78801004600050	BENTLEY NATHAN E & A
	T12102000004	12/10/2020	45223919	00837	CH	\$4,694.15	\$4,694.15	PA	H78801004600050	BENTLEY NATHAN E & A
	RD3425269	03/06/2020	42932683	0000226112	CH	\$20.00	\$20.00	RD	H78801004600050	BENTLEY NATHAN E & A
	X0115201008	01/15/2020	42932683	00836	CH	\$4,633.33	\$4,613.33	PA	H78801004600050	BENTLEY NATHAN E & A
	X0115201008	01/15/2020	42932683	00836	CH	\$4,633.33	\$20.00	LG	H78801004600050	BENTLEY NATHAN E & A
	A01181990	01/18/2019	39999956	0835	CH	\$3,941.24	\$3,941.24	PA	H78801004600050	BENTLEY NATHAN E & A
	X1228171002	12/28/2017	36611848	00834	CH	\$4,133.99	\$4,133.99	PA	H78801004600050	BENTLEY NATHAN E & A
	X1213161002	12/13/2016	33309784	00832	CH	\$4,084.75	\$4,084.75	PA	H78801004600050	BENTLEY NATHAN E & A
	X1202151003	12/02/2015	30087328	00829	CH	\$4,003.54	\$4,003.54	PA	H78801004600050	BENTLEY NATHAN E & A
<b>Applied Total</b>							<b>\$87,440.07</b>			



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 www.elpasotexas.gov/tax-office

TAX OFFICE  
RECEIVED  
MAR 02 2022

21-0008

COMMERCIAL ESCROW  
10657 VISTA DEL SOL DR - SUITE I  
EL PASO, TX 79935-4504

OP  
+2,500.00

Records  
TAX OFFICE  
RECEIVED  
MAR 14 2022

Geo No. H793-024-0100-0240	Prop ID 265279
Legal Description of the Property 10 HORIZON VIEW ESTATES #24 LOT 24 (8000.00 SQ FT)	
OWNER: PEÑADO ADRIAN	

2021 OVERAGE AMOUNT \$2,586.50

6: COUNTY OF EL PASO, 7: EL PASO COMMUNITY COLLEGE, 8: UNIVERSITY MEDICAL CENTER OF EL PASO, 10: CLINT ISD, 14: HORIZON REGIONAL MUD, 15: EMERG. SERVICES DIST #1

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 PROPERTY TAX REFUND: *This application must be completed, signed, and submitted with supporting documentation to be valid.*

<b>Step 1. Identify the refund recipient.</b> Show information for whomever will be receiving the refund.	Who should the refund be issued to:			
	Name: <u>Commercial Escrow</u>			
	Address: <u>10657 Vista Del Sol Dr Ste I</u>			
	City, State, Zip: <u>El Paso TX 79935</u>			
<b>Step 2. Provide payment information.</b> Please attach copy of canceled check, original receipt, online payment confirmation or bank/credit card statement.	Daytime Phone No.: <u>915 541 4683</u>	E-Mail Address: <u>Juanesandoz Be attorney</u>		
	Payment made by: <u>Commercial Escrow</u>	Check No. <u>5980</u>	Date Paid <u>1/20/22</u>	Amount Paid <u>2586.50</u>
		<u>5990</u>		<u>287,271.67</u>
	<b>TOTAL AMOUNT PAID (sum of the above amounts)</b>			
<b>Step 3. Provide reason for this refund.</b> Please list any accounts and/or years that you intended to pay with this overage.	Please check one of the following.			
	<input type="checkbox"/> I paid this account in error and I am entitled to the refund.			
	<input type="checkbox"/> I overpaid this account. Please refund the excess to the address listed in Step 1.			
	<input type="checkbox"/> I want this payment applied to next year's taxes.			
<b>Step 4. Sign the form.</b> Unsigned applications cannot be processed.	<input type="checkbox"/> This payment should have been applied to other tax account(s) and/or year(s), escrow (listed below):			
	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 guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, Sec. 37.10. )			
	SIGNATURE OF REQUESTOR (REQUIRED)		PRINTED NAME & DATE	
<u>Juan E Juey</u>		<u>Juan E Juey</u>		
TAX OFFICE USE ONLY: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied		By: <u>NH</u> Date: <u>3-15-22</u>		

Deposit Status										
Notes										Go To
LUZR ACT80122 v1.90							03/16/2022 17:20:39 ACTEP			
DEPOSIT Remittance Detail										
Summary Query										Summary
Deposit No.		Account No.		Remit Seq No.		Check No.		Payment Amount		Payment Agreement No.
M214000A0001		H79302401000240								
Check/Receipt Images	Deposit No.	Receipt Date	Remit Seq No.	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No.	Payer
	M214000A0001	01/20/2022	49357996	5990	CH	\$287,277.67	\$824.78	PA	H79302401000240	4000-COMMERCIAL ESCI
	M214000A0001	01/20/2022	49357996	5990	CH	\$287,277.67	\$2,586.50	LG	H79302401000240	4000-COMMERCIAL ESCI
	O012821235	01/28/2021	46663854	451	CH	\$856.98	\$856.98	PA	H79302401000240	29432858-AUSTIN GLENN
+	X0203202002	01/31/2020	43546008	00613	CH	\$4,782.05	\$831.67	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0204192002	01/31/2019	40618646	00164	CH	\$1,826.45	\$5.56	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0205182010	01/30/2018	37760724	05412	CH	\$1,730.87	\$5.49	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0202172005	01/31/2017	34798392	05277	CH	\$1,662.57	\$5.44	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X020216B2003	01/31/2016	31610107	05143	CH	\$65.61	\$5.39	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0205152012	01/31/2015	28764030	05006	CH	\$1,813.29	\$5.24	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0203142003	01/31/2014	25610952	04857	CH	\$1,795.72	\$10.20	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0130122010	01/30/2012	20245070	04559	CH	\$1,689.85	\$4.93	PA	H79302401000240	AUSTIN GLENN L & ROS/
+	X0204112000	01/31/2011	18136973	04400	CH	\$1,663.02	\$4.91	PA	H79302401000240	AUSTIN GLENN L & ROS/
						Applied Total	\$5,217.40			



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 www.elpasotexas.gov/tax-office

TAX OFFICE  
RECEIVED  
MAR 07 2022

TEXSTAR ESCROW  
5809 ACACIA CIRCLE  
EL PASO, TX 79912

Geo No. 1820-999-0080-0200	Prop ID 99562
Legal Description of the Property 8 TRES SUENOS #1 LOT 2 (4517.88 SQ FT) 12904 ALFREDO APODACA DR	
OWNER: OCON VALERIA	

OP  
+2500

2021 OVERAGE AMOUNT 53,503.78

1. CITY OF EL PASO, 6. COUNTY OF EL PASO, 7. EL PASO COMMUNITY COLLEGE, 8. UNIVERSITY MEDICAL CENTER OF EL PASO, 9. SOCORRO ISD

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 PROPERTY TAX REFUND: This application must be completed, signed, and submitted with supporting documentation to be valid.

Step 1. Identify the refund recipient. Show information for whomever will be receiving the refund	Who should the refund be issued to:			
	Name:	TexStar Escrow		
Step 2. Provide payment information. Please attach copy of cancelled check, original receipt, online payment confirmation or bank/credit card statement	Address:	5809 Acacia Circle		
	City, State, Zip:	El Paso, Tx 79912		
	Daytime Phone No.:	915-201-4337	E-Mail Address:	angie@texstarloans.com
Step 3. Provide reason for this refund. Please list any accounts and/or years that you intended to pay with this overage.	Payment made by:	Check No.	Date Paid	Amount Paid
	Check	4607	1/19/22	\$ 3,503.78
Step 4. Sign the form. Unsigned applications cannot be processed	TOTAL AMOUNT PAID (sum of the above amounts)			
	Please check one of the following:			
	<input checked="" type="checkbox"/>	I paid this account in error and I am entitled to the refund.		
	<input type="checkbox"/>	I overpaid this account. Please refund the excess to the address listed in Step 1.		
TAX OFFICE USE ONLY:	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied	By: N/A	Date: 3-9-22

DEPOSIT Remittance Detail

## Summary Query

Summary

Deposit No.	Account No.	Remit Seq No.	Check No.	Payment Amount	Payment Agreement No.					
B02022265	T82099900800200									
Check/Receipt Pages	Deposit No.	Receipt Date	Remit Seq No.	Check No.	Payment Type	Payment Amount	Applied Amount	Transaction Type	Account No.	Payer
	B02022265	01/30/2022	49836320	004607	CH	\$70,495.83	\$3,503.78	LG	T82099900800200	25959829-TEXSTAR ESCF
	A01272265	01/27/2022	49580612	160877	CH	\$3,983.50	\$3,983.50	PA	T82099900800200	21022392-TEXAS TITLE C
	M20800000001	12/15/2020	45278757	201214123540	EF	\$241,485,823.54	\$2,911.72	PA	T82099900800200	800000-CORELOGIC
	M19800000001	12/16/2019	42270898	191213175283	EF	\$220,479,351.04	\$2,936.61	PA	T82099900800200	800000-CORELOGIC
	M18800000001	12/14/2018	39295991	181213099087	EF	\$198,523,744.87	\$2,364.46	PA	T82099900800200	800000-CORELOGIC
	M17RE1800001	12/18/2017	36356004	171215192214	EF	\$232,569,225.62	\$2,280.38	PA	T82099900800200	800000-CORELOGIC
	M16800000001	12/21/2016	33448420	161219150695	EF	\$213,062,589.29	\$2,220.68	PA	T82099900800200	800000-CORELOGIC
	M15800000001	12/31/2015	30589755	151231121119	EF	\$199,122,808.45	\$2,311.69	PA	T82099900800200	800000-CORELOGIC
	M14800000001	12/24/2014	27452431	141224101136	EF	\$200,035,948.32	\$2,516.81	PA	T82099900800200	800000-CORELOGIC
	M13800000001	12/30/2013	24637732	62075007	CH	\$133,990,884.95	\$2,468.03	PA	T82099900800200	800000-CORELOGIC
	M12800000001	12/17/2012	21840980	122059711	CH	\$137,358,358.38	\$2,393.99	PA	T82099900800200	800000-CORELOGIC
	M11800000001	12/30/2011	19580353	660423	CH	\$105,162,936.85	\$2,313.32	PA	T82099900800200	800000-CORELOGIC
						Applied Total	\$36,792.91			



Legislation Text

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File #: 22-316, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Municipal Courts, Lilia A. Worrell, (915) 212-5822  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

This linkage to Strategic Plan is subsection 2.7 - Maximize Municipal Court efficiency and enhance customer experience.

Request that the Director of Purchasing and Strategic Sourcing be authorized to issue a purchase order to Justice Systems, Inc. referencing Contract 2013-211R Municipal Court Software Rebid. This change order is to increase the contract by \$183,000.00 for a total amount not to exceed \$3,649,593.00. The change order will cover the expenses for Texting Services, a feature set of the Platform Product that interfaces with the Full Court Enterprise (FCE) operating system for five (5) year term.

**Contract Variance:**

No contract variance

Department:	Municipal Court
Award to:	Justice Systems, Inc. Albuquerque, NM
Total Estimated Amount:	\$183,000.00
Account No.:	111-522020-2535-11030-P1138 -PMC00010
Funding Source	Municipal Court Restricted Technology Fund
District(s):	All

This is a Request for Proposal, services contract.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Lilia Worrell, Director of El Paso Municipal Court, (915) 212-5822  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.7 – Maximize Municipal Court efficiency and enhance customer experience.

**SUBJECT:**

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a purchase order to Justice Systems, Inc. referencing Contract 2013-211R Municipal Court Software Rebid. This change order is to increase the contract by \$183,000.00 for a total amount not to exceed \$3,649,593.00. The change order will cover the expenses for Texting Services, a feature set of the Platform Product that interfaces with the Full Court Enterprise (FCE) operating system for five (5) year term.

**BACKGROUND / DISCUSSION:**

The change is to increase efficiency and enhance the Court's case management system to allow the use of text reminders to alert respondents to deadlines and actions related to their court cases.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

On March 1, 2022, City Council approved Motion to ratify contract and add Maintenance and Support for five (5) year term by \$789,273.50.

On February 15, 2022, City Council approved Motion to increase contract by \$60,475.50

On October 27, 2020 City Council approved Motion to increase contract by \$85,685.00

On April 5, 2016 City Council approved Resolution authorizing City Manager to sign a full court enterprise amendment 2 to contract 2013-211R for a total additional cost of \$76,805.00.

On May 12, 2015 City Council Approved Resolution Authorizing City Manager to sign a full court enterprise amendment 1 to contract 2013-211R for \$206,415.00.

On March 25, 2014 City Council approved the award of contract 2013-211R to Justice Systems, Inc. for twenty (24) months of implementation and five (5) years, for a total amount of \$2,231,175.00.

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$183,000.00

Funding Source: Municipal Court Restricted Technology Fund

Account: 522020-111-2535-11030-P1138-PMC00010

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_X\_ YES \_\_\_NO**

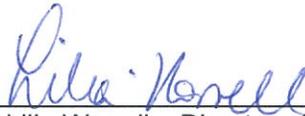
**PRIMARY DEPARTMENT:** The Municipal Court

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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Lilia Worrell – Director of El Paso Municipal Court

**COUNCIL PROJECT FORM  
(CHANGE ORDER)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT** agenda (under **PURCHASING REQUESTS, ETC.**) for the Council Meeting of **MARCH 29, 2022**.

**STRATEGIC GOAL: No 2: Set the Standard for a Safe and Secure City**

This linkage to Strategic Plan is subsection 2.7 – Maximize Municipal Court efficiency and enhance customer experience.

Request that the Director of Purchasing & Strategic Sourcing be authorized to issue a purchase order to Justice Systems, Inc. referencing Contract 2013-211R Municipal Court Software Rebid. This change order is to increase the contract by \$183,000.00 for a total amount not to exceed \$3,649,593.00. The change order will cover the expenses for Texting Services, a feature set of the Platform Product that interfaces with the Full Court Enterprise (FCE) operating system for five (5) year term.

Contract Variance:  
No contract variance

Department:	Municipal Court
Award to:	Justice Systems, Inc. Albuquerque, NM
Total Estimated Amount:	\$183,000.00
Account No.:	111-522020-2535-11030-P1138 -PMC00010
Funding Source	Municipal Court Restricted Technology Fund
District(s):	All

This is a Request for Proposal, services contract.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



### Schedule A – Texting

Justice Systems, Inc. (“**Justice**”) and the below identified Client enter into this Schedule A for the purposes of the Client being able to use the Enterprise Omni Texting Services.

Client Name:	The City of El Paso	Date:	Nov 3, 2021
Client No:	200036	JSI Contact:	Craig Nielson
Master Agreement:	FullCourt Enterprise Agreement dated April 2, 2014	Client Contact:	

The date this Schedule A is signed by the last party (as indicated by the date associated with that party’s signature) is the effective date of this Schedule A (“**Effective Date**”). Justice and Client agree as follows:

### 1. Texting Services

a) **Master Agreement.** The parties enter into this Schedule A under the above listed master agreement (“**Master Agreement**”). The Master Agreement governs Client’s use of FullCourt Enterprise (version 8.0 or later) (“**Platform Product**”). If there is any conflict between this Schedule A and the Master Agreement, this Schedule A prevails only in as it pertains to this Schedule A.

b) **Texting Services.** Client acknowledges that Justice and its parent organization, Ontario Systems (“**Affiliate**”), will provide the texting services. “**Texting Services**” means a feature set of the Platform Product that interfaces with the Ontario Cloud platform to provide a short message service (“**SMS**”) that permits the use of Short Codes to facilitate texting of messages between a Client and a consumer based on a defined list of keywords and associated messages with those keywords. “**Short Code**” means a combination of less than 10-digits to which a consumer can direct text messages to and from which a carrier translates the combination into a valid SMPP address for a consumer to receive a return text message. Client acknowledges that Justice may provide Client with a defined set of keywords and a defined set of response templates associated with those keywords. Aside from inserting Client’s identification information where permitted, Client may not modify these defined keywords and response templates and Client shall not send any other content through the Texting Services other than the response templates. In future releases, Justice may permit (1) Client to use a Long Code to send text messages; (2) Client to edit keywords and responses; or (3) permit other content to be sent through the Texting Services. Upon the release of those new versions, Justice will communicate those changes which will become part of the Texting Services and any corresponding restrictions as further functionality is provided. “**Long Code**” means a dedicated 10-digit phone number for Client to which a consumer can direct text messages to and from which a consumer can receive a return text.

c) **License Grant and Fees.** As part of Client’s use of Platform Product and under the Master Agreement, Client is subscribing to the Texting Services for the Subscription Term for the following fees:

1. **Subscription Fees.** Client shall pay the below listed monthly fees for the tier selected.

Monthly Subscription	
Tier 1: Up to 50,000 Texts	\$1,500 / Month
Tier 2: Up to 100,000 Texts	\$3,000 / Month

Client is selecting the below listed monthly subscription tier for the initial subscription term.

Initial Subscription
Tier 1

Justice does monitor Client’s usage of the Texting Services and may contact Client periodically to confirm appropriate usage in accordance with this Schedule A.

2. Implementation Fee. For the implementation services set forth in Section 1(e), Client shall pay the following:

Description	Fee
Implementation Services	\$3,000.00

d) User Terms and Consent. Client shall have each consumer agree to an agreement as part of the consumer agreeing to receive text messages from Client through the Texting Services and make these terms publicly available to consumers. Justice will provide to Client a template agreement for Client to use for this purpose. Justice provides this template "AS IS" and without any warranty of any kind. Client shall review the template agreement with Client's legal advisors and edit the agreement in a manner that addresses at a minimum the issues identified in the template agreement and meets any carrier requirements. Client assumes all risk and liability in using the template agreement with or without any modifications to the template agreement. Client shall obtain all required consent to send text messages to consumers.

e) Implementation of Texting Services. To implement the Texting Services, Justice shall work with Client to: (1) procure, in Client's name, a dedicated Short Code and dedicated long code (a 10-digit number); (2) set up Client's connection between the Platform Product test and production environments with the Texting Services platform; (3) configure the Platform Product to send text messages; (4) configure the Platform Product to respond to keyword text messages; (5) implement the contact restrictions feature set for the Texting Services; and (6) provide a basic end user training session. Justice will provide all services on a remote basis between the hours of 7am and 6pm mountain. Client shall provide at least one Client representative to receive training that is knowledgeable with the Platform Product and Client shall test the Texting Services by, among other things, using each keyword and template response in messages with Client's own employees prior to using the Texting Services in production and to communicate with consumers.

f) Fee Adjustments. Justice will evaluate Client's usage annually and should Client's usage exceed the numbers identified in Section 1(c)(1), Justice may adjust any fees charged under this Schedule A by providing Client ninety (90) days' advance written notice prior to the beginning of any Subscription Term.

g) Contact Restrictions. Justice will provide Client with default setting in the Texting Services as contact restrictions. Client shall not rely on Justice' guidance, advice, or counsel with respect to compliance with any rules regulations and laws. It is Client's responsibility to review these guidelines with its counsel and to approve of the contact restrictions.

h) Client Responsibilities. To use the Texting Services, Client shall (1) obtain and maintain any needed equipment, software, and Internet access services, (2) make any needed modifications to its network; and (3) do all other things needed to meet any carrier requirements or industry standards related to communicating through the Texting Services. To the extent Client receives or selects user credentials to use the Texting Services, Client shall maintain the confidentiality of the passwords and user credentials. Client acknowledges that Client is responsible for all activity occurring under the Client's user accounts and that Justice has no liability regarding the use of user credentials or the Texting Services by third parties. Client shall promptly notify Justice of an unauthorized use of the Texting Services or another breach of security related to the Texting Services and cooperate with Justice and its suppliers in investigating and mitigating the unauthorized use or breach.

i) Restrictions. Client shall not allow a third party to (1) modify, copy, or otherwise reproduce the Texting Services in whole or part; (2) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code form or structure of the software used to provide the Texting Services; (3) remove any proprietary notice or labels displayed on the software used to provide the Texting Services; (4) modify or create a derivative work of any part of the Texting Services; (5) use the Texting Services for any unlawful purpose; or (6) create Internet "links" to or from the Texting Services or "frame" or "mirror" any of the content which is part of the Texting Services.

j) Support Services. For the Texting Services, Justice shall provide Client with the support and maintenance services described in Justice' then-current support service guide ("Support Guide"). Justice may update the Support Guide by making any update available to Client. Upon Client reporting an issue in accordance with the Support Guide, Justice will use its reasonable efforts to correct or provide a workaround for any reproducible material nonconformance. Client acknowledges that Justice has no obligation to provide any support service and may charge Client its then current hourly rate for such assistance if such nonconformity results from: (1) something other than the Texting Services or another product or service provided by Justice, (2) a breach of Client's obligations under this Schedule A

or the Master Agreement, (3) Client's failure to stay on the most current version or the immediate prior version of the Platform Product; or (4) Client's negligent actions or omissions.

k) Acceptable Use Policy. Client shall comply with the acceptable use policy that applies to the use of the Texting Services and the Ontario Cloud platform attached hereto as Exhibit 1 ("Acceptable Use Policy"). For the sake of clarity, Texting Services is considered a Cloud Offering as that term is used throughout the Acceptable Use Policy.

## 2. Subscription Term

a) Subscription Term. The initial subscription term of this Schedule A begins on the Effective Date and remains in effect until the renewal date of the Master Agreement. Thereafter, this Schedule A automatically renews for successive one-year periods, unless a party notifies the other party at least 60 days in advance of the end of the Subscription Term that the party wants to terminate this Schedule A and if Client notifies Justice of its desire to terminate, Client executes a deactivation amendment with Justice. Upon the satisfaction of those conditions, the terminated subscriptions will end at the end of the current Subscription Term. "Subscription Term" means collectively the initial subscription term and all renewal subscription terms.

b) Early Termination. In addition to either party's right to terminate under Section 2(a), either party may terminate this Schedule A due to the other party's breach of this Schedule A or the Master Agreement by providing 30 days' advance written termination notice to the breaching party describing the breach; provided, however, that the breaching party does not cure such breach within 30 days following delivery of the termination notice. If not, this Schedule A will be deemed terminated at the end of the 30-day period.

c) Effect of Termination. Upon termination of this Schedule A, (1) Client will cease all use of and Justice will cease providing the Texting Services and any other items provided under this Schedule A; and (2) Client shall immediately destroy and purge from Client's computer systems all copies (whole or partial) of any documentation for the Texting Services. Upon Justice' request, Client will promptly certify in writing that Client has complied with this Section.

## 3. Payment Terms

a) Fees. Client shall pay the fee for the initial monthly subscription and implementation fees upon execution of this Schedule A. Upon the earlier of (1) Justice making the Texting Services available for Client to use in a production environment; or (2) ninety (90) days from the Effective Date of this Schedule A, Justice will begin invoicing Client for the subscription fees monthly in advance and Client shall pay those invoices for the Subscription Term. Client will also reimburse Justice for reasonable, pre-approved travel, lodging, and meal expenses at the City's approved rates, and pay to Justice all applicable sales taxes unless the City submits documentation showing its tax exempt status. Such expenses will be preapproved by both parties in writing prior to incurring expenses. Justice will invoice Client for these travel expenses and sales taxes as incurred monthly in arrears.

b) Payment Due Date and Late Payments. All fees set forth in this Schedule A are in and will be paid in U.S. dollars. Client shall pay to Justice the fees that are due upon Client's execution of this Schedule A within 30 days of execution of this agreement. Client shall pay to Justice all other invoices within thirty (30) days of the invoice date. If Client fails to make timely payments to Justice, Justice may suspend providing the Texting Services to Client upon written notice. For any amount not timely paid by Client, Client will pay interest at the lesser of: (a) 1.5% per month; or (b) the maximum interest rate allowed by law. Client shall remit payments in accordance with the Master Agreement.

## 4. General Terms

a) Third Party Factors and Span of Control. Client acknowledges that the Texting Services are dependent on the facilities, networks, connectivity, and the acts of third-party wireless providers/carriers, governmental entities, infrastructure providers, and other third parties ("Third Party Factors"). Client acknowledges that performance of the Texting Services may become effected by these Third Party Factors, these Third Party Factors are outside of Justice' control, and Justice is not liable for issues that arise due to these Third Party Factors.

b) Warranty. Justice will handle any defects with the Texting Services reported by Client in accordance with Section 1(j) and Justice warrants that Justice will provide those support services with reasonably qualified personnel and in a professional manner. Client acknowledges that none of the representations or warranties set forth in the Master Agreement apply to this Schedule A or the products or services provided under this Schedule A. Except for as set forth

in this Schedule A, JUSTICE SYSTEMS HEREBY DISCLAIMS ALL EXPRESS, STATUTORY, OR IMPLIED WARRANTIES, REPRESENTATIONS OR COVENANTS OF ANY KIND WITH REGARD TO THE TEMPLATE AGREEMENT, KEYWORDS, RESPONSE TEMPLATES, OR TEXTING SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, WARRANTIES AGAINST INFRINGEMENT, COMPLIANCE WITH LAWS, AND/OR THOSE ARISING OR DEEMED TO HAVE ARISEN FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, JUSTICE SYSTEMS EXPRESSLY DOES NOT WARRANT THAT THE KEYWORDS, RESPONSE TEMPLATES, OR TEXTING SERVICES WILL SATISFY CLIENT'S REQUIREMENTS, ARE WITHOUT DEFECT OR ERROR FREE, OR THAT THE OPERATION OF THE TEXTING SERVICES WILL BE TIMELY OR UNINTERRUPTED.

c) Texting Information. Client acknowledges that (1) the Texting Services will transmit the content of messages and in that process, information related to telephone numbers, device numbers and other data associated with text messages may be collected to perform the Texting Services ("Texting Information"); (2) Justice has no obligation to monitor or retain this Texting Information and may delete it any time after it is no longer needed or 30 days after termination of this Schedule A; and (3) texting can be an unsecure form of communication.

d) Intellectual Property. Client acknowledges that the Texting Services and template agreement, defined keywords and response templates, all related documentation for the Texting Services, and all materials provided by Justice in associated with the Texting are Justice' intellectual property and may only be used in association with the Texting Services as permitted under this Schedule A. If Client breaches this Section of this Schedule A, Justice may: (1) suspend providing the Texting Services and any other products or services Justice provides to Client; (2) terminate this Schedule A without need to provide the cure period required under Section 2(b); and/or (3) exercise any available remedy to Justice for violation of Justice' intellectual property right.

e) Indemnification. Regardless of anything to the contrary in the Master Agreement Justice will defend and indemnify Client against any third party claims resulting from: (a) Justice' violation of any Federal, state or local law, rule or regulation that is applicable to Justice; and (b) the Texting Services infringing or misappropriating a third party's U.S. patent rights, copyrights, trademark rights, trade secret rights, or any other intellectual property rights of such third party. This subsection (b) does not apply to any claim that results or arises from any combination of the Texting Services with any other software, hardware and/or technology not provided by Justice or its Affiliate, to the extent such claim would not have arisen but for such combination. Further, if a claim arises under subsection (b) above or Justice suspects such a claim will arise, Justice may: (i) modify the Texting Services in a manner that causes it to not infringe, misappropriate or otherwise violate such third party's rights; (ii) obtain the right for Client to continue to use the Texting Services as provided under this Agreement; or (iii) if the foregoing steps in (i) or (ii) are not reasonably possible or practicable, promptly terminate this Agreement upon providing notice to Client. To exercise Client's rights under this Section, Client shall (x) provide prompt notice of the claim and request that Justice defend the claim; (y) provide all reasonable requested information and cooperation in defending against the claim; and (z) give Justice sole control of the defense and/or settlement of the claim, at Justice' sole expense. If Justice fails to timely undertake the defense of a claim under this Section that Justice is obligated to defend, Client may undertake the defense and/or settlement of the claim itself and obtain reimbursement from Justice for Client's reasonable attorneys' fees, reasonable expenses, and any damages Client incurs as result of an adverse ruling. Client acknowledges and agrees that this Section sets forth Client's sole and exclusive remedies as it relates to any claim that arises from or relates to the infringement, misappropriation or violation of proprietary rights by Justice or Affiliate as it relates to the Texting Services.

f) Limitations of Liability. Regardless of anything to the contrary in the Master Agreement, Justice' liability to Client for any claim arising under or related to this Schedule A (whether based on contract, tort, negligence, strict liability, product liability, or otherwise) is limited to the fees paid by Client under this Schedule A for the Texting Services for the 12-month period immediately prior to when the claim arises. Regardless of anything to the contrary in the Master Agreement, IN NO EVENT WILL JUSTICE SYSTEMS OR ITS SUPPLIERS BE LIABLE TO CLIENT FOR LOSS OF DATA, LOST PROFITS, FAILURE OF MESSAGES TO BE DELIVERED, MESSAGING PROCESSING OR TRANSMISSIONS ERRORS, OR BE LIABLE TO CLIENT FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, EXEMPLARY, OR SPECIAL DAMAGES OF ANY TYPE OR NATURE, EVEN IF JUSTICE SYSTEMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

g) **Suspension of Texting Services.** Justice may modify the Texting Services, suspend providing the Texting Services, place further conditions on the use of the Texting Services, or terminate this Agreement if: (1) required to do so to comply with any law, regulations, or other requirement of a wireless service provider, Short Code provider, Long Code provider, mobile industry association, other regulatory body, or governmental authority; (2) Justice determines that any change in law, regulation or requirement governing the Texting Services makes it impractical or uneconomical to continue providing the Texting Services; or (3) Client uses the Texting Services in a manner that is fraudulent, illegal, improper, in violation of the Acceptable Use Policy, or would otherwise create liability for Justice.

h) **Total Agreement.** This Schedule A, including any exhibits attached hereto, and the Master Agreement constitute the complete and exclusive agreement between Client and Justice with respect to the subject matter of Schedule A, and supersedes all prior or contemporaneous oral or written communications, proposals, representations, understandings, or agreements not specifically incorporated herein. This Schedule A may not be amended except in a writing duly signed by Client and an authorized representative of Justice.

Each party is signing this Schedule A on the date stated in that party's signature block.

CLIENT	Justice Systems, Inc.
Signature:	Signature: <i>Bobbi Turner</i>
Printed Name:	Printed Name: Bobbi Turner
Title:	Title: Director of Finance
Date:	Date: March 9, 2022

*Valid for execution within 30 days of the Schedule A Date. Please scan and email the ENTIRE Schedule A and Exhibit(s) to Sonya Russell ([SRussell@justicesystems.com](mailto:SRussell@justicesystems.com)) for counter-signature by Justice, Inc.*



## Exhibit 1 – Acceptable Use Policy

Each of Justice' client's use of any or all of the Ontario Cloud offerings, associated telecommunication services and associated hosting environments ("**Cloud Offerings**") is governed by and subject to this Acceptable Use Policy ("**AUP**"). You, as a client of Justice ("**Client**"), acknowledge that this Justice may modify this AUP, from time to time, in order to define further permitted or prohibited uses that result from changes in law, changes in Justice' hosting providers' acceptable use policies, telecommunication carrier restrictions, or discovery of uses that pose a security risk or risk of performance degradation. Justice shall make any modification to the AUP electronically available to Client upon Client accessing any of the Cloud Offerings after the modifications are made.

1) Prohibited Use of the Cloud Offerings. This Section describes prohibited uses of the Cloud Offerings. Client shall not itself or allow anyone else to:

- a) Attempt to or actually forge authentication credentials, use the authentication credentials of another user, or damage, bypass, break, or otherwise circumvent any security mechanism of the Cloud Offerings, or use the Cloud Offerings in any other manner that poses a security risk to Justice, the hosting providers, the telecommunication carriers, or the users of the Cloud Offerings.
- b) Provide, disseminate, or post Client's Cloud Offerings authorization credentials to any other party.
- c) Use the Cloud Offerings to attempt to breach, circumvent, or hack a third party.
- d) Transmit to or through the Cloud Offerings any material that contains viruses, Trojan horses, worms, or any other malicious, harmful, or deleterious programs.
- e) Reverse-engineer the Cloud Offerings in order to find limitations, vulnerabilities, or to evade, disable, or render inaccurate accounting, billing, capacity limits, or other functions of the Cloud Offerings.
- f) Probe, scan, or test the vulnerability of the Cloud Offerings or monitor data or traffic on the Cloud Offerings without express written permission from Justice.
- g) Launch or facilitate a denial of service attack on the Cloud Offerings, any user of the Cloud Offerings, the hosting providers, or telecommunication carriers.
- h) Interfere with, disrupt, or otherwise create an undue burden on the access of any user of the Cloud Offerings or on the performance of the Cloud Offerings by sending a virus, overloading, flooding, spamming, mail-bombing the Cloud Offerings or by other means or perform other conduct that adversely impacts the availability, reliability, or stability of the Cloud Offerings.
- i) Use the Cloud Offerings to encourage, to facilitate, to engage in or otherwise in connection with (1) fraudulent activity, (2) the dissemination of any fraudulent goods, services, schemes, or promotions, or (3) other deceptive practices.
- j) Violate or facilitate the violation of any local, state, federal, or foreign law or regulation applicable to Client's business, the recording of telephone calls, proper use of the public telephony network, the collection of debt, or the transmission or handling of data.
- k) Violate the Truth in Caller ID Act or (1) create a false identity, phone number or Caller ID value, (2) forge any TCP/IP packet header or any part of the header information in any IP telephone call, (3) attempt to mislead others as to the identity of the sender or the origin of a message or phone call, or (4) otherwise use in any way the Cloud Offerings to send altered, deceptive or false information about the source of the originating network or IP telephony traffic.

- l) Distribute, publish, send, or facilitate the sending of any marketing, promotions, advertising, solicitations (like “spam”), or informational messages no matter how they are delivered (i.e., phone calls, SMS, text messages, voice mails, or faxes) that violate the CAN SPAM Act of 2003, the Telephone Consumer Protection Act, the Do-Not-Call Implementation Act, any anti-spam laws and regulation, any applicable guidelines published by the CTIA, the Mobile Marketing Association, or any other accepted industry associations, carrier guidelines, or any similar or analogous industry standards, third party policies or requirements in any other jurisdiction.
  - m) Use the Cloud Offerings to perform rate arbitrage for the purpose of bypassing or evading telecommunication charges or similar third-party charges.
  - n) Use the Cloud Offerings to make available gambling sites or services or disseminating, promoting, or facilitating child pornography.
  - o) Use the Cloud Offerings to connect with emergency service personnel or public safety answering points such as 911 or E911 service.
  - p) Use the Cloud Offerings to transmit or make available any material that infringes, misappropriates, or otherwise violates the intellectual property rights of others.
  - q) Engage in activities or transmit through the Cloud Offerings information that is: (1) abusive, (2) harassing, (3) libelous, (4) defamatory, (5) discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age, or (6) otherwise malicious or harmful to any person or entity.
  - r) Embed protected health information or personally identifiable information as part of any argument or URL provided to contact management solutions offered through the Cloud Offerings, with the sole exception of session arguments.
- 2) Right to Monitor and Enforce. Justice has the right to report users to proper law enforcement officials in the event of illegal activity and will fully cooperate with any criminal investigation into a user’s violation. Justice reserves the right, but does not assume the obligation, to investigate any violation of this AUP or misuse of services. Justice may remove, disable access to, or modify any content resource that violates this AUP. Justice’ failure to enforce provisions of this AUP will not be construed as a waiver of any right to do so at any time.
- 3) Reporting Violations. If Client or any of its users becomes aware of a violation of this AUP, Client shall promptly notify Justice and provide Justice with reasonably requested assistance to stop or remedy the violation.
- 4) Remedy. In the event Client violates this AUP, Justice may immediately suspend or terminate Client’s use of any or all of the Cloud Offerings until the violation is cured. In addition, Justice may exercise any other remedy available to Justice under law and under the agreement between Client and Justice.



Legislation Text

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File #: 22-315, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Police, Chief Gregory Allen, (915) 212-6564

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1181

**AGENDA LANGUAGE:**

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

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

**Award Summary:**

The award of Solicitation 2022-0414R Vehicle Washing Services to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, for a term of three (3) years for an estimated amount of \$198,000.00. This contract will allow washing all Police vehicle units.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$126,000.00 for the initial term, which represents a 175% increase due to the number of Police vehicle car washes per month.

Department:	Police
Vendor:	CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube Tucson, AZ
Item(s):	All
Annual Estimated Award:	\$66,000.00
Total Estimated Award:	\$198,000.00 (3 years)
Account No.:	321-522280-1000-21050
Funding Source:	Vehicle Heavy Equipment off Road Maintenance
District(s):	All

This is a Low Bid, monthly price contract.

The Purchasing and Strategic Sourcing and Police Departments recommend award as indicated to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, the sole lowest responsive, responsible bidder.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Chief Gregory Allen, El Paso Police Department, (915) 212-6564  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** ALL

**STRATEGIC GOAL:** No. 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency

**SUBJECT:**

The award of solicitation 2022-0414R Vehicle Washing Services to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, for a term of three (3) years for an estimated amount of \$198,000.00. This contract will allow washing all Police vehicle units.

**BACKGROUND / DISCUSSION:**

The award of this low bid procurement will allow the El Paso Police Department to wash approximately 500 police vehicle units with a vendor who has multiple locations throughout the City.

**SELECTION SUMMARY:**

Solicitation 2022-0114R was advertised on January 18, 2022 and January 25, 2021. The solicitation was posted on the City's website on January 18, 2022. An email (Purmail) notification was sent on January 20, 2022. There were forty-three (43) viewers online; one (1) bid was received; not being local. An Inadequate Competition Survey was conducted.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$126,000.00 for the initial term, which represents a 175% increase due to the number of Police vehicle car washes per month.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$198,000.00  
Funding Source: Vehicle Heavy Equipment off Road Maintenance  
Accounts: 321-522280-1000-21050

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  X  YES   NO**

**PRIMARY DEPARTMENT:** Police Department  
**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

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\*\*\*\*\***REQUIRED AUTHORIZATION**\*\*\*\*\*

**DEPARTMENT HEAD:**



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Chief Gregory Allen, El Paso Police Department

**COUNCIL PROJECT FORM  
(LOW BID)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **CONSENT** agenda for the Council Meeting of **March 29, 2022**.

**STRATEGIC GOAL: No. 2 – Set the Standard for a Safe and Secure City.**

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

**Award Summary:**

The award of solicitation 2022-0414R Vehicle Washing Services to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, for a term of three (3) years for an estimated amount of \$198,000.00. This contract will allow washing all Police vehicle units.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$126,000.00 for the initial term, which represents a 175% increase due to the number of Police vehicle units increased per month.

Department:	Police
Vendor:	CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube Tucson, AZ
Item(s):	All
Annual Estimated Award:	\$66,000.00
Total Estimated Award:	\$198,000.00 (3 years)
Account No.:	321-522280-1000-21050
Funding Source:	Vehicle Heavy Equipment off Road Maintenance
District(s):	All

This is a Low Bid, monthly price contract.

The Purchasing & Strategic Sourcing and Police Departments recommend award as indicated to CWPS Corp. dba Mister Car Wash, Oil Change Express, Mister Express Lube, the sole lowest responsive, responsible bidder.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Vehicle Washing Services**  
**Bid Opening Date: February 16, 2022**

**Solicitation #: 2022-0414**  
**Department: Police**

	<b>CWPS CORP.</b> dba Mister Car Wash Tucson, AZ Bidder 1 of 1
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**Group A: Police Department**

ITEM NO.	DESCRIPTION	MONTHLY PRICE	ANNUAL TOTAL	3 YEARS TOTAL			
		(A)	(A X 12) = (B)	(B x 3) = (C)			
1	CARS, PICKUP TRUCKS, VANS, SUV's	\$5,500.00	\$66,000.00	\$198,000.00			

THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.

BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:

TWO (2) ADDITIONAL YEAR AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR TO THE EXPIRATION OF THE ORIGINAL TERM OF THE CONTRACT	<input type="checkbox"/>
NO OPTION OFFERED	<input checked="" type="checkbox"/>

BIDS SOLICITED: 5    LOCAL BIDS SOLICITED: 3    BIDS RECEIVED: 1    LOCAL BIDS RECEIVED: 0    NO BID: 0

NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.

APPROVED BY: \_\_\_\_\_ /s/

DATE: 2/28/2022

2022-0414 Vehicle Washing Services

2022-0414 Vehicle Washing Services  
Bidder's List

Mister Car Wash  
222 E 5th Street,  
Tucson, AZ 85705

Magic Touch Car Wash  
650 S. Mesa Hills Dr.  
El Paso, TX 79912

Fleet Clean  
278 N. Babcock St  
Melbourne, FL 32935

Kwik Car Wash  
6115 Pinta Way,  
El Paso, TX 79912

Mister Car Wash  
4800 Osborne Dr.  
El Paso, TX 79922



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File #: 22-330, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

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

**AGENDA LANGUAGE:**

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

Discussion and action to authorize District 3 City Representative Cassandra Hernandez to attend Council meetings by video conference more than one regular meeting week in a row, for the meeting week of April 11, 2022 and the meeting week of April 25, 2022.

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

**DEPARTMENT:**

**AGENDA DATE:**

**CONTACT PERSON NAME AND PHONE NUMBER:**

**DISTRICT(S) AFFECTED:**

**STRATEGIC GOAL:**

**SUBJECT:**

**BACKGROUND/DISCUSSION:**

**PRIOR COUNCIL ACTION:**

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

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*



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File #: 22-381, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Members of the City Council, Representative Aleksandra Annello, (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 direct the City Manager to admit one representative of the American Federation of State County and Municipal Employees (AFSCME) Local 59 as an additional member of the Ad Hoc Charter Advisory Committee to be a technical advisor and to have that modification come back to council in two weeks.

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

**DEPARTMENT:** MAYOR AND COUNCIL

**AGENDA DATE:** March 29, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:**

City Representative Aleksandra Annello, 915-212-0002

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** (Goal 5 - Promote Transparent and Consistent Communication Amongst All Members of the Community )

**SUBJECT:**

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

Discussion and action to direct the City Manager to admit one representative of AFSCME Local 59 as an additional member of the Ad Hoc Charter Advisory Committee to be a technical advisor and to have that modification come back to council in two weeks.

**BACKGROUND / DISCUSSION:**

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

Section 3.7B of the City Charter allows for City Council to make appointments to or removals from standing or special boards. The authorizing document for the charter is a resolution. This agenda item would direct the City Manager to create a new resolution to modify the board in accordance with this directive.

Other City Boards such as the Regional Renewable Energy Advisory Council allow for members of committees or boards to exceed 9 appointees (8 from Representatives and 1 from the Mayor). An AFSCME representative is to be appointed to also represent City employees who are also representative of the City or El Paso as is the objective of the Charter Committee.

**PRIOR COUNCIL ACTION:**

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

Yes, on January 18, 2022, City Council activated the committee with 9 members.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*



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File #: 22-349, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

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

**All Districts**

Economic and International Development, Karina Brasgalla, (915) 212-1570

Economic and International Development, Elizabeth Triggs, (915) 212-0094

**AGENDA LANGUAGE:**

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

Presentation and discussion from the Office of Congresswoman Veronica Escobar, representative of Texas' 16th Congressional District, on the Infrastructure Investment and Jobs Act, its competitive and noncompetitive grant funding opportunities, other funding and legislative accomplishments and opportunities, and the upcoming FY2023 appropriations process.

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

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Karina Brasgalla; 915-212-1570  
Elizabeth Triggs; 915-212-0094

**DISTRICT(S) AFFECTED:** ALL

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

**SUBGOAL:** Goal 6.8: Support transparent and inclusive government

**SUBJECT:**

Presentation and discussion from the Office of Congresswoman Veronica Escobar, representative of Texas' 16<sup>th</sup> Congressional District, on the Infrastructure Investment and Jobs Act, its competitive and noncompetitive grant funding opportunities, other funding and legislative accomplishments and opportunities, and the upcoming FY2023 appropriations process.

**BACKGROUND / DISCUSSION:**

The Office of Congresswoman Escobar will provide Council and the public with an overview of the Infrastructure Investment and Jobs Act, approved on November 15, 2021, including information on grant funding opportunities that may be made available or supplemented through the Act. In addition, the presentation will cover other funding and legislative accomplishments and opportunities, including information on the Community Funding Projects approved via the FY2022 Omnibus Bill; as well as provide information on the upcoming FY2023 appropriations process and a description of their district office services and engagement for constituents.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO**

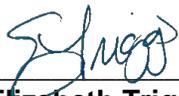
**PRIMARY DEPARTMENT:** City Manager's Office

**SECONDARY DEPARTMENT:** Economic & International Development

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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**Elizabeth Triggs, Director, Economic & International Development**

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



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-331, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

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

**AGENDA LANGUAGE:**

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

Budget Update.

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

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON NAME AND PHONE NUMBER:** K. Nicole Cote, City Manager's Office (915) 212-1092

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:** 6. Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** N/A

**SUBJECT:** Budget Update

**BACKGROUND / DISCUSSION:**

Budget Update

**PRIOR COUNCIL ACTION:** N/A

**AMOUNT AND SOURCE OF FUNDING:** N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

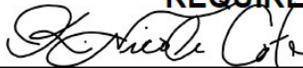
**PRIMARY DEPARTMENT:** City Manager's Office - Office of Management and Budget

**SECONDARY DEPARTMENT:** All City

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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



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**File #: 22-333, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

City Manager's Office, Juliana Baldwin-Munoz, (915) 212-1204

**AGENDA LANGUAGE:**

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

Presentation and discussion providing a report from the following Goal Teams:

1. Vision Block: Safe and Beautiful Neighborhoods:
  - a) Goal 2 (Safe and Secure City)  
Assistant Fire Chief, Robert Arvizu, Assistant Police Chief, Zina Silva
  - b) Goal 7 (Infrastructure)  
Grant Funded Program Director, Yvette Hernandez
  - c) Goal 8 (Healthy, Sustainable Community)  
Managing Director, Ellen Smyth

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

**DEPARTMENT:** City Manager's Department

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON NAME AND PHONE NUMBER:** Performance Office, Juliana Baldwin-Munoz (915) 212-1204

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:**

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

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

**SUBGOAL:**

**6.4- Implement leading-edge practices for achieving quality and performance excellence**

**SUBJECT:**

Presentation and discussion providing a report from the following Goal Teams:

1. Vision Block: Safe and Beautiful Neighborhoods:
  - a. Goal 2 (Safe and Secure City)  
Assistant Fire Chief, Robert Arvizu  
Assistant Chief, Zina Silva
  - b. Goal 7 (Infrastructure)  
Grant Funded Program Director, Yvette Hernandez
  - c. Goal 8 (Healthy, Sustainable Community)  
Managing Director, Ellen Smyth

**BACKGROUND / DISCUSSION:**

Goal team reporting ensures a systematic approach is sustained for operating departments to share progress made on strategic objectives across the eight goals as outlined and adopted in the Strategic Plan by the City Council. The presentation will highlight team accomplishments, provide the status of key deliverables for the current fiscal year as mid-year operations report and discuss key strategic opportunities and challenges.

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

**PRIOR COUNCIL ACTION:**

Most recent Strategic Planning Session convened December 1-2, 2021.

**AMOUNT AND SOURCE OF FUNDING:**

N / A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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



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File #: 22-345, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 4**

Streets and Maintenance, Hannah Allen, (915) 212-0118

**AGENDA LANGUAGE:**

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

An Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III - Parking Prohibited at all times on certain streets) of the City Code, to add paragraph 387 to prohibit parking on certain portions of Schwarzkopf Drive; the penalty being provided in Chapter 12.84 of the El Paso City Code.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** April 12, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Hannah Adele Allen (Williams), (915) 212-0118

**DISTRICT(S) AFFECTED:** 4

**STRATEGIC GOAL:** 7 – Enhance and Sustain El Paso's Infrastructure Network

**SUBGOAL:** 7.3 – Enhance a regional comprehensive transportation system

**SUBJECT:**

Amend Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III – Parking Prohibited at all times on certain streets) of the City Code, to add paragraph 387 to prohibit parking on certain portions of Schwarzkopf Drive; the penalty being provided in Chapter 12.84 of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

The Streets and Maintenance Department received a request from a constituent to repaint the faded red curb (fire lane) along Schwarzkopf Drive. Upon investigation, the Streets and Maintenance and Fire Departments did not find any supporting files of the existing fire lane (signs and red curb) on record.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Streets and Maintenance

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



3-21-22

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Richard Bristol, Streets and Maintenance Director

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.88 (SCHEDULES), SECTION 12.88.030 (SCHEDULE III – PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS) OF THE CITY CODE, TO ADD PARAGRAPH 387 TO PROHIBIT PARKING ON CERTAIN PORTIONS OF SCHWARZKOPF DRIVE; THE PENALTY BEING PROVIDED IN CHAPTER 12.84 OF THE EL PASO CITY CODE.**

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

**SECTION 1.** That Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III – Parking prohibited at all times on certain streets), is hereby amended to add Paragraph 387 as follows:

387. Schwarzkopf Drive, at the western intersection with Collin Powell Avenue along the east curb line, north for 198 feet; thence east for 1,150 feet along the curb line; thence south for 198 feet along the curb line to the eastern intersection with Colin Powell Avenue.

**SECTION 2.** Except as herein amended, Title 12 of the El Paso City Code shall remain in full force and effect.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

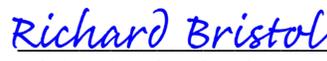
**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Roberta Brito  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Richard Bristol, Director  
Streets & Maintenance Department



Legislation Text

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File #: 22-312, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Streets and Maintenance, Richard J. Bristol, (915) 212-7000  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

The linkage to the Strategic Plan is subsection 7.2 - Improve competitiveness through infrastructure improvements impacting the quality of life

**Award Summary:**

Discussion and action on the award of Solicitation 2022-0004 Security Services - Municipal Buildings to Night Eyes Protective Services, Inc. for an initial three (3) year term for an estimated amount of \$2,063,664.00. The award also includes a two (2) year option for an estimated amount of \$1,375,776.00. The total value of the contract is, including the initial term plus the option for a total of five (5) years, for an estimated amount of \$3,439,440.00. This contract will allow security services at various municipal buildings.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$1,128,945.60 for the initial term, which represents a 120.78% increase due to increase in labor costs and additional locations.

Department:	Streets and Maintenance
Vendor:	Night Eyes Protective Services, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$687,888.00
Initial Term Estimated Award:	\$2,063,664.00 (3 years)
Total Estimated Award:	\$3,439,440.00 (5 years)
Account No.:	532 - 1000 - 522120 - 31040 - P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing and Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Night Eyes Protective Services, Inc., the bidder offering the best value bid.

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

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Richard J. Bristol, Streets and Maintenance Director, (915) 212-7000  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**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 2022-0004 Security Services – Municipal Buildings to Night Eyes Protective Services, Inc. for an initial three (3) year term for an estimated amount of \$2,063,664.00. The award also includes a two (2) year option for an estimated amount of \$1,375,776.00. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$3,439,440.00.

**BACKGROUND / DISCUSSION:**

This contract will allow security services at various municipal buildings.

**SELECTION SUMMARY:**

Solicitation was advertised on November 2, 2021 and November 9, 2021. The solicitation was posted on City website on November 2, 2021. The email (Purmail) notification was sent out on November 4, 2021. There were a total of fifty (50) viewers online; five (5) bids were received; three (3) from local suppliers.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$1,128,945.60 for the initial term, which represents a 120.78% increase due to increase in labor costs and additional locations.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$2,063,664.00

Funding Source: General Fund

Account: 532 – 1000 – 522120 – 31040 – P3120

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

PRIMARY DEPARTMENT: Streets and Maintenance Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:



3-14-22

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Richard J. Bristol – Streets and Maintenance Director

**COUNCIL PROJECT FORM  
(BEST VALUE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

**STRATEGIC GOAL: NO. 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 2022-0004 Security Services – Municipal Buildings to Night Eyes Protective Services, Inc. for an initial three (3) year term for an estimated amount of \$2,063,664.00. The award also includes a two (2) year option for an estimated amount of \$1,375,776.00. The total value of the contract is, including the initial term plus the option for a total of five (5) years, for an estimated amount of \$3,439,440.00. This contract will allow security services at various municipal buildings.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$1,128,945.60 for the initial term, which represents a 120.78% increase due to increase in labor costs and additional locations.

Department:	Streets and Maintenance
Vendor:	Night Eyes Protective Services, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$687,888.00
Initial Term Estimated Award:	\$2,063,664.00 (3 years)
Total Estimated Award:	\$3,439,440.00 (5 years)
Account No.:	532 – 1000 – 522120 – 31040 – P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Night Eyes Protective Services, Inc., the bidder offering the best value bid.

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

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

**CITY OF EL PASO BEST VALUE SCORESHEET**

**PROJECT:** 2022-0004 Security Services - Municipal Buildings

*Evaluation of Submittal*

	MAX POINTS	Night Eyes Protection Services, Inc.	Mike Garcia Merchant Security, LLC	Vets Securing America, Inc.	Universal Protection Service, LP dba Allied Universal Security Services	TriCorps Security, Inc.
Factor A - Price	30	22.85	30.00	16.93	20.90	25.41
Factor B - Experience – Comparable Contracts	30	28.67	28.00	26.00	19.33	8.00
Factor C - References	30	30.00	14.30	18.40	19.90	10.00
Factor D – Employee Medical Benefit and Incentives	10	2.00	2.00	2.00	2.00	2.00
<b>TOTAL SCORE</b>	<b>100</b>	<b>83.52</b>	<b>74.30</b>	<b>63.33</b>	<b>62.13</b>	<b>45.41</b>
		1	2	3	4	5



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Services for Municipal Buildings**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0004**  
**Department: Streets & Maintenance**

				Mike Garcia Merchant Security, LLC El Paso, TX				Night Eyes Protective Services, Inc. El Paso, TX				TriCorps Security, Inc. Clint, TX			
				Bidder 1 of 5				Bidder 2 of 5				Bidder 3 of 5			
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total
1	Armed Guard Services for City Hall Campus (City 1 and 2, 3 and 4)	Hourly	1,330	\$13.24	\$17,609.20	\$211,310.40	\$633,931.20	\$17.00	\$22,610.00	\$271,320.00	\$813,960.00	\$15.50	\$20,615.00	\$247,380.00	\$742,140.00
2	Armed Guard Services at City Tax Office (Wells Fargo Building)	Hourly	260	\$13.24	\$3,442.40	\$41,308.80	\$123,926.40	\$17.00	\$4,420.00	\$53,040.00	\$159,120.00	\$15.50	\$4,030.00	\$48,360.00	\$145,080.00
3	On-Site Supervisor	Hourly	292	\$13.24	\$3,866.08	\$46,392.96	\$139,178.88	\$17.00	\$4,964.00	\$59,568.00	\$178,704.00	\$15.50	\$4,526.00	\$54,312.00	\$162,936.00
4	Municipal Service Center (MSC Complex)	Hourly	260	\$13.24	\$3,442.40	\$41,308.80	\$123,926.40	\$17.00	\$4,420.00	\$53,040.00	\$159,120.00	\$15.50	\$4,030.00	\$48,360.00	\$145,080.00
5	911 Call Center	Hourly	730	\$13.24	\$9,665.20	\$115,982.40	\$347,947.20	\$17.00	\$12,410.00	\$148,920.00	\$446,760.00	\$15.50	\$11,315.00	\$135,780.00	\$407,340.00
6	Additional Temporary Armed Guard Services as Needed Basis	Hourly	425	\$13.24	\$5,627.00	\$67,524.00	\$202,572.00	\$20.00	\$8,500.00	\$102,000.00 Bidder's Total \$10,200.00	\$306,000.00 Bidder's Total \$30,600.00	\$16.50	\$7,012.50	\$84,150.00	\$252,450.00
<b>GRAND TOTAL (ITEMS 1 - 6)</b>						\$523,827.36	\$1,571,482.08			\$687,888.00 Bidder's Total \$596,088.00	\$2,063,664.00 Bidder's Total \$1,788,264.00			\$618,342.00 Bidder's Total \$618,900.00	\$1,855,026.00 Bidder's Total \$1,856,700.00

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_\_\_

Date: \_\_\_12/14/21\_\_\_\_\_



**CITY OF EL PASO  
BID TABULATION FORM**



**Project Name: Security Services for Municipal Buildings**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0004**  
**Department: Streets & Maintenance**

	Mike Garcia Merchant Security, LLC El Paso, TX  Bidder 1 of 5	Night Eyes Protective Services, Inc. El Paso, TX  Bidder 2 of 5	TriCorps Security, Inc. Clint, TX  Bidder 3 of 5
<p align="center"><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></p> <p>THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.</p> <p>BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:</p>			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NO OPTION OFFERED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	Yes

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_\_\_

Date: \_\_12/14/21\_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Services for Municipal Buildings**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0004**  
**Department: Streets & Maintenance**

				Universal Protection Service, LP dba Allied Universal Security Services El Paso, TX				Vets Securing America Inc. San Antonio Texas, TX							
				Bidder 4 of 5				Bidder 5 of 5							
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total
1	Armed Guard Services for City Hall Campus (City 1 and 2, 3 and 4)	Hourly	1,330	\$17.72	\$23,567.60 Bidder's Total \$26,620.76	\$282,811.20 Bidder's Total \$283,449.12	\$848,433.60 Bidder's Total \$850,347.36	\$21.99	\$29,246.70	\$350,960.40	\$1,052,881.20				
2	Armed Guard Services at City Tax Office (Wells Fargo Building)	Hourly	260	\$17.72	\$4,607.20	\$55,286.40	\$165,859.20	\$21.99	\$5,717.40	\$68,608.80	\$205,826.40				
3	On-Site Supervisor	Hourly	292	\$19.33	\$5,644.36	\$67,732.32	\$203,196.96	\$24.18	\$7,060.56	\$84,726.72	\$254,180.16				
4	Municipal Service Center (MSC Complex)	Hourly	260	\$17.72	\$4,607.20	\$55,286.40	\$165,859.20	\$21.99	\$5,717.40	\$68,608.80	\$205,826.40				
5	911 Call Center	Hourly	730	\$17.72	\$12,935.60	\$155,227.20	\$465,681.60	\$21.99	\$16,052.70	\$192,632.40	\$577,897.20				
6	Additional Temporary Armed Guard Services as Needed Basis	Hourly	425	\$26.58	\$11,296.50	\$135,558.00	\$406,674.00	\$31.88	\$13,549.00	\$162,588.00	\$487,764.00				
<b>GRAND TOTAL (ITEMS 1 - 6)</b>						\$751,901.52 Bidder's Total \$752,539.44	\$2,255,704.56 Bidder's Total \$2,257,618.32			\$928,125.12	\$2,784,375.36				

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/ \_\_\_\_\_

Date: \_\_\_ 12/14/21 \_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Security Services for Municipal Buildings**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0004**  
**Department: Streets & Maintenance**

	Universal Protection Service, LP dba Allied Universal Security Services El Paso, TX Bidder 4 of 5	Vets Securing America Inc. San Antonio Texas, TX Bidder 5 of 5	
<b><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></b>			
<p>THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.</p> <p>BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:</p>			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO OPTION OFFERED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	No	Yes	
<b>BIDS SOLICITED: 28    LOCAL BIDS SOLICITED: 19    BIDS RECEIVED: 5    LOCAL BIDS RECEIVED: 4    NO BID: 0</b>			

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_

Date: \_\_\_12/14/21\_\_\_

2022-0004 Security Services for Municipal Buildings

ADT SECURITY SERVICES  
ATTN: E. SIMON  
7023 BROOKSHIRE DRIVE  
DALLAS, TX 75230

MIKE GARCIA MERCHANT SECURITY, INC.  
ATTN: MIKE GARCIA  
6000 WELCH SUITE 11  
EL PASO, TX 79905

PRIME VENDOR INC.  
LAURIE MELNICK  
4608 CEDAR AVENUE SUITE 106  
WILMINGTON, NC 28403

SUN CITY SECURITY SERVICE  
3711 ADMIRAL ST.  
SUITE C.  
EL PASO TX 79925

BOUTCHANTHARAJ CORPORATION  
DFW PROTECTIVE FORCE  
P.O. BOX 164127  
FORT WORTH, TX 76161

ITS COMMERCIAL SECURITY INC.  
P. O. BOX 52159  
HOUSTON, TX 77052-2159

ALL AMERICAN INTERNATIONAL SECURITY  
324 EUCLID  
EL PASO, TX 79905

NITIAL SECURITY  
7500 VISCOUNT SUITE C 66  
EL PASO, TX 79925

WACKENHUT  
11420 CEDAR OAK DR  
EL PASO, TX 79936

HCI SECURITY  
ATTN: LORIE TRESLER  
1851 GULF FREEWAY SOUTH #31  
LEAGUE CITY, TX 77573

RUIZ PROTECTIVE SERVICE, INC.  
3417 MONTANA AVE.  
EL PASO, TX 79903

AMERICAN RANGER SECURITY  
311 KELVIN AVENUE  
EL PASO, TX 79915

EL PASO LONE STAR SECURITY AGENCY  
ATTN: MANUEL V. CARLOS  
3510 LEE BLVD.  
EL PASO, TX 79936-1413

AZAR SECURITY SERVICES  
12048 MIGUEL VARELA LANE  
EL PASO, TX 79936

MIKE GARCIA MERCHANT SECURITY INC.  
ATTN: EDUARDO GARCIA  
6000 WELCH AVENUE SUITE 11  
EL PASO, TX 79905

HOME BOUND BUILDERS  
ATTN: MANNY TORRES  
P. O. BOX 47  
SAN ELIZARIO, TX 79849

INITIAL SECURITY  
7500 VISCOUNT BOULEVARD  
EL PASO, TX 79925

PINKERTON SECURITY & INVESTIGATIONS  
ATTN: DAVID HOLGUIN  
1155 WESTMORELAND DRIVE STE 201  
EL PASO, TX 79925

ITS  
ATTN: TONI COUVEL  
8177 W, GLADES ROAD STE 217  
BOCA RATON. FL 33434

ATTN: RAY BALDEMAR HERNANDEZ  
INVESTIGATING & SECURITY GUARD CO.  
10541 GREENWAY AVENUE  
EL PASO, TX 79925

HUB ENTERPRISES INC.  
405 E. MADISON ST.  
BROUSSARD, LA 79518

TEXAS ENFORCER LLC  
3407 DOUGLAS AVENUE  
EL PASO, TX 79903

PINKERTON  
ATTN: STEVE MINTON  
1155 WESTMORELAND SUITE 201  
EL PASO, TX 79925

I AT SYSTEMS SECURITY, INC.  
ATTN: PETE DAVIS  
2400 W DUNLAP AVENUE SUITE. 225  
PHOENIX, AZ 85021

ALLEGIANCE SECURITY GROUP  
ATTN: DANIEL HIBBARD  
8900 VISCOUNT BLVD. SUITE AN-234  
EL PASO, TX 79925-5897

G4S SECURE SOLUTIONS (USA) INC.  
ATTN: KAY GLANCEY  
955 N. RESLER, STE. 104-109  
EL PASO, TX 79912

AKAL SECURITY  
525 MAGOFFIN  
EL PASO, TX 79901

2022-0004 Security Services for Municipal Buildings

CONTINENTAL INVESTIGATION  
521 TEXAS AVE  
EL PASO, TX 79901



Legislation Text

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File #: 22-313, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Streets and Maintenance, Richard J. Bristol, (915) 212-7000  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

The linkage to the Strategic Plan is subsection 7.2 - Improve competitiveness through infrastructure improvements impacting the quality of life

**Award Summary:**

Discussion and action on the award of Solicitation 2022-0003 Janitorial Services - Fire Facilities and NW Corral to Mirador Enterprises, Inc. for an initial three (3) year term for an estimated amount of \$353,370.99. The award also includes a two (2) year option for an estimated amount of \$235,580.66. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$588,951.65. This contract will allow janitorial services at various fire facilities and NW corral.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$86,720.78 for the initial term, which represents a 32.52% increase due to increase in labor costs.

Department:	Streets and Maintenance
Vendor:	Mirador Enterprises, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$117,790.33
Initial Term Estimated Award:	\$353,370.99 (3 years)
Total Estimated Award:	\$588,951.65 (5 years)
Account No.:	532 - 1000 - 522060 - 31040 - P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing and Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Mirador Enterprises, Inc., the bidder offering the best value bid.

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

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Richard J. Bristol, Streets and Maintenance Director, (915) 212-7000  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**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 2022-0003 Janitorial Services – Fire Facilities and NW Corral to Mirador Enterprises, Inc. for an initial three (3) year term for an estimated amount of \$353,370.99. The award also includes a two (2) year option for an estimated amount of \$235,580.66. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$588,951.65.

**BACKGROUND / DISCUSSION:**

This contract will allow janitorial services at various fire facilities and NW corral.

**SELECTION SUMMARY:**

Solicitation was advertised on November 2, 2021 and November 9, 2021. The solicitation was posted on City website on November 2, 2021. The email (Purmail) notification was sent out on November 4, 2021. There were a total of forty-four (44) viewers online; five (5) bids were received; three (3) from local suppliers.

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$86,720.78 for the initial term, which represents a 32.52% increase due to increase in labor costs.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$353,370.99

Funding Source: General Fund

Account: 532 – 1000 – 522060 – 31040 –P3120

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

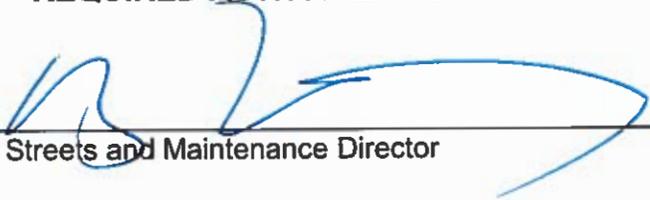
PRIMARY DEPARTMENT: Streets and Maintenance Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:



3-14-22

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Richard J. Bristol – Streets and Maintenance Director

**COUNCIL PROJECT FORM  
(BEST VALUE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

**STRATEGIC GOAL: NO. 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 2022-0003 Janitorial Services – Fire Facilities and NW Corral to Mirador Enterprises, Inc. for an initial three (3) year term for an estimated amount of \$353,370.99. The award also includes a two (2) year option for an estimated amount of \$235,580.66. The total value of the contract is, including the initial term plus the option, for a total of five (5) years, for an estimated amount of \$588,951.65. This contract will allow janitorial services at various fire facilities and NW corral.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$86,720.78 for the initial term, which represents a 32.52% increase due to increase in labor costs.

Department:	Streets and Maintenance
Vendor:	Mirador Enterprises, Inc. El Paso, TX
Item(s):	All
Initial Term:	3 years
Option to Extend:	2 years
Annual Estimated Award:	\$117,790.33
Initial Term Estimated Award:	\$353,370.99 (3 years)
Total Estimated Award:	\$588,951.65 (5 years)
Account No.:	532 – 1000 – 522060 – 31040 – P3120
Funding Source:	General Fund
District(s):	All

This is a Best Value contract.

The Purchasing & Strategic Sourcing and Streets and Maintenance Departments recommend award as indicated to Mirador Enterprises, Inc., the bidder offering the best value bid.

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

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*

## CITY OF EL PASO BEST VALUE SCORESHEET

PROJECT:

2022-0003 Janitorial Services - Fire Facilities &amp; NW Corral

*Evaluation of Submittal*

	MAX POINTS	Mirador Enterprises, Inc.	Ace Government Services, LLC	Crataegus, LLC dba Jani-King of New Mexico, LLC	Francisco Corral dba The Eagle Janitorial Services	Quik N Tidy LLC
Factor A - Price	25	25.00	10.14	10.09	23.08	7.81
Factor B - Experience – Comparable Contracts	25	16.67	8.00	19.00	14.00	3.33
Factor C - References	15	10.00	15.00	3.30	5.00	0.00
Factor D – Employee Medical Benefit and Incentives	10	2.00	10.00	0.00	0.00	0.00
Factor E - Work Plan	25	24.67	25.00	24.00	0.00	0.00
<b>TOTAL SCORE</b>	<b>100</b>	<b>78.33</b>	<b>68.14</b>	<b>56.39</b>	<b>42.08</b>	<b>11.15</b>
		1	2	3	4	5

						Averages
CITY OF EL PASO BEST VALUE SCORESHEET						
<b>PROJECT:</b>	2022-0003 Janitorial Services - Fire Facilities & NW Corral					
Evaluation of Submittal						
	MAX POINTS	Mirador Enterprises, Inc.	Ace Government Services, LLC	Crataegus, LLC dba Jani-King of New Mexico, LLC	Francisco Corral dba The Eagle Janitorial Services	Quik N Tidy LLC
<b>Factor A - Price</b>						
As part of the requirement to establish the responsibility of the bid, the City of El Paso may determine the reasonableness of the price(s) at which the services are offered. Prices which are significantly lower than the mean of all bids, and appear to be unreasonably low, may be determined to be evidence of non-responsibility, and cause the offer bid to be rejected. <b>TO BE COMPLETED BY PURCHASING</b>	25	25.00	10.14	10.09	23.08	7.81
<b>Factor B - Experience – Comparable Contracts</b>						
Bidder to provide three (3) contracts comparable in scope within the past five (5) years prior to bid opening. Contract will be considered comparable in scope if they include the following elements: experience waxing and buffing floors at multiple locations, sanitize buildings specifically for Public Safety, provide on-call or emergency (back-up) employees, require five (5) pieces of equipment on "Equipment List" from solicitation and provide background checks. Bidder is required to use the Experience – Comparable Contract Form for this factor. Contracts not comparable in scope will not be evaluated. Note: The maximum points for each contract will be determined by dividing the points allocated to this factor by 3 (i.e. 30 total points ÷ 3 = 10 points per contract).	25	16.67	8.00	19.00	14.00	3.33
<b>Factor C - References</b>						
Bidder shall provide references for three (3) contracts listed for Factor B. A contract deemed non-comparable under Factor B shall not be considered as a viable reference under Factor C and shall not be scored. Note: The maximum points for each reference will be determined by dividing the points allocated to this factor by 3 (i.e. 30 total points ÷ 3 = 10 points per reference).	15	10.00	15.00	3.30	5.00	0.00
<b>Factor D – Employee Medical Benefit and Incentives</b>						
Identify employee benefits. Indicate if benefits are paid in full or in part by your business. (Examples: medical, dental, vision, retirement savings, education plans, paid vacation, etc.). Bidder is required to use the Employee Medical Benefit and Incentive Form for this factor.	10	2.00	10.00	0.00	0.00	0.00
<b>Factor E - Work Plan</b>						
<b>10 Points - Describe bidder's staffing plan</b> • Ability to recruit and employee staffing levels required to meet contracting levels; • Identify ability to provide staffing levels for cleaning services at the various facilities; • Identify how absences or unscheduled level will be addressed to ensure continuity of service levels; • Provide job descriptions defining key roles and responsibilities of the Shift Supervisor and Janitor positions. <b>10 Points - Describe bidder's work plan including but not limited to:</b> • Identify management/supervisory approach to meet contract expectations; • Identify the daily inspection and approval process of service requirements • Identify how corrective action (performance) with staff are to be addressed <b>5 Points - Describe the bidder's ability to mitigate fraudulent invoicing.</b>	25	24.67	25.00	24.00	0.00	0.00
<b>TOTAL SCORE</b>	100	78.33	68.14	56.39	42.08	11.15
<b>Rank</b>		1	2	3	4	5



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

				Ace Government Services, LLC El Paso, TX				Crataegus, LLC dba Jani-King of New Mexico, LLC Albuquerque, NM				Francisco Corral dba The Eagle Janitorial Services El Paso, TX			
Group 1 - Fire Facilities				Bidder 1 of 5				Bidder 2 of 5				Bidder 3 of 5			
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total
1	Central Fire Building	Hourly	39.15	\$20.00	\$783.00	\$9,396.00	\$28,188.00	\$28.30	\$1,107.95	\$13,295.34 <i>Bidder's Total</i> \$13,295.40	\$39,886.02 <i>Bidder's Total</i> \$39,886.20	\$10.90	\$426.74 <i>Bidder's Total</i> \$430.55	\$5,120.82 <i>Bidder's Total</i> \$5,166.60	\$15,362.46 <i>Bidder's Total</i> \$15,499.80
2	Training Academy Building	Hourly	130.50	\$25.00	\$3,262.50	\$39,150.00	\$117,450.00	\$21.91	\$2,859.26	\$34,311.06 <i>Bidder's Total</i> \$34,311.12	\$102,933.18 <i>Bidder's Total</i> \$102,933.36	\$10.90	\$1,422.45	\$17,069.40	\$51,208.20
3	Administration Building, Communications Department and Fire Marsalls Division - 2nd, 3rd & 5th Floor	Hourly	174	\$26.00	\$4,524.00	\$54,288.00	\$162,864.00	\$24.20	\$4,210.80	\$50,529.60	\$151,588.80	\$10.90	\$1,896.60	\$22,759.20	\$68,277.60
4	Facilities Maintenance Division/Satellite Office for District 3	Hourly	87	\$24.00	\$2,088.00	\$25,056.00	\$75,168.00	\$29.19	\$2,539.53	\$30,474.36	\$91,423.08	\$10.90	\$948.30	\$11,379.60	\$34,138.80
<b>GROUP 1 TOTAL</b>						\$127,890.00	\$383,670.00			\$128,610.36 <i>Bidder's Total</i> \$128,610.48	\$385,831.08 <i>Bidder's Total</i> \$385,831.44			\$56,329.02 <i>Bidder's Total</i> \$56,374.80	\$168,987.06 <i>Bidder's Total</i> \$169,124.40

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_\_\_

Date: \_\_12/15/2021\_\_\_\_\_



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

Group 2 - Northwest (NW) Corral Facilities				Ace Government Services, LLC El Paso, TX				Crataegus, LLC dba Jani-King of New Mexico, LLC Albuquerque, NM				Francisco Corral dba The Eagle Janitorial Services El Paso, TX					
				Bidder 1 of 5				Bidder 2 of 5				Bidder 3 of 5					
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total		
1	Northwest Corral Facilities	Hourly	174	\$26.00	\$4,524.00	\$54,288.00	\$162,864.00	\$24.89	\$4,330.86	\$51,970.32	\$155,910.96	\$10.90	\$1,896.60	\$22,759.20	\$68,277.60		
<b>GROUP 2 TOTAL</b>								\$54,288.00	\$162,864.00			\$51,970.32	\$155,910.96			\$22,759.20	\$68,277.60

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_\_\_

Date: \_\_\_12/15/2021\_\_\_\_\_



# CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

			Ace Government Services, LLC El Paso, TX			Crataegus, LLC dba Jani-King of New Mexico, LLC Albuquerque, NM			Francisco Corral dba The Eagle Janitorial Services El Paso, TX		
Group 3 - Non-Scheduled Cleanings Fire Facilities			Bidder 1 of 5			Bidder 2 of 5			Bidder 3 of 5		
ITEM No.	Location	Estimated Annual Hours	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total
1	Central Fire Building	100	\$20.00	\$2,000.00	\$6,000.00	\$25.70	\$2,570.00	\$7,710.00	\$10.90	\$1,090.00	\$3,270.00
2	Training Academy Building	100	\$20.00	\$2,000.00	\$6,000.00	\$25.70	\$2,570.00	\$7,710.00	\$10.90	\$1,090.00	\$3,270.00
3	Administration Building, Communications Department and Fire Marsalls Division - 2nd, 3rd & 5th Floor	100	\$20.00	\$2,000.00	\$6,000.00	\$25.70	\$2,570.00	\$7,710.00	\$10.90	\$1,090.00	\$3,270.00
4	Facilities Maintenance Division/Satellite Office for District 3	100	\$20.00	\$2,000.00	\$6,000.00	\$25.70	\$2,570.00	\$7,710.00	\$10.90	\$1,090.00	\$3,270.00
<b>GROUP 3 TOTAL</b>				\$8,000.00	\$24,000.00		\$10,280.00	\$30,840.00		\$4,360.00	\$13,080.00 Bidder's Total \$9,810.00

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/\_\_\_\_\_

Date: \_\_\_ 12/15/2021 \_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

			Ace Government Services, LLC El Paso, TX			Crataegus, LLC dba Jani-King of New Mexico, LLC Albuquerque, NM			Francisco Corral dba The Eagle Janitorial Services El Paso, TX		
Group 4 - Non-Scheduled Cleanings NW Corral			Bidder 1 of 5			Bidder 2 of 5			Bidder 3 of 5		
ITEM No.	Location	Estimated Annual Hours	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total
1	Northwest Corral Facilities	50	\$20.00	\$1,000.00	\$3,000.00	\$25.70	\$1,285.00	\$3,855.00	\$10.90	\$545.00	\$1,635.00
<b>GROUP 4 TOTAL</b>				\$1,000.00	\$3,000.00		\$1,285.00	\$3,855.00		\$545.00	\$1,635.00
<b>GRAND TOTAL (GROUPS 1 - 4)</b>				\$191,178.00	\$573,534.00		\$192,145.68 Bidder's Total	\$576,437.04 Bidder's Total		\$83,993.22 Bidder's Total	\$251,979.66 Bidder's Total
							\$192,145.80	\$576,437.40		\$84,039.00	\$248,847.00

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Approved: \_\_\_/s/ \_\_\_\_\_

Date: \_\_\_12/15/2021\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

	Ace Government Services, LLC El Paso, TX  Bidder 1 of 5	Crataegus, LLC dba Jani-King of New Mexico, LLC Albuquerque, NM  Bidder 2 of 5	Francisco Corral dba The Eagle Janitorial Services El Paso, TX  Bidder 3 of 5
<b><u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u></b>			
THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.			
BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NO OPTION OFFERED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	Yes	Yes

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

Approved: \_\_\_/s/ \_\_\_\_\_

Date: \_\_\_12/15/2021\_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

				Mirador Enterprises, Inc. El Paso, TX				Quik 'N Tidy LLC Dallas, TX							
Group 1 - Fire Facilities				Bidder 4 of 5				Bidder 5 of 5							
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total
1	Central Fire Building	Hourly	39.15	\$12.57	\$492.12	\$5,905.39	\$17,716.16	\$48.00	\$1,879.20	\$22,550.40	\$67,651.20				
2	Training Academy Building	Hourly	130.50	\$14.99	\$1,956.20	\$23,474.34	\$70,423.02	\$48.00	\$6,264.00	\$75,168.00	\$225,504.00				
3	Administration Building, Communications Department and Fire Marsalls Division - 2nd, 3rd & 5th Floor	Hourly	174	\$16.14	\$2,808.36	\$33,700.32	\$101,100.96	\$48.00	\$8,352.00	\$100,224.00	\$300,672.00				
4	Facilities Maintenance Division/Satellite Office for District 3	Hourly	87	\$13.84	\$1,204.08	\$14,448.96	\$43,346.88	\$48.00	\$4,176.00	\$50,112.00	\$150,336.00				
<b>GROUP 1 TOTAL</b>						\$77,529.01	\$232,587.02			\$248,054.40	\$744,163.20				

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED BY: \_\_\_\_\_/s/\_\_\_\_\_

DATE: \_\_12/15/2021\_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

Group 2 - Northwest (NW) Corral Facilities				Mirador Enterprises, Inc. El Paso, TX				Quik 'N Tidy LLC Dallas, TX							
				Bidder 4 of 5				Bidder 5 of 5							
ITEM No.	Location	Unit of Measure	Total Hours per Month	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total	Amount per Hour	Monthly Amount	Estimated Annual Amount	Estimated 3 Year Total
1	Northwest Corral Facilities	Hourly	174	\$16.14	\$2,808.36	\$33,700.32	\$101,100.96	\$48.00	\$8,352.00	\$100,224.00	\$300,672.00				
<b>GROUP 2 TOTAL</b>						\$33,700.32	\$101,100.96			\$100,224.00	\$300,672.00				

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED BY: \_\_\_/s/\_\_\_

DATE: \_\_12/15/2021\_\_



## CITY OF EL PASO BID TABULATION FORM

**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

			Mirador Enterprises, Inc. El Paso, TX			Quik 'N Tidy LLC Dallas, TX					
Group 3 - Non-Scheduled Cleanings Fire Facilities			Bidder 4 of 5			Bidder 5 of 5					
ITEM No.	Location	Estimated Annual Hours	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total
1	Central Fire Building	100	\$12.57	\$1,257.00	\$3,771.00	\$48.00	\$4,800.00	\$14,400.00			
2	Training Academy Building	100	\$14.99	\$1,499.00	\$4,497.00	\$48.00	\$4,800.00	\$14,400.00			
3	Administration Building, Communications Department and Fire Marsalls Division - 2nd, 3rd & 5th Floor	100	\$16.14	\$1,614.00	\$4,842.00	\$48.00	\$4,800.00	\$14,400.00			
4	Facilities Maintenance Division/Satellite Office for District 3	100	\$13.84	\$1,384.00	\$4,152.00	\$48.00	\$4,800.00	\$14,400.00			
<b>GROUP 3 TOTAL</b>				\$5,754.00	\$17,262.00		\$19,200.00	\$57,600.00			

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED BY: \_\_\_/s/\_\_\_\_\_

DATE: \_\_\_12/15/2021\_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

			Mirador Enterprises, Inc. El Paso, TX			Quik 'N Tidy LLC Dallas, TX					
Group 4 - Non-Scheduled Cleanings NW Corral			Bidder 4 of 5			Bidder 5 of 5					
ITEM No.	Location	Estimated Annual Hours	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total	Hourly Rate	Estimated Annual Amount	Estimated 3 Year Total
1	Northwest Corral Facilities	50	\$16.14	\$807.00	\$2,421.00	\$48.00	\$2,400.00	\$7,200.00			
<b>GROUP 4 TOTAL</b>				\$807.00	\$2,421.00		\$2,400.00	\$7,200.00			
<b>GRAND TOTAL (GROUPS 1 - 4)</b>				\$117,790.33	\$353,370.98		\$369,878.40 Bidder's Total \$369,879.03	\$1,109,635.20			

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED BY: \_\_\_\_\_ /s/ \_\_\_\_\_

DATE: \_\_\_ 12/15/2021 \_\_\_\_\_



## CITY OF EL PASO BID TABULATION FORM



**Project Name: Janitorial Services - Fire Facilities and NW Corral**  
**Bid Opening Date: December 8, 2021**

**Solicitation #: 2022-0003**  
**Department: Streets & Maintenance**

	Mirador Enterprises, Inc. El Paso, TX  Bidder 4 of 5	Quik 'N Tidy LLC Dallas, TX  Bidder 5 of 5	
<u>OPTION TO EXTEND THE TERM OF THE AGREEMENT</u>  THE CITY AT ITS SOLE DISCRETION, MAY EXERCISE ANY OPTION TO EXTEND THE TERM OF THE AGREEMENT, BY GIVING THE CONTRACTOR WRITTEN NOTICE WITHIN THE TIME PERIOD NOTED ON THE SELECTED OPTIONS. THE TERM OF THIS CONTRACT SHALL BE BASED ON ONE OF THE SELECTIONS BELOW AND UNDER THE SAME TERMS AND CONDITIONS. THE CITY MANAGER OR DESIGNEE MAY EXTEND THE OPTION TO EXTEND.  BIDDER OFFERS THE CITY THE OPTION OF EXTENDING THE TERM OF THE CONTRACT FOR:			
TWO (2) ADDITIONAL YEARS AT THE SAME UNIT PRICE(S), IF THE OPTION IS EXERCISED PRIOR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO OPTION OFFERED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMENDMENTS ACKNOWLEDGED:	Yes	No	
BIDS SOLICITED: 55    LOCAL BIDS SOLICITED: 47    BIDS RECEIVED: 5    LOCAL BIDS RECEIVED: 3    NO BID: 0			

**NOTE: The information contained in this bid tabulation is for information only and does not constitute actual award/execution of contract.**

APPROVED BY: \_\_\_\_\_ /s/ \_\_\_\_\_

DATE: \_\_\_ 12/15/2021 \_\_\_\_\_

## 2022-0003 Janitorial Services for Fire &amp; NW Corral Bidders List

**S&R JANITORIAL SERVICE**  
707 URANIO PL.  
EL PASO, TX 79928

**ADEFTO BUILDING & GROUND SVS.**  
7740 MUSTANG AVENUE  
EL PASO, TX 79915

**AJ MAINTENANCE SERVICE**  
8057 BOWEN ROAD  
EL PASO, TX 79915-4701

**AALCON JANITORIAL SERVICES**  
2613 WHEELING AVE  
EL PASO, TX 79930

**ABM JANITORIAL SERVICES**  
5959 GATEWAY BLVD W  
EL PASO, TX 79925

**ACME-WESTERN JANITORIAL SERVICE INC.**  
2124 MONTANA AVE  
EL PASO, TX 79903

**ASEO INC.**  
7235 N. LOOP DR.  
EL PASO, TX 79915

**EAGLE JANITORIAL SERVICES**  
2919 AURORA AVENUE  
EL PASO, TX 79930

**TOTAL CLEANING SERVICES**  
1026 NAVARRETTE  
EL PASO, TX 79907

**CCBS BUILDING SERVICE**  
6940 VILLA HERMOSA DR.  
EL PASO, TX 79912

**CAREFREE JANITORIAL SERVICE**  
12264 CHISHOLM PASS DRIVE  
EL PASO, TX 79936

**C & L JANITORIAL SERVICES**  
1207 N GRAMA STREET  
EL PASO, TX 79903

**TEXAS-UBS, INC.**  
15700 EXPORT PLAZA DR. # G  
HOUSTON, TX 77032

**TRDI INCORPORATED**  
11450 ROJAS DR STE D12  
EL PASO, TX 79936

**CMC & MAINTENANCE, INC.**  
4 UNION STREET SUITE 24  
BANGOR, ME 04401

**HB MANAGEMENT GROUP**  
ATTN: KEVIN STAYART  
7100 BROADWAY, SUITE 6-L  
DENVER, CO 80221

**D & D PROFESSIONAL SERVICES**  
9908 BERMUDA AVE  
EL PASO, TX 79925

**UNIQUE JANITORIAL SERVICES INC**  
6617 TARASCAS DRIVE  
EL PASO, TX 79912

**DJ'S JANITORIAL SERVICES**  
P. O. BOX 370305  
EL PASO, TX 79937-0305

**D&A BUILDING SERVICES, INC.**  
321 GEORGIA AVENUE  
LONGWOOD, FL 32750

**EXCELLENT JANITORIAL**  
5004 GRECO COURT  
EL PASO, TX 79924-2221

**EXECUTIVE MAINTENANCE**  
ATTN: LUIS HERNANDEZ  
4305 LOMA DE ORO  
EL PASO, TX 79934

**G AND L JANITORIAL SERVICE**  
2036 THUNDER RIDGE DR.  
EL PASO, TX 79938

**JO CARES JANITORIAL & MAID SERVICES**  
1833 PUEBLO NUEVO CIR.  
EL PASO, TX 79936

**BORDER JANITORIAL SERVICES**  
2004 CRYSTAL RIDGE DR.  
EL PASO, TX 79938

**KUANTUM SERVICE COMPANY**  
2110 WYOMING  
EL PASO, TX 79903

**CLEOLA SWEED**  
12808 TIERRA AVALA  
EL PASO, TX 79938

## 2022-0003 Janitorial Services for Fire &amp; NW Corral Bidders List

L & J CLEANING SERVICE  
2904 SAN DIEGO  
P.O. BOX 3461  
EL PASO, TX 79930

SOTELO JANITORIAL SERVICES  
5665 BETHVIEW  
EL PASO, TX 79932

MODERN ENTERPRISES  
10209 SUGARBERRY DR.  
EL PASO, TX 79925

MAIDS OF AMERICA  
4625 ALABAMA ST.  
EL PASO, TX 79930

MAINTENANCE UNLIMITED  
4421 TITANIC AVE  
EL PASO, TX 79904

MIGHTY CLEAN  
11572 BOB MITCHELL DR.  
EL PASO, TX 79936

Y & C JANITORIAL SERVICES  
3021 E. MISSOURI  
EL PASO, TX 79903

MAHEIR JANITORIAL SERVICES  
12156 YVONNE RICHARDSON AVENUE  
EL PASO, TX 79936

MONARCH BUILDING SERVICES  
1001 PENDALE RD.  
EL PASO, TX 79907

MARTINEZ JANITORIAL SERVICES  
3121 TIERRA RIO ROAD  
EL PASO, TX 79938-4483

NATIONAL JANITORIAL SERVICE & SUPPLY  
1122 TEXAS AVE  
EL PASO, TX 79901

WESTERN JANITORIAL SERVICE INC.  
2124 MONTANA  
EL PASO, TX 79903

PEREDA'S CLEANING & MAINTENANCE  
10316 COMMODORE STREET  
EL PASO, TX 79924

PM JANITORIAL SERVICES  
10413 VALLE FERTIL  
SOCORRO, TX 79927

PSH PROFESSIONAL CLEANING SERVICES  
11415 ED MERRINS  
EL PASO, TX 79936

PJS OF EL PASO, INC.  
2110 WYOMING AVE  
EL PASO, TX 79903

P & S JANITORIAL SERVICES  
12158 VALLEY QUAIL  
EL PASO, TX 79936

PROFESSIONAL BUILDING  
MAINTENANCE SERVICES  
4312 LOMA ALEGRE  
EL PASO, TX 79934

PROFESSIONAL JANITORIAL SVCS  
2110 WYOMING AVENUE  
EL PASO, TX 79903

FEDERAL JANITORIAL  
14122 W MCDOWELL RD STE. 100  
GOODYEAR, AZ 85395

ADVANTAGE GROUP SERVICES  
ATTN: DAN RAMOS  
390 EMERALD CLOUD  
EL PASO, TX 79928

STAR-CLEAN  
8120 ROGERS  
EL PASO, TX 79907

SUPERIOR BUILDING SERVICES  
15565 WRIGHT BROTHERS  
ADDISON, TX 75001

KEECLEAN MANAGEMENT INC.  
494 BRIDGEPORT AVE. SUITE 180  
SHELTON, CT 06484

SPARKLE PROFESSIONAL JANITORIAL  
SERVICE  
3901 FLAMINGO  
EL PASO, TX 79902

SUN CITY CLEANING  
4421 TITANIC AVE  
EL PASO, TX 79904

SOTELO JANITORIAL SERVICES  
5665 BETHVIEW  
EL PASO, TX 79932

**2022-0003 Janitorial Services for Fire & NW Corral Bidders List**

SERVPRO OF WEST EL PASO  
4717 OSBORNE DR., SUITE 500  
EL PASO TX 79922-1004  
SP9551@YAHOO.COM



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File #: 22-309, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
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 Bonds, Series 2022" pledging the net revenues of the Municipal Drainage Utility System to the payment of such bonds; and resolving other matters which are necessary to effect such issuance.

**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- March 29, 2022

**CONTACT PERSON/PHONE:** Art Duran, El Paso Water Utilities Chief Financial Officer  
(915) 594-5549

**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:** APPROVE the following Ordinance

An Ordinance authorizing the issuance of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022” pledging the net revenues of the Municipal Drainage Utility System to the payment of such bonds; and resolving other matters which are necessary to effect such issuance. (**All Districts**) [Arturo Duran, El Paso Water (915) 594-5549] [Public Hearing Date: March 29, 2022]

**BACKGROUND / DISCUSSION:**

EPWater is requesting the City Council of the City of El Paso to authorize the issuance of up to \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022” by Ordinance dated March 29, 2022; and authorize the signature of all related documents necessary to effectuate the issuance.

EPWater finds that it is in the best interest of the Municipal Drainage Utility System ratepayers for this funding and financing to take place.

**PRIOR COUNCIL ACTION:**

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

Yes, on March 2, 2021, City Council approved the issuance of up to \$9,100,000 of City of El Paso, Texas Municipal Drainage Utility System Refunding Bonds, Taxable Series 2021 and Series 2021A.

**AMOUNT AND SOURCE OF FUNDING:**

This item will be funded through the sale of City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022.

**BOARD / COMMISSION ACTION:**

The El Paso Water Utilities Public Service Board approved a Resolution on March 9, 2022, requesting that the City Council authorize the issuance and sale of up to \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022”.

**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 BONDS,  
SERIES 2022

Adopted: March 29, 2022

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, SERIES 2022”; PLEDGING THE NET REVENUES OF THE MUNICIPAL DRAINAGE UTILITY SYSTEM TO THE PAYMENT OF SUCH BONDS; AND RESOLVING OTHER MATTERS WHICH ARE NECESSARY TO EFFECT SUCH ISSUANCE

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, the Public Service Board (the “Board”), acting on behalf of the City, has filed an application seeking financial assistance in the amount of \$14,600,000 from the Flood Infrastructure Fund to finance the Project (hereinafter defined), identified as Project No. 40182; and

WHEREAS, the Texas Water Development Board (“TWDB”) has adopted a resolution approving a commitment to the Board, acting on behalf of the City, for financial assistance in form of the proposed purchase of \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022,” and a grant of \$5,110,000; and

WHEREAS, there has been filed with the City Council one or more resolutions adopted and approved by the Board requesting the City Council to approve the issuance and sale of the City’s revenue bonds for the purpose of financing the Project; and

WHEREAS, in the ordinances authorizing the Previously Issued Bonds (hereinafter defined), 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, 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 purpose aforesaid, pursuant to this Ordinance and as permitted by the General Laws of the State of Texas, particularly Texas Government Code, Chapter 1502, as amended (“Chapter 1502”); 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 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

Section 1.01 Definitions. 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.

“Application” means the Application filed by the Board, acting on behalf of the City, with TWDB requesting financial assistance for the Project.

“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.

“Bonds” means the City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022 authorized by this Ordinance.

“Bonds Similarly Secured” means collectively, the Previously Issued Bonds, the Bonds and Additional 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.

“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 1502” means Texas Government Code, Chapter 1502, 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.

“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; provided, however, 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

(2) For any series of Bonds Similarly Secured issued as Short Term 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 in Minneapolis, Minnesota, 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.

“EPWU” means the El Paso Water Utilities, a component unit of the City of El Paso and any successors thereto.

“Escrow Agent” means Zions Bancorporation, National Association, Amegy Bank Division, or any successor thereto or replacement therefor.

“Escrow Agreement” means the Escrow Agreement by and between the City and the Escrow Agent, dated as of March 29, 2022, pertaining to the deposit of the proceeds of the Bonds.

“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 (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.

“Grant” means the grant by the TWDB of \$5,110,000 from the Flood Infrastructure Fund, as more specifically set forth in the Application and in recommendations of TWDB's staff.

“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 3.02 of this Ordinance.

“Initial Date” means the date designated as the Initial Date by Section 3.02(a) of this Ordinance.

“Interest and Sinking Fund” means the fund by that name described in Section 8.01(a) hereof.

“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 Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, 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 2012, (3) City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2015, (4) City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2016, (5) City of El Paso, Texas, Municipal Drainage Utility System Revenue Improvement and Refunding Bonds, Series 2017, (6) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Taxable Series 2021, and (7) City of El Paso, Texas, Municipal Drainage Utility System Revenue Refunding Bonds, Series 2021A.

“Project” means the acquisition, construction, improvement, and repair of structures, equipment and facilities of the System, including a detention pond, conveyance infrastructure, and spillway system, which are being funded from proceeds of the Bonds and the Grant and known as Project No. 40182, as further described in the Application.

“Purchaser” means the initial purchaser of the Bonds issued hereunder, namely the TWDB.

“Register” means the Register specified in Section 3.06 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.

“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” shall mean the obligations of the City under the City’s Tax-Exempt Revolving Notes, Series A and Taxable Revolving Notes, Series B and the documents pertaining thereto.

“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.

“TWDB” means the Texas Water Development Board or any successor agency thereto.

Section 1.02 Findings. 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.

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.

### ARTICLE 2

#### SECURITY FOR THE BONDS

Section 2.01 Security for the Bonds. 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 Limited Obligations. 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 Authorization. Revenue bonds of the City to be designated and bear the title the “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022” are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, particularly the Act, Chapter 1502, and the Charter of the City. The Bonds shall be issued in the aggregate principal amount of \$9,490,000 for the purposes of (i) the acquisition, construction, improvement, and repair of structures, equipment and facilities of the System,

including a detention pond, conveyance infrastructure, and spillway system, as further described in the Application and (ii) paying the costs of issuing the Bonds.

Section 3.02 Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall have an Initial Date of April 1, 2022. 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 bear no interest, be in denominations of \$5,000 or any integral multiple thereof, and shall mature on March 1 in the years and in the principal amounts in accordance with the following schedule:

<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Year</u>	<u>Principal Amount (\$)</u>
2023	320,000	2038	315,000
2024	320,000	2039	315,000
2025	320,000	2040	315,000
2026	320,000	2041	315,000
2027	320,000	2042	315,000
2028	320,000	2043	315,000
2029	320,000	2044	315,000
2030	320,000	2045	315,000
2031	315,000	2046	315,000
2032	315,000	2047	315,000
2033	315,000	2048	315,000
2034	315,000	2049	315,000
2035	315,000	2050	315,000
2036	315,000	2051	315,000
2037	315,000	2052	315,000

(c)

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.

(b) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar; provided, however, that as long as TWDB is the Owner of the Bonds, payments of principal on the Bonds shall be made by wire transfer at no cost to the TWDB.

(c) If the date for the payment of the principal of 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.

(d) 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 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 3.04 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.

(b) Except as provided below, no Bond shall be valid or obligatory for any purpose or 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 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, 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 the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Sections 3.08 and 3.10.

Section 3.05 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 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 3.06 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 the same maturity and in any authorized denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. 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 the same tenor and shall have the same maturity date 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 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.

#### Section 3.07 Cancellation and Authentication.

(a) All Bonds paid 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, exchange or replacement.

(b) Each substitute Bond issued in exchange for or replacement of (pursuant to the provisions of Section 3.09 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 3.08 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, 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 3.09 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 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 3.10 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, 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 or premium, if any, 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 or premium, if any, 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 and premium, if any, 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 principal of and premium, if any, 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 3.11 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 3.12 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 and premium, if any, 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

##### NO OPTIONAL REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 No Optional Redemption. The Bonds are not subject to redemption before their scheduled maturity.

#### ARTICLE 5

##### PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

(a) Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, a national banking association organized and existing under the laws of the United States of America authorized to do business in the State of Texas, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

(b) The Mayor, Mayor Pro Tem, President/Chief Executive Officer of EPWU, Vice President of Strategic, Financial and Management Services of EPWU or the Chief Financial Officer of EPWU are each 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 Termination of Paying Agent/Registrar. 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 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 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, 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, 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. 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 Form of the Bonds. The form of the 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 the Bonds shall be substantially in the form of attached **Exhibit B**.

Section 6.03 CUSIP Registration. 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 Legal Opinion. 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.

## 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 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 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 benefits of the Owners and the Owners of the Bonds Similarly Secured.

(b) The “City of El Paso, Texas Municipal Drainage Utility System Revolving Note Payment Fund” (the “Note Payment Fund”) heretofore created by the ordinance authorizing the City’s Tax-Exempt Revolving Notes, Series A and Taxable Revolving Notes, Series B, herein referred to as the “Subordinate Lien Obligations,” is hereby reaffirmed.

Section 8.02 Revenue Fund. 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 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) Interest and Sinking Fund. In addition to the deposits required by ordinances authorizing the Previously Issued Bonds, there shall be deposited into the Interest and Sinking Fund 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.

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) Note Payment Fund. 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) Improvement Fund. 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 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 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.

**Section 8.05 Construction Fund.**

(a) There is hereby established and created the “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022 Construction Fund” (the “Construction Fund”), which shall be maintained by the City at the Depository Bank and which shall be kept segregated and apart from other funds and accounts of the City and the Board. Such Depository Bank is a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

(b) Monies on deposit in the Construction Fund shall be applied solely to the payment of the Project in accordance with the applicable requirements of the Texas Water Code and the rules and regulations of the TWDB.

**ARTICLE 9**

**DEPOSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS**

**Section 9.01 Deposit of Proceeds.**

(a) Immediately following the delivery of the Initial Bond to the Purchaser, the proceeds of sale (less amounts, if any, to pay costs of issuance in accordance with Section 9.01(b) below) shall be deposited in the “Escrow Fund” (as defined in the Escrow Agreement) and held in escrow pending written authorization to release such moneys in accordance with the Escrow Agreement. Upon the release of funds from the Escrow Fund in accordance with the terms of the Escrow Agreement, the released amount shall be deposited to the credit of the Construction Fund.

(b) To the extent specified in written instructions from Hilltop Securities Inc., the City’s Financial Advisor (the “Financial Advisor”), on the Closing Date, the Paying Agent/Registrar shall pay, from the proceeds of the Bonds received on the Closing Date, some or all of the costs and expenses of issuing the Bonds. To the extent the Financial Advisor receives

some or all of such costs of issuance and such amount is not required or used for such purpose, such excess shall be returned to the City with instructions to deposit such funds to the Interest and Sinking Fund. In the event Bond proceeds are not used to pay the costs of issuing the Bonds, the Board shall use other lawfully available funds of the System to pay the costs of issuing the Bonds.

#### 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 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 Insurance. 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 and adequate to protect TWDB's interest in the Project. 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) Additional Bonds. 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 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.

(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 proposed refunding bonds (and shall not 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) Obligations of Inferior Lien and Pledge. 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) Maintain and Operate System Efficiently. 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) Rate Covenant. 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) Debt Service Coverage Ratio. 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) Charges for Water and Sewer and Drainage Service. 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) Enforcement. 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) No Competing Systems. 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 Payment of Bonds. While any of the Bonds are Outstanding, the Chief Financial Officer of 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; 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) Definitions. 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) No Private Use or Private Payments. 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, 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 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) Information Report. 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) Rebate of Arbitrage Profits. 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) Elections. The City hereby directs and authorizes the City Manager, the President/Chief Executive Officer of EPWU, the Vice President of Strategic, Financial and Management Services of EPWU and/or the Chief Financial Officer of 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.

Section 11.02 Continuing Obligation. 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.

For the avoidance of doubt, for so long as the Purchaser is the Owner of the Bonds, the Purchaser may exercise all remedies available to it at law or in equity, and any provision of this

Ordinance or the Bonds that attempts to restrict or limit this right to exercise remedies shall be of no force or effect.

Section 12.02 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 13

### DISCHARGE

Section 13.01 Discharge. 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 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 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 and redemption premium, if any, 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, 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 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.

## ARTICLE 14

### SALE AND DELIVERY OF BONDS; OFFICIAL STATEMENT

#### Section 14.01 Sale of Bonds – Private Placement Memorandum.

(a) The Bonds are hereby sold and awarded and shall be delivered to the TEXAS WATER DEVELOPMENT BOARD (the “Purchaser”) at the price of par, less the Purchaser’s origination fee of \$\_\_\_\_, and no accrued interest, which shall be paid by the Purchaser pursuant to the terms and provisions of the commitment received from the Purchaser in connection with the sale of the Bonds. Payment for the Bonds by the Purchaser shall be made via wire transfer in immediately available funds. The pricing and terms of the Bonds are hereby found and determined to be the most advantageous reasonably obtained from the City.

Furthermore, the City hereby approves in all respects the Private Placement Memorandum prepared in conjunction with the sale of the Bonds and to be delivered to the Purchaser on the Closing Date. The Mayor, Mayor Pro Tem, the President/Chief Executive Officer of EPWU, the Vice President of Strategic, Financial and Management Services of EPWU, the Chief Financial Officer of EPWU, the City Clerk, and Alternate City Clerk of the City are each further authorized and directed to manually execute and deliver for and on behalf of the City copies of the Private Placement Memorandum in final form as may be required by the Purchaser, and such final Private Placement Memorandum in the form and content manually executed by such officials shall be deemed to be approved by the City Council and constitute the Private Placement Memorandum authorized for delivery to the Purchaser.

(b) The City Manager, the President/Chief Executive Officer of EPWU, the Vice President of Strategic, Financial and Management Services of EPWU, the Chief Financial Officer of 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.

(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 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 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 ending February 28, 2022) financial information and operating data with respect to the System of the general type customarily prepared by the Board and publicly available which includes (a) financial statements of the Board for the most recently concluded fiscal year, (b) current monthly drainage rates, (c) municipal drainage utility system revenue debt service requirements, (d) condensed statement of operations for the System, (e) a list of current investments, and (f) customer count for the System, 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 ending in February 28, 2022). Any financial statements so to be provided shall be prepared in accordance with the generally accepted accounting principles as applicable to governmental units as prescribed by the Governmental Accounting Standards Board, 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 Filings with the MSRB. 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.

(e) Notwithstanding anything herein to the contrary, the provisions of this Section 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 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  
SPECIAL PROVISIONS RELATING TO  
THE TEXAS WATER DEVELOPMENT BOARD

Section 16.01 Compliance with TWDB Rules. In compliance with the Rules of the TWDB, the City agrees and covenants:

(a) to abide by the TWDB's rules and relevant state statutes, including the Texas Water Code, Chapters 15, 16 and 17;

(b) the City shall comply with all conditions specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;

(c) the City shall not begin construction for any portion of the Project until the environmental finding has been issued for that portion of the Project;

(d) the City shall maintain insurance coverage sufficient to protect the TWDB's interest in the Project, as provided in Section 10.01;

(e) the City shall use any loan proceeds evidenced by the Bonds that are determined to be "remaining unused funds," which are those funds unspent after the Project (as approved by TWDB) is completed, for enhancements to the Project that are explicitly approved by the Executive Administrator of the TWDB or, if no enhancements are authorized by the Executive Administrator, the City shall submit a final accounting and disposition of any unused funds within 60 days of the completion of the Project. In determining "remaining unused funds", the City agrees

to account for all amounts deposited to the credit of the Construction Fund, including all loan funds extended by the TWDB, all other funds available from the Project as described in the project engineer's or fiscal representative's sufficiency of funds statement, and all interest earned by the City on money in the Construction Fund;

(f) the City shall use any loan proceeds evidenced by the Bonds that are determined to be "surplus funds" remaining after completion of the Project and completion of a final accounting, including any interest earned on the Bond proceeds, in a manner as approved by the Executive Administrator, including depositing such surplus funds into the Interest and Sinking Fund;

(g) for so long as the TWDB is the Owner of the Bonds, the TWDB may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect, as provided in Section 12.01;

(h) loan proceeds evidenced by the Bonds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. The City agrees, to the extent permitted by law, to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials, and employees as a result of activities relating to the Project;

(i) the City shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Subchapter G, Chapter 2252, as amended, Texas Government Code;

(j) the City shall not cause or permit the Bonds to be treated as "federally guaranteed" obligations within the meaning of Section 149(b) of the Code;

(k) the City shall not use proceeds of the Bonds to pay debt service on another issue of obligations of the City more than 90 days after the date of issue of the Bonds in contravention of the requirements of Section 149(d) of the Code (related to "advance refundings");

(l) the City shall submit outlay reports with sufficient supporting documentation on costs (e.g., invoices, receipts) on a quarterly basis in accordance with TWDB outlay report guidelines. The City understands that the Executive Administrator may withhold authorization to release funds from escrow based on the receipt of the quarterly status reports and the projected quarterly needs for the Project;

(m) as long as any Bonds or any interest thereon remain Outstanding, and except as provided in Section 10.03, the City will not encumber, pledge or otherwise impair its title to the land used by or for the System or any interests therein, including improvements and facilities of the System, without prior TWDB approval;

(n) prior to the Closing Date, the City shall execute the Escrow Agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed Escrow

Agreement to the TWDB. The Escrow Agreement is authorized herein pursuant to Section 16.02 and attached hereto, in substantially final form, as **Exhibit C**; and

(o) prior to the Closing Date, the City (acting through the Board) shall execute a grant agreement in a form and substance acceptable to the Executive Administrator.

#### Section 16.02 Approval of Escrow Agreement.

(a) The Escrow Agreement, in substantially the form attached hereto as **Exhibit C**, and its execution and delivery by the Mayor, Mayor Pro Tem, President/Chief Executive Officer of EPWU, Vice President of EPWU, or the Chief Financial Officer of EPWU, is hereby authorized and approved. The signature of the Mayor, Mayor Pro Tem, President/Chief Executive Officer of EPWU, Vice President of EPWU, or the Chief Financial Officer of EPWU may be attested to by the City Clerk, Alternate City Clerk, Chief Financial Officer of EPWU, or other officer of EPWU.

(b) As provided in the Escrow Agreement, the proceeds of sale of the Bonds held in escrow shall only be invested in investments that are authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended.

(c) As provided in the Escrow Agreement, the proceeds of sale of the Bonds held in the Escrow Account and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of the Escrow Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, as amended.

Section 16.03 Approval of Grant Agreement. The agreement between the City and the TWDB, reflecting the terms of the Grant, in a form promulgated by the TWDB and approved by the Board, is hereby approved. Each of the Mayor, Mayor Pro Tem, President/Chief Executive Officer of EPWU, Vice President of EPWU, or the Chief Financial Officer of EPWU is hereby authorized to sign such agreement.

## ARTICLE 17

### MISCELLANEOUS

#### Section 17.01 Amendment to Ordinance.

(a) ***Amendments Without Consent.*** This Ordinance 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, 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;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ordinance, 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;

(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 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 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 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 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 Further Procedures. The Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of EPWU, the Vice President of Strategic, Financial and Management Services of EPWU, and/or the Chief Financial Officer of 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 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 EPWU, the Vice President of Strategic, Financial and Management Services of EPWU or the Chief Financial Officer of 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, or the Chief Financial Officer of the City 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 No Municipal Bond Insurance. The Bonds shall be sold without municipal bond insurance.

Section 17.04 Inconsistent Provisions. 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 17.05 Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 17.06 Effectiveness. This Ordinance shall take effect and be in force from and after its passage and approval.

*[The remainder of this page intentionally left blank.]*

APPROVED AND ADOPTED this 29<sup>th</sup> day of March, 2022.

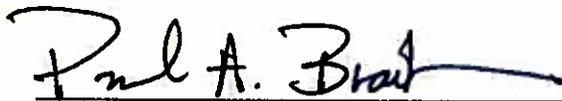
\_\_\_\_\_  
Oscar Leeser  
Mayor, City of El Paso, Texas

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**

## **PAYING AGENT/REGISTRAR AGREEMENT**

THIS AGREEMENT is entered into as of \_\_\_\_\_, 2022 (this "Agreement"), by and between Zions Bancorporation, National Association, Amegy Bank Division, a national banking association organized and existing under the laws of the United States of America and authorized to transact business in the State of Texas, or its successors (the "Bank") and the City of El Paso, Texas (the "Issuer").

### **RECITALS**

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022" (the "Securities"), dated April 1, 2022, such Securities scheduled to be delivered to the initial purchasers thereof on or about April 19, 2022; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

### **ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR**

**Section 1.01 Appointment.** The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

**Section 1.02 Compensation.** As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided, however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code, as amended, or Section 2274.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of

the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

## **ARTICLE TWO DEFINITIONS**

**Section 2.01 Definitions.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any

other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

**Section 2.02 Other Definitions.** The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

### **ARTICLE THREE PAYING AGENT**

**Section 3.01 Duties of Paying Agent.** As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

Zions Bancorporation, National Association  
One South Main Street, 12<sup>th</sup> Floor  
Salt Lake City, UT 84133

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder’s risk and expense.

**Section 3.02 Payment Dates.** The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

### **ARTICLE FOUR REGISTRAR**

**Section 4.01 Security Register - Transfers and Exchanges.** The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable

regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02 Securities.** The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4.03 Form of Security Register.** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 4.04 List of Security Holders.** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

**Section 4.05 Return of Cancelled Securities.** The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

**Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities.** The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

**Section 4.07 Transaction Information to Issuer.** The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

## **ARTICLE FIVE THE BANK**

**Section 5.01 Duties of Bank.** The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

**Section 5.02 Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality

of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

**Section 5.03 Recitals of Issuer.** The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

**Section 5.04 May Hold Securities.** The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization.** A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

**Section 5.06 Indemnification.** To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07 Interpleader.** The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**Section 5.08 DTC Services.** It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for “Depository Trust Company” services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the “Operational Arrangements”, which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

**Section 6.01 Amendment.** This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**Section 6.02 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other.

**Section 6.03 Notices.** Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page hereof.

**Section 6.04 Effect of Headings.** The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**Section 6.05 Successors and Assigns.** All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

**Section 6.06 Severability.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.07 Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

**Section 6.08 Benefits of Agreement.** Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**Section 6.09 Entire Agreement.** This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

**Section 6.10 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6.11 Termination.** This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.12 Iran, Sudan or Foreign Terrorist Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

**Section 6.13 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

*[Remainder of page left blank intentionally.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION

By: \_\_\_\_\_

Title: \_\_\_\_\_  
Amegy Bank Division

Address: 1801 Main Street, Suite 400  
Houston, Texas 77002

CITY OF EL PASO, TEXAS

By:   
Pricing Officer

Address: El Paso Water Utilities  
1154 Hawkins Blvd.  
El Paso, Texas 79925

## ANNEX A

**EXHIBIT B**

(a) Form of Bond.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF EL PASO  
CITY OF EL PASO, TEXAS,  
MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS,  
SERIES 2022

MATURITY DATE:      INITIAL DATE:      CUSIP NO.:  
March 1, 20\_\_      April 1, 2022      \_\_\_\_\_

The City of El Paso (the “City”), in the County of El Paso, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_

or registered assigns, but solely from the sources and in the manner hereinafter provided, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

(without right of prior redemption) and the payment of the principal hereof shall have been paid or provided for. The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated payment/transfer office in Salt Lake City, Utah (the “Designated Payment/Transfer Office”) of Zions Bancorporation, National Association, Amegy Bank Division, Paying Agent/Registrar, or at the Designated Payment/Transfer Office of any successor thereto.

If the date for the payment of the principal of 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 March 15, 2022, issued in the aggregate principal amount of \$9,490,000 (herein referred to as the “Bonds”), and issued pursuant to the authority provided by Texas Government Code, Chapter 1502, as amended, and a certain ordinance of the City (the “Ordinance”), for the purposes of (i) the acquisition, construction, improvement, and repair of structures, equipment and facilities of the System, including a detention pond, conveyance infrastructure, and spillway system, as further described in the Application and (ii) 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.

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, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

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 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 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 Paso, Texas

\_\_\_\_\_  
Mayor  
City of El Paso, Texas

(SEAL)

(b) Form of Comptroller's Registration Certificate.

[to be printed on Initial Bond only]

OFFICE OF THE COMPTROLLER §  
OF PUBLIC ACCOUNTS § REGISTER NO. \_\_\_\_\_  
OF THE STATE OF TEXAS §

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of El Paso, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same and that such Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, on this date: \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

(c) Form of Certificate of Paying Agent/Registrar.

#### CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Salt Lake City, Utah, is the Designated Payment/Transfer Office for this Bond.

ZIONS BANCORPORATION,  
NATIONAL ASSOCIATION, AMEGY  
BANK DIVISION, as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee):

\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

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 Paying Agent/Registrar.

\_\_\_\_\_  
Authorized Signatory

(e) The Initial Bond shall be in the form set forth in subsection (a) of this Exhibit, except for the following alterations:

(i) Immediately under the name of the Bond, the heading "Maturity Date" shall be completed with the words "As Shown Below," and the heading "CUSIP No." shall be deleted.

(ii) in the first paragraph of the Bond the words "on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS" shall be deleted and the following will be inserted: "on March 1 in each of the years and in the principal amounts set forth in the following schedule:

Year                      Principal Amount

(Information to be inserted from Section 3.02(b) of the Ordinance)

(iii) the Initial Bond shall be numbered T-1.

(f) The Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the Initial Bond is fully executed.

(g) The Certificate of the Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

**EXHIBIT C**  
**ESCROW AGREEMENT**

## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (the “Agreement”), made by and between the City of El Paso, a political subdivision of the State of Texas in El Paso County, Texas (the “City”) and Zions Bancorporation, National Association, Amegy Bank Division, a national banking association organized and existing under the laws of the United States of America, as Escrow Agent (the “Escrow Agent”), together with any successor in such capacity:

### W I T N E S S E T H:

WHEREAS, the Public Service Board (the “Board”), acting on behalf of the City, filed an application seeking financial assistance in the amount of \$14,600,000 from the Flood Infrastructure Fund in accordance with Subchapter I, Chapter 15, Texas Water Code to finance certain stormwater drainage improvements, identified as Project No. 40182 (the “Project”); and

WHEREAS, the Texas Water Development Board (“TWDB”) adopted a resolution approving a commitment to the Board, acting on behalf of the City, for financial assistance in form of the proposed purchase of \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022,” and a grant of \$5,110,000; and

WHEREAS, pursuant to a Resolution adopted by the Board on March 9, 2022, the Board, acting on behalf of the City, authorized the execution of a Grant Agreement (the “Grant Agreement”) in the amount of \$5,110,000 (the “Grant”) to obtain financial assistance from the TWDB for the Project; and

WHEREAS, pursuant to an Ordinance (the “Ordinance”) adopted on March 29, 2022, the City authorized the issuance of \$9,490,000 City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022, dated March 15, 2022 (the “Bonds”) to the TWDB for the purpose of additional funding for the Project; the Bonds and the City’s contractual obligations in the Grant Agreement are collectively referred to herein as the “Obligations”; and

WHEREAS, the Escrow Agent is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code, Chapter 404, Subchapter D and is otherwise qualified and empowered to enter into this Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

WHEREAS, a condition of the Obligations is the deposit of the proceeds of the Obligations (the “Proceeds”) in escrow subject to being withdrawn only with the approval of the Executive Administrator or another designated representative; provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount of fees to be paid by the City to the Escrow Agent, as set forth on

**EXHIBIT A**, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Obligations, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives and successors, as follows:

**SECTION 1: ESCROW ACCOUNTS.** Upon the delivery of the Obligations described above, the Proceeds identified under TWDB Commitment Numbers L1001473 and G1001474 shall be deposited to the credit of a special escrow fund, and within such fund, two separate escrow subaccounts (collectively, the “Escrow Accounts”) maintained at the Escrow Agent on behalf of the City and the TWDB. Funds in the Escrow Accounts shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Accounts shall be entitled “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022, Texas Water Development Board Commitment Number L1001473 Escrow subaccount,” which shall contain Proceeds from the Bonds and “City of El Paso, Texas, Financial Assistance, Texas Water Development Board Commitment Number G1001474 Escrow subaccount,” which shall contain the proceeds from the Grant. The Escrow Accounts shall not be subject to warrants, drafts or checks drawn by the City but shall be disbursed or withdrawn to pay the costs of the Project for which the Obligations were issued or other purposes in accordance with the Ordinance and solely upon written authorization from the Executive Administrator or his/her designated representative. The Escrow Agent shall provide to the City and to the TWDB the Escrow Accounts bank statements upon request.

**SECTION 2: COLLATERAL.** All cash deposited to the credit of such Escrow Accounts and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

**SECTION 3: INVESTMENTS.** While the Proceeds are held in escrow, the Escrow Agent shall only invest escrowed Proceeds in investments that are authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256 (“PFIA”). It is the City’s responsibility to direct the Escrow Agent to invest all public funds in a manner that is consistent not only with the PFIA but also with its own written investment policy.

**SECTION 4: DISBURSEMENTS.** The Escrow Agent shall not honor any disbursement from the Escrow Accounts, or any portion thereof, unless and until it has been supplied with written approval and consent by the Executive Administrator or his/her designated representative. However, no written approval and consent by the Executive Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another within the Escrow Accounts provided that all such investments are consistent with the PFIA requirements.

**SECTION 5: UNEXPENDED FUNDS.** Any Proceeds remaining unexpended in the Escrow Accounts after completion of the Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Ordinance. The City shall deliver a copy of such TWDB approval of the final accounting to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds hereunder. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Ordinance, that being the sole obligation of the City.

**SECTION 6: CERTIFICATIONS.** The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the City and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

**SECTION 7: LIABILITY OF ESCROW AGENT.** To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its negligence or default or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Obligations or any recitation contained in the Obligations.

**SECTION 8: RECORDS.** The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof. The records shall be available for inspection and copying at reasonable hours and under reasonable conditions by the City and the TWDB.

**SECTION 9: MERGER/CONSOLIDATION.** In the event that the Escrow Agent merges or consolidates with another bank or sells or transfers substantially all of its assets or corporate trust business, then the successor bank shall be the successor Escrow Agent without the necessity of further action as long as the successor bank is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within five business days following such merger, consolidation or exchange.

**SECTION 10: AMENDMENTS.** This Agreement may be amended from time to time as necessary with the written consent of the City and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Escrow Agent without its consent.

**SECTION 11: TERMINATION.** In the event that this Agreement is terminated by either the City or by the Escrow Agent, the Escrow Agent must report said termination in writing to the

TWDB within five business days of such termination. The City is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the City and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the City must forward a copy of the executed escrow agreement with the successor escrow agent within five business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the City has not appointed a successor escrow agent within thirty (30) days of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the City. Whether appointed by the City or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

**SECTION 12: EXPIRATION.** This Agreement shall expire upon final transfer of the funds in the Escrow Accounts to the City.

**SECTION 13: POINT OF CONTACT.** The points of contact for the Escrow Agent and the TWDB are as follows:

Zions Bancorporation, National Association,  
Amegy Bank Division

Texas Water Development Board  
1700 North Congress Avenue  
Austin, Texas 78701

\_\_\_\_\_  
\_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Attention: \_\_\_\_\_

**SECTION 14: CHOICE OF LAW.** This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

**SECTION 15: ASSIGNABILITY.** This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect.

**SECTION 16: ENTIRE AGREEMENT.** This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the City and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Accounts. No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the City and consented to by the Escrow Agent and the TWDB.

**SECTION 17: VALIDITY OF PROVISIONS.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**SECTION 18: COMPENSATION FOR ESCROW SERVICES.** The Escrow Agent shall be entitled to compensation for its services as stated in Exhibit A, which compensation shall be paid by the City but may not be paid directly from the Escrow Accounts; provided, however, notwithstanding anything herein or in Exhibit A to the contrary, the aggregate value of this Agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code or Section 2274.002(a)(2) of the Texas Government Code.

**SECTION 19: COMPLIANCE WITH S.B. 252, 85TH TEXAS LEGISLATURE.**

The Escrow Agent represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Texas or Federal law and excludes the Escrow Agent and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Escrow Agent understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

*[The remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon signature of both parties.

**CITY OF EL PASO, TEXAS**

By: \_\_\_\_\_  
Authorized Representative

Date: \_\_\_\_\_

Address: El Paso Water Utilities  
1154 Hawkins Blvd.  
El Paso, TX 79925

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, AMEGY BANK DIVISION**

\_\_\_\_\_  
as Escrow Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**  
Fee Schedule

## RESOLUTION

**A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE AND SALE OF UP TO \$9,490,000 OF CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, SERIES 2022, TO BE ISSUED TO THE TEXAS WATER DEVELOPMENT BOARD WITH FLOOD INFRASTRUCTURE FUND PROGRAM FUNDING TO FINANCE THE WILL RUTH POND AND CONVEYANCE IMPROVEMENTS IN EL PASO COUNTY, TEXAS; AND AUTHORIZE THE PRESIDENT/CEO OR DESIGNEE TO SIGN A GRANT AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD AND ALL RELATED DOCUMENTS FOR THE WILL RUTH POND AND CONVEYANCE IMPROVEMENT PROJECT, IDENTIFIED AS PROJECT NO. 40182 .**

**WHEREAS**, on June 19, 2007, the City Council of the City of El Paso, Texas established the El Paso Texas 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; and

**WHEREAS**, the Public Service Board (the “Board”) hereby finds and determines that it is in the best interests of the System to make the improvements to the stormwater system further described herein; and

**WHEREAS**, the Board acting on behalf of the City, filed an application seeking financial assistance in the amount of \$14,600,000 from the Flood Infrastructure Fund program of the Texas Water Development Board to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182; and

**WHEREAS**, the Texas Water Development Board adopted a resolution approving a \$14,600,000 commitment to the Board, acting on behalf of the City, for financial assistance in form of the proposed purchase of \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022”, and a grant of \$5,110,000; and

**WHEREAS**, the Board finds that it is in the best interest of the System ratepayers for this funding and financing to take place; and

**WHEREAS**, the Board desires to authorize the President/CEO or designee to sign a grant agreement with the Texas Water Development Board for the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, and any related documents.

**NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES 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 true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board, which has been vested with the complete authority and control of the management and operation of the Municipal Drainage Utility System, and made a part of this Resolution by this reference 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 and sale of up to \$9,490,000 in City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022 to be issued through the Texas Water Development Board with Flood Infrastructure Fund program funding to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, in El Paso County, Texas.

**Section 3.** That the President/CEO or designee of El Paso Water Utilities Public Service Board is authorized to sign a grant agreement with the Texas Water Development Board and all related documents, to memorialize a grant in the amount of \$5,110,000 through the Flood Infrastructure Fund program of the Texas Water Development Board to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, in El Paso County, Texas.

(Signatures Begin on the following Page)

**PASSED AND APPROVED at the regular meeting of the Public Service Board, this 9th day of March, 2022, 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

ATTEST:

  
\_\_\_\_\_  
Kristina D. Mena, Chair

 For  
\_\_\_\_\_  
Bryan Morris, Secretary/Treasurer

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Arturo Duran  
Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz  
General Counsel

### Agreement Execution Resolution

A RESOLUTION by the El Paso Water Utilities Public Service Board of the City of El Paso (the "PSB") authorizing John E. Balliew, P.E., the Designated Representative of the El Paso Water Utilities- Public Service Board, to execute an agreement with the Texas Water Development Board for funding in the amount of \$ 14,600,000.

WHEREAS, the Texas Water Development Board made a commitment to provide financial assistance in the form of a grant/loan/principal forgiveness in the amount of \$ 14,600,000 to El Paso Water Utilities- Public Service Board to finance a project upon execution of a loan/grant/principal forgiveness agreement; therefore

BE IT RESOLVED BY THE El Paso Water Utilities Public Service Board OF THE City of El Paso :

SECTION 1. Approval of Agreement. The agreement setting out the terms and conditions of the financial assistance between the Texas Water Development Board and the El Paso Water Utilities- Public Service Board is approved and the El Paso Water Utilities- Public Service Board's Designated Representative is authorized to execute the agreement on behalf of the El Paso Water Utilities- Public Service Board.

SECTION 2. Effective Date. This Resolution shall become effectively immediately after its adoption.

PASSED AND APPROVED, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST: [Signature]  
Bryan Morris, Secretary-Treasurer

By: [Signature]  
Kristina Mena, Chair

## RESOLUTION

**A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE AND SALE OF UP TO \$9,490,000 OF CITY OF EL PASO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, SERIES 2022, TO BE ISSUED TO THE TEXAS WATER DEVELOPMENT BOARD WITH FLOOD INFRASTRUCTURE FUND PROGRAM FUNDING TO FINANCE THE WILL RUTH POND AND CONVEYANCE IMPROVEMENTS IN EL PASO COUNTY, TEXAS; AND AUTHORIZE THE PRESIDENT/CEO OR DESIGNEE TO SIGN A GRANT AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD AND ALL RELATED DOCUMENTS FOR THE WILL RUTH POND AND CONVEYANCE IMPROVEMENT PROJECT, IDENTIFIED AS PROJECT NO. 40182 .**

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**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; and

**WHEREAS**, the Public Service Board (the “Board”) hereby finds and determines that it is in the best interests of the System to make the improvements to the stormwater system further described herein; and

**WHEREAS**, the Board acting on behalf of the City, filed an application seeking financial assistance in the amount of \$14,600,000 from the Flood Infrastructure Fund program of the Texas Water Development Board to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182; and

**WHEREAS**, the Texas Water Development Board adopted a resolution approving a \$14,600,000 commitment to the Board, acting on behalf of the City, for financial assistance in form of the proposed purchase of \$9,490,000 of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022”, and a grant of \$5,110,000; and

**WHEREAS**, the Board finds that it is in the best interest of the System ratepayers for this funding and financing to take place; and

**WHEREAS**, the Board desires to authorize the President/CEO or designee to sign a grant agreement with the Texas Water Development Board for the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, and any related documents.

**NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES 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 true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board, which has been vested with the complete authority and control of the management and operation of the Municipal Drainage Utility System, and made a part of this Resolution by this reference 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 and sale of up to \$9,490,000 in City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022 to be issued through the Texas Water Development Board with Flood Infrastructure Fund program funding to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, in El Paso County, Texas.

**Section 3.** That the President/CEO or designee of El Paso Water Utilities Public Service Board is authorized to sign a grant agreement with the Texas Water Development Board and all related documents, to memorialize a grant in the amount of \$5,110,000 through the Flood Infrastructure Fund program of the Texas Water Development Board to finance the Will Ruth Pond and Conveyance Improvement project, identified as Project No. 40182, in El Paso County, Texas.

(Signatures Begin on the following Page)

**PASSED AND APPROVED at the regular meeting of the Public Service Board, this 9th day of March, 2022, 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

ATTEST:

  
\_\_\_\_\_  
Kristina D. Mena, Chair

 For  
\_\_\_\_\_  
Bryan Morris, Secretary/Treasurer

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Arturo Duran  
Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz  
General Counsel

### Agreement Execution Resolution

A RESOLUTION by the El Paso Water Utilities Public Service Board of the City of El Paso (the "PSB") authorizing John E. Balliew, P.E., the Designated Representative of the El Paso Water Utilities- Public Service Board, to execute an agreement with the Texas Water Development Board for funding in the amount of \$ 14,600,000.

WHEREAS, the Texas Water Development Board made a commitment to provide financial assistance in the form of a grant/loan/principal forgiveness in the amount of \$ 14,600,000 to El Paso Water Utilities- Public Service Board to finance a project upon execution of a loan/grant/principal forgiveness agreement; therefore

BE IT RESOLVED BY THE El Paso Water Utilities Public Service Board OF THE City of El Paso :

SECTION 1. Approval of Agreement. The agreement setting out the terms and conditions of the financial assistance between the Texas Water Development Board and the El Paso Water Utilities- Public Service Board is approved and the El Paso Water Utilities- Public Service Board's Designated Representative is authorized to execute the agreement on behalf of the El Paso Water Utilities- Public Service Board.

SECTION 2. Effective Date. This Resolution shall become effectively immediately after its adoption.

PASSED AND APPROVED, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST: [Signature]  
Bryan Morris, Secretary-Treasurer

By: [Signature]  
Kristina Mena, Chair



# Municipal Drainage Utility System Revenue Bonds, Series 2022

March 29, 2022

**Texas Water Development Board  
(Flood Infrastructure Fund Program)**

**\$9,490,000**

**Municipal Drainage Utility Revenue  
Bonds, Series 2022**

# TWDB – FIF Program

- Flood Infrastructure Fund Program
  - Passed by the 86th Texas Legislature and approved by voters through a constitutional amendment, the Flood Infrastructure Fund (FIF) was created to provide funding for flood mitigation projects. The purpose of the FIF is to assist in financing drainage, flood mitigation, and flood control projects.
  - On February 2, 2022, the TWDB approved a funding commitment to the Water Utilities for a total of \$14,600,000 million of project funds under the FIF Program. Grant-to-loan commitment will be distributed as follows:
    - Grant: \$5,110,000 (35%)
    - Loan: \$9,490,000 (65%)
  - TOTAL PROJECT FUNDING SUMMARY:

## Will Ruth Pond & Conveyance Improvement Funds

### **Project Funds**

TWDB FIF Grant:	\$ 5,110,000
TWDB FIF Loan:	9,490,000
EPWater Funds:	14,767,000
<b>Total Budget</b>	<b><u>\$ 29,367,000</u></b>

# TWDB – FIF Program Debt Impact

A	B	C	D	E	F	G
Annual Period Ending 1-Mar	Existing Gross Debt Service	SERIES 2022 (TWDB Loan)			Aggregate Debt Service	Annual Period Ending 1-Mar
		Principal	Interest <sup>(1)</sup>	Total		
2022	\$ 10,341,849	\$ -	\$ -	\$ -	\$ 10,341,849	2022
2023	10,351,881	320,000	-	320,000	10,671,881	2023
2024	10,347,811	320,000	-	320,000	10,667,811	2024
2025	10,346,701	320,000	-	320,000	10,666,701	2025
2026	10,645,061	320,000	-	320,000	10,965,061	2026
2027	10,721,001	320,000	-	320,000	11,041,001	2027
2028	10,786,701	320,000	-	320,000	11,106,701	2028
2029	10,866,491	320,000	-	320,000	11,186,491	2029
2030	6,677,361	320,000	-	320,000	6,997,361	2030
2031	6,680,041	315,000	-	315,000	6,995,041	2031
2032	6,566,281	315,000	-	315,000	6,881,281	2032
2033	5,560,131	315,000	-	315,000	5,875,131	2033
2034	5,556,731	315,000	-	315,000	5,871,731	2034
2035	5,569,181	315,000	-	315,000	5,884,181	2035
2036	3,812,581	315,000	-	315,000	4,127,581	2036
2037	2,173,281	315,000	-	315,000	2,488,281	2037
2038	2,168,681	315,000	-	315,000	2,483,681	2038
2039	2,172,331	315,000	-	315,000	2,487,331	2039
2040	921,931	315,000	-	315,000	1,236,931	2040
2041	924,231	315,000	-	315,000	1,239,231	2041
2042		315,000	-	315,000	315,000	2042
2043		315,000	-	315,000	315,000	2043
2044		315,000	-	315,000	315,000	2044
2045		315,000	-	315,000	315,000	2045
2046		315,000	-	315,000	315,000	2046
2047		315,000	-	315,000	315,000	2047
2048		315,000	-	315,000	315,000	2048
2049		315,000	-	315,000	315,000	2049
2050		315,000	-	315,000	315,000	2050
2051		315,000	-	315,000	315,000	2051
2052		315,000	-	315,000	315,000	2052
Total	\$ 133,190,263	\$ 9,490,000	\$ -	\$ 9,490,000	\$ 139,215,263	

(1) At 0.00% Interest Loan.

# Timeframe

- **March 9, 2022:** Public Service Board considers request to sell Series 2022 Bonds
- **March 29, 2022:** City Council considers request to sell Series 2022 Bonds
- **April 19, 2022:** Tentative closing for Series 2022 Bonds



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File #: 22-310, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

*Please choose District and Department from drop down menu. Please post exactly as example below.  
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 Improvement and Refunding Bonds, Series 2022" for system improvements and 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- March 29, 2022

**CONTACT PERSON/PHONE:** Art Duran, El Paso Water Utilities Chief Financial Officer  
(915) 594-5549

**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:** APPROVE the following Ordinance

An Ordinance authorizing the issuance of “City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022” for system improvements and 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, El Paso Water (915) 594-5549] [Public Hearing Date: March 29, 2022]

**BACKGROUND / DISCUSSION:**

EPWater is requesting the City Council of the City of El Paso to authorize the issuance of up to \$356,325,000 of “City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022.”

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 March 2, 2021, City Council approved \$40,655,000 of City of El Paso, Texas Water and Sewer System Revenue Refunding Bonds, Series 2021 and Taxable Series 2021A.

**AMOUNT AND SOURCE OF FUNDING:**

This item will be funded through the sale of City of El Paso, Texas Water and Sewer System Revenue Improvement and Refunding Bonds, Series 2022.

**BOARD / COMMISSION ACTION:**

The El Paso Water Utilities Public Service Board approved a Resolution on March 9, 2022, requesting that the City Council authorize the issuance of up to \$356,325,000 of “City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022”.

**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 IMPROVEMENT AND REFUNDING BONDS,  
SERIES 2022

Adopted: March 29, 2022

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE IMPROVEMENT AND REFUNDING BONDS, SERIES 2022” FOR SYSTEM IMPROVEMENTS AND 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, there has been filed with the City Council one or more resolutions adopted and approved by the Public Service 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; (2) constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving System properties and facilities; and (3) paying the costs of issuing the Bonds as described in the Ordinance; and

WHEREAS, the City Council hereby finds and determines that it is in the best interest of the City and the System to refund certain of its previously issued and outstanding System revenue commercial paper notes (the “Refunded Commercial Paper Notes”); and

WHEREAS, in combination with the revenue bonds issued to refund the Refunded Commercial Paper Notes, the City Council further finds and determines that additional revenue bonds should be issued and sold at this time for the purpose of constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving System properties and facilities; 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 authorized by this Ordinance (the “Bonds”) including: (i) the principal amount of the Refunded Commercial Paper Notes 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 the refunding of the Refunded Commercial Paper 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

Section 1.01 Definitions. 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.

“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.

“Bonds” means the City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022, authorized by Section 3.01 of this Ordinance, and any additional or different series or designation specified in an applicable Pricing Certificate.

“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.

“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.

“Chapter 1502” means Texas Government Code, Chapter 1502, 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.

“Construction Fund” means the fund by such name described in Section 8.05(a) hereof.

“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.

“Escrow Agreement” means any deposit or escrow agreement between the City and an escrow agent designated in the Pricing Certificate, which may include the issuing and paying agent for the Refunded Commercial Paper Notes, authorized in accordance with terms hereof, including Article 15.

“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.

“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, 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 the fund so designated 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 Computershare Trust Company, N.A. (or such other entity or banking association determined by the Pricing Officer in the Pricing Certificate), 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 Bonds, Series 2003A, authorized by ordinance duly passed and approved August 26, 2003;
- (2) Water and Sewer Revenue Refunding Bonds, Series 2014, authorized by ordinance duly passed and adopted on January 7, 2014;
- (3) Water and Sewer Revenue Refunding Bonds, Series 2015, authorized by ordinance duly passed and adopted on December 2, 2014;
- (4) Water and Sewer Revenue Bonds, Series 2015A, authorized by ordinance duly passed and adopted on June 16, 2015;
- (5) Water and Sewer Revenue Bonds, Series 2015B, authorized by ordinance duly passed and adopted on October 27, 2015;
- (6) Water and Sewer Revenue Refunding Bonds, Series 2015C, authorized by ordinance duly passed and adopted on October 27, 2015;
- (7) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2016, authorized by ordinance duly passed and adopted on June 28, 2016;
- (8) Water and Sewer Revenue Bonds, Series 2016A, authorized by ordinance duly passed and adopted on October 18, 2016;
- (9) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2017, authorized by ordinance duly passed and adopted on September 5, 2017;
- (10) Water and Sewer Revenue Bonds, Series 2017A, authorized by ordinance duly passed and adopted on October 31, 2017;
- (11) Water and Sewer Revenue Refunding Bonds, Series 2018, authorized by ordinance duly passed and adopted on October 30, 2018;
- (12) Water and Sewer Revenue Bonds, Series 2019, authorized by ordinance duly passed and adopted on March 19, 2019;
- (13) Water and Sewer Revenue Refunding Bonds, Series 2019A, authorized by ordinance duly passed and adopted on August 6, 2019;

(14) Water and Sewer Revenue Refunding Bonds, Series 2019B, authorized by ordinance duly passed and adopted on August 6, 2019;

(15) Water and Sewer Revenue Refunding Bonds, Series 2020, authorized by ordinance duly passed and adopted on August 4, 2020;

(16) Water and Sewer Revenue Refunding Bonds, Taxable Series 2020A, authorized by ordinance duly passed and adopted on August 4, 2020;

(17) Water and Sewer Revenue Refunding Bonds, Series 2021, authorized by ordinance duly passed and adopted on March 2, 2021; and

(18) Water and Sewer Revenue Refunding Bonds, Taxable Series 2021A, authorized by ordinance duly passed and adopted on March 2, 2021.

“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, the Vice President of Strategic, Financial and Management Services 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.

“Refunded Commercial Paper Notes” means the commercial paper notes 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” shall mean the obligations of the City under the City’s Commercial Paper Notes, Series A and the documents pertaining thereto.

“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.

Section 1.02 Findings. 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

Section 2.01 Security for the Bonds. 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.

Section 2.02 Limited Obligations. 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 amounts 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, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022” and/or such additional or different series or designations as specified by the Pricing Officer in an applicable Pricing Certificate.

(b) The Bonds shall be issued for the purposes of (i) refunding the Refunded Commercial Paper Notes, (ii) constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving System properties and facilities, 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 principal amount of the Refunded Commercial Paper Notes 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 all series of Bonds issued hereunder shall not exceed \$356,325,000 (with proceeds from the sale of such Bonds being used, in part, to refund \$80,000,000 of Refunded Commercial Paper Notes in accordance with the terms hereof);

(ii) the aggregate true interest cost percentage for each series of Bonds issued hereunder shall not exceed 4.25%; and

(iii) the maximum maturity date for each series of Bonds issued hereunder shall not exceed December 31, 2052.

(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) 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 180 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 such 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.

(b) Except as provided below, no Bond shall be valid or obligatory for any purpose or 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.

### 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, where 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.

(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 Limitation on Redemption. 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) Unless otherwise specified in a Pricing Certificate, Computershare Trust Company, N.A., a national banking association organized under the laws of the United States of America authorized to do business in the State of Texas, is hereby appointed 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 Termination of Paying Agent/Registrar. 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 CUSIP Registration. 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 Legal Opinion. 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 “City of El Paso, Texas Water and Sewer System Note Payment Fund” (the “Note Payment Fund”) heretofore created by the ordinance authorizing the City’s Commercial Paper Notes, Series A, herein referred to as the “Subordinate Lien Obligations,” is hereby reaffirmed.

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) Interest and Sinking Fund. 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:

(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) Note Payment Fund. 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) Improvement Fund. 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 Investment of Funds.

(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) Investment of Reserve Fund. 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.

Section 8.05 Construction Fund.

(a) There is hereby established and created the “City of El Paso, Texas, Water and Sewer Revenue Improvement Bonds, Series 2022 Construction Fund” (the “Construction Fund”), which shall be maintained by the Board at the Depository Bank and which shall be kept segregated and apart from other funds and accounts of the City and the Board. The amount of proceeds of sale to be deposited to the Construction Fund shall be specified in the applicable Pricing Certificate.

(b) Moneys deposited to the credit of the Construction Fund shall be invested and secured in the manner required by State or federal law, including specifically the Public Funds Investment Act, Chapter 2256, Texas Government Code, as appropriate.

## ARTICLE 9

### DEPOSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS

#### Section 9.01 Deposit of Proceeds.

(a) All amounts, if any, received on the Closing Date as accrued interest on the Bonds shall be deposited to the Interest and Sinking Fund.

(b) 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 Insurance. 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) Additional Bonds. 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) Maintain and Operate System Efficiently. 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) Rate Covenant. 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) Charges for Water and Sewer Service. 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) Enforcement.

(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) Payment to City from Sale of Land. 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) No Competing Systems. 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) No Free Service. 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.

(k) Certain Land Transfers. Subject to Sections 10.03(g) and (h) hereof, the City and the Board hereby covenant, respectively, that no System land shall be transferred, sold, gifted or granted for Open Space Purposes to, or preserved in its natural state, restricted as to its development or otherwise reserved or set aside for Open Space Purposes at the request, initiative, petition or action of, a third party without the System receiving the fair market value of any System land so transferred or restricted from a source other than the City's General Fund. For purposes of this section, (i) "fair market value" means a price that the System land would bring in an arms-length transaction when offered for sale by one who wishes, but is not obliged, to sell and when bought by one who is under no necessity of buying it, as reasonably determined by the Board; and (ii) "Open Space Purposes" means the establishment, restriction or preservation of land as an area without development or significant structures, for either scenic or recreational purposes, including but not limited to, Common, Natural, Private and Public as defined in the City's Code of Ordinances.

#### Section 10.04 Covenants to Maintain Tax Exempt Status.

(a) Definitions. 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) No Private Use or Private Payments. 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 Commercial Paper Notes), 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 Commercial Paper Notes) 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) Information Report. 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) Rebate of Arbitrage Profits. 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) Elections. The City hereby directs and authorizes the City Manager, the President/Chief Executive Officer of the System, the Vice President of Strategic, 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) Bonds Not Hedge Bonds. (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.

(l) Current Refunding. The payment and discharge of the Refunded Commercial Paper Notes will occur within ninety (90) days after the issuance of the Bonds and, therefore, the portion of the Bonds issued to refund such obligations are a current refunding.

Section 10.05 Continuing Obligation. 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

Section 12.01 Discharge. 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 effective 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 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 Strategic, 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 Web site 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.

Section 14.03 Filings with the MSRB. 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

### PAYMENT OF REFUNDED COMMERCIAL PAPER NOTES.

Section 15.01 Payment of Refunded Commercial Paper Notes. Following the deposit of funds to the credit of the Note Payment Fund or otherwise as specified in the Pricing Certificate, the Refunded Commercial Paper Notes shall be payable solely from and secured by such deposits and shall cease to be payable from Net Revenues.

Section 15.02 Escrow Agreement. If required in connection with the refunding of the Refunded Commercial Paper Notes, the Pricing Officer is authorized to select and appoint an escrow agent for the refunding of the Refunded Commercial Paper Notes, and any escrow agent so selected and appointed shall be designated in the Pricing Certificate. An Escrow Agreement by and between the City and an authorized escrow agent, if any such agreement is required in connection with the refunding of the Refunded Commercial Paper Notes, 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 any such Escrow Agreement as executed by the Pricing Officer shall be deemed approved by the City Council and constitute the Escrow Agreement herein approved.

## ARTICLE 16

### MISCELLANEOUS

#### Section 16.01 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 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) 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 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 16.02 Further Procedures. 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 Strategic, 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 Strategic, 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.

Section 16.03 Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of

municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

Section 16.04 Effectiveness. This Ordinance shall take effect and be in force from and after its passage and approval.

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APPROVED AND ADOPTED this 29<sup>th</sup> day of March, 2022.

\_\_\_\_\_  
Oscar Leeser  
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**

## PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of \_\_\_\_\_, 2022 (this "Agreement"), by and between Computershare Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States of America, or its successors (the "Bank") and the City of El Paso, Texas (the "Issuer").

### RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022" (the "Securities"), dated April 1, 2022, such Securities scheduled to be delivered to the initial purchasers thereof on or about April 26, 2022; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

### ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

**Section 1.01 Appointment.** The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

**Section 1.02 Compensation.** As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided, however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code, as amended, or Section 2274.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

## **ARTICLE TWO DEFINITIONS**

**Section 2.01 Definitions.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

**Section 2.02 Other Definitions.** The terms “Bank,” “Issuer,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement.

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement.

### ARTICLE THREE PAYING AGENT

**Section 3.01 Duties of Paying Agent.** As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

By Registered or Certified Mail  
Computershare Trust Company, N.A.  
P.O. Box 1517  
Minneapolis, Minnesota 55480-1517

By Hand or Overnight Mail  
Computershare Trust Company, N.A.  
Corporate Trust Operations  
N9300-070  
600 South 4<sup>th</sup> Street, 7<sup>th</sup> Floor  
Minneapolis, Minnesota 55415

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder’s risk and expense.

**Section 3.02 Payment Dates.** The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

### ARTICLE FOUR REGISTRAR

**Section 4.01 Security Register - Transfers and Exchanges.** The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority,

such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02 Securities.** The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4.03 Form of Security Register.** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 4.04 List of Security Holders.** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

**Section 4.05 Return of Cancelled Securities.** The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

**Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities.** The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and

bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

**Section 4.07 Transaction Information to Issuer.** The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

## **ARTICLE FIVE THE BANK**

**Section 5.01 Duties of Bank.** The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

**Section 5.02 Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

**Section 5.03 Recitals of Issuer.** The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

**Section 5.04 May Hold Securities.** The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization.** A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

**Section 5.06 Indemnification.** To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07 Interpleader.** The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on

deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**Section 5.08 DTC Services.** It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for “Depository Trust Company” services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the “Operational Arrangements”, which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

**Section 6.01 Amendment.** This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**Section 6.02 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other.

**Section 6.03 Notices.** Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page hereof.

**Section 6.04 Effect of Headings.** The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**Section 6.05 Successors and Assigns.** All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

**Section 6.06 Severability.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.07 Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

**Section 6.08 Benefits of Agreement.** Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**Section 6.09 Entire Agreement.** This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying

Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

**Section 6.10 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6.11 Termination.** This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.12 Iran, Sudan or Foreign Terrorist Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

**Section 6.13 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY, N.A.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_

Title: \_\_\_\_\_

Address: Computershare Trust Company, N.A.  
CTSO Mail Operations  
Attn: Jim Hood  
MAC: 29300-070  
600 S. 4<sup>th</sup> Street, 7<sup>th</sup> Floor  
Minneapolis, Minnesota 55415

CITY OF EL PASO, TEXAS

By:   
Pricing Officer

Address: El Paso Water Utilities  
1154 Hawkins Blvd.  
El Paso, Texas 79925

## ANNEX A

**EXHIBIT B**

**FORM OF BOND**

(a) Form of Bond.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF EL PASO  
CITY OF EL PASO, TEXAS,  
WATER AND SEWER REVENUE IMPROVEMENT AND REFUNDING BONDS,  
SERIES 2022

INTEREST RATE: \_\_\_\_\_%      MATURITY DATE: March 1, 20\_\_      INITIAL DATE: \_\_\_\_\_, 20\_\_      CUSIP NO.: \_\_\_\_\_

The City of El Paso (the "City"), in the County of El Paso, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_

or registered assigns, but solely from the sources and in the manner hereinafter provided, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for prior redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the date of delivery or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing \_\_\_\_\_ 1, 20 \_\_. The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated payment/transfer office in Minneapolis, Minnesota (the "Designated Payment/Transfer Office") of Computershare Trust Company, N.A., Paying Agent/Registrar, or at the Designated Payment/Transfer Office of any successor thereto. Interest on this Bond is payable by check, dated as of the interest payment date, mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar 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. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth day of the month next preceding such interest payment date. In the event of a nonpayment of interest on a

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, 1371 and 1502, as amended, and a certain ordinance of the City (the "Ordinance"), for the purposes of (i) refunding the Refunded Commercial Paper Notes, (ii) constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving System properties and facilities, 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__	
<u>Redemption Date</u>	<u>Principal Amount</u>
March 1, 20__	\$ ,000
March 1, 20__ (maturity)	\$ ,000

Term Bonds Maturing March 1, 20__	
<u>Redemption Date</u>	<u>Principal Amount</u>
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.

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City Clerk  
City of El Paso, Texas

---

Mayor  
City of El Paso, Texas

(SEAL)

(b) Form of Comptroller's Registration Certificate.

[to be printed on Initial Bond only]

OFFICE OF THE COMPTROLLER §  
OF PUBLIC ACCOUNTS § REGISTER NO. \_\_\_\_\_  
OF THE STATE OF TEXAS §

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of El Paso, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same and that such Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, on this date: \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

(c) Form of Certificate of Paying Agent/Registrar.

CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Minneapolis, Minnesota, is the Designated Payment/Transfer Office for this Bond.

COMPUTERSHARE TRUST COMPANY,  
N.A., as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee):

\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

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 Paying Agent/Registrar.

\_\_\_\_\_  
Authorized Signatory

(e) The Initial Bond shall be in the form set forth in subsection (a) of this Exhibit, except for the following alterations:

(i) Immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall be completed with the words "As Shown Below," and the heading "CUSIP No." shall be deleted.

(ii) in the first paragraph of the Bond the words "on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS" shall be deleted and the following will be inserted: "on March 1 in each of the years, in the principal amounts and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
-------------	-------------------------	----------------------

(Information to be inserted from the Pricing Certificate)

(iii) the Initial Bond shall be numbered T-1.

(f) The Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the Initial Bond is fully executed.

(g) The Certificate of the Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

## RESOLUTION

**A RESOLUTION REQUESTING THAT THE EL PASO CITY COUNCIL AUTHORIZE THE ISSUANCE OF UP TO \$356,325,000 OF CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE IMPROVEMENT AND REFUNDING BONDS, SERIES 2022 TO PAY OFF \$80,000,000 IN COMMERCIAL PAPER NOTES, FUND APPROXIMATELY \$273,006,000 OF CAPITAL IMPROVEMENT PROGRAM PROJECTS APPROVED FOR FISCAL YEAR 2022-2023, AND FUND RELATED TRANSACTION COSTS; PROVIDED THAT CERTAIN PARAMETERS ARE MET.**

**WHEREAS**, the El Paso Water Utilities Public Service Board, was established on May 22, 1952, by Ordinance No. 752 of the City of El Paso (“City”) for the purpose of the Public Service Board having complete authority and control of the management and operation of the water and wastewater system in order to provide potable water and wastewater collection and treatment (the “System”); and

**WHEREAS**, there have been filed with the City Council one or more resolutions adopted and approved by the Public Service Board requesting the City Council to approve the issuance and sale of the City’s revenue bonds for the purpose; and

**WHEREAS**, the Public Service Board hereby finds and determines that it is in the best interest of the City and the System to refund certain of the City’s previously issued and outstanding System revenue commercial paper notes (the “Refunded Commercial Paper Notes”) for the purposes of making such debt long-term fixed debt of the City; and

**WHEREAS**, in combination with the revenue bonds issued to refund the Refunded Commercial Paper Notes, the Public Service Board hereby finds and determines that it is in the best interest of the System to fund approximately \$273,006,000 of El Paso Water’s Water and Wastewater approved Capital Improvement Program for Fiscal Year 2022-2023 with this bond issue; and

**WHEREAS**, the Public Service Board requests the City to authorize the issuance of up to \$356,325,000 of City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022 which includes related transaction costs.

**NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES 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 Public Service Board and made a part of this Resolution for all purposes.

**Section 2.** That El Paso Water Utilities Public Service Board hereby requests City Council to authorize the issuance of up to \$356,325,000 of City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022 (i) to pay off \$80,000,000 in commercial paper notes, (ii) to fund approximately \$273,006,000 of El Paso Water’s Water and Wastewater approved Capital Improvement Program for Fiscal Year 2022-2023, and (iii) to fund

interest and related transaction costs; provided that certain pricing parameters as set forth in the City's bond ordinance are met.

**PASSED AND APPROVED** at the regular meeting of the Public Service Board, this 9th day of March, 2022, 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

ATTEST:

  
\_\_\_\_\_  
Kristina D. Mena, Chair

  
\_\_\_\_\_  
Bryan Morris, Secretary/Treasurer

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Arturo Duran  
Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz  
General Counsel



**TO:** Tomás González, City Manager, The City of El Paso, Texas

**FROM:** Art Duran, Utility Chief Financial Officer  
El Paso Water Utilities Public Service Board

**DATE:** March 11, 2022

**SUBJECT:** Request to place the following items on **Regular City Council Agenda for March 29, 2022:**

**Item (1). Ordinance Introduction and Public Hearing: City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022.**

**Item (2). Ordinance Introduction and Public Hearing: City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds Series 2022.**

*Agenda Posting Language for Item 1:*

An Ordinance authorizing the issuance of “City of El Paso, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2022” pledging the net revenues of the Municipal Drainage Utility System to the payment of such bonds; and resolving other matters which are necessary to effect such issuance. **(All Districts)** [Arturo Duran, El Paso Water (915) 594-5549][Public Hearing Date: March 29, 2022]

*Agenda Posting Language for Item 2:*

An Ordinance authorizing the issuance of “City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds, Series 2022” for system improvements and 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, El Paso Water (915) 594-5549][Public Hearing Date: March 29, 2022]

\*\*\*\*\*

These two agenda items requested to be posted on the City Council’s March 29, 2022, City Council Agenda, are pursuant to separate Resolutions of El Paso Water Utilities Public Service Board (PSB) approved at the PSB’s March 9, 2022, meeting, requesting the following:

- (1) Resolution requesting the City Council to authorize the issuance of up to \$9,490,000 of City of El Paso, Texas Municipal Drainage Utility System Revenue Bonds, Series 2022.

(2) Resolution requesting the City Council to authorize the issuance of up to \$356,325,000 of City of El Paso, Texas, Water and Sewer Revenue Improvement and Refunding Bonds Series 2022 to pay off \$80,000,000 in Commercial Paper Notes to fund approximately \$273,006,000 of CIP projects for Fiscal Year 2022-23 and to fund interest and related transaction costs, provided that certain pricing parameters, as set forth in the City's bond ordinances, are met.

If there are any questions, please call me directly at (915) 594-5549 or email me at [ADuran@epwater.org](mailto:ADuran@epwater.org) or contact General Counsel, Daniel Ortiz at (915) 594-5607.

Thank you for your attention to this matter.

Attachments: Department Head Summary Forms  
PSB March 9, 2022, Resolutions  
Proposed City Council Ordinances  
City Council Presentations

cc: The Honorable Mayor Oscar Leeser (email)  
Estrella Escobar, Chief of Staff, Mayor (email)  
Robert Cortinas, Deputy City Manager and CFO (email)  
  
Karla Nieman, City Attorney (email)  
Juan Gonzalez, Senior Assistant City Attorney (email)  
Laura D. Prine, City Clerk (email)

John Balliew, P.E., President/CEO EPWU-PSB (email)  
Claudia Duran, Executive Assistant to President/CEO (email)  
Marcela Navarrete, C.P.A, Vice President-Strategic Financial &  
Management Services (email)  
  
Daniel Ortiz, General Counsel (email)  
Paul Braden, Norton, Rose, Fulbright, Bond Counsel (email)  
Maria Urbina, HTS (email)



# **Water & Sewer Revenue Improvement and Refunding Bonds, Series 2022**

**March 29, 2022**

# Transaction Overview

- El Paso Water Utilities is looking at issuing bonds to finance capital improvement projects and also to refund existing commercial paper notes.
  - Improvement Bonds will fund \$273 million of capital projects over the next 12 months.
  - Refunding portion of the bonds will repay \$80 million of commercial paper notes.

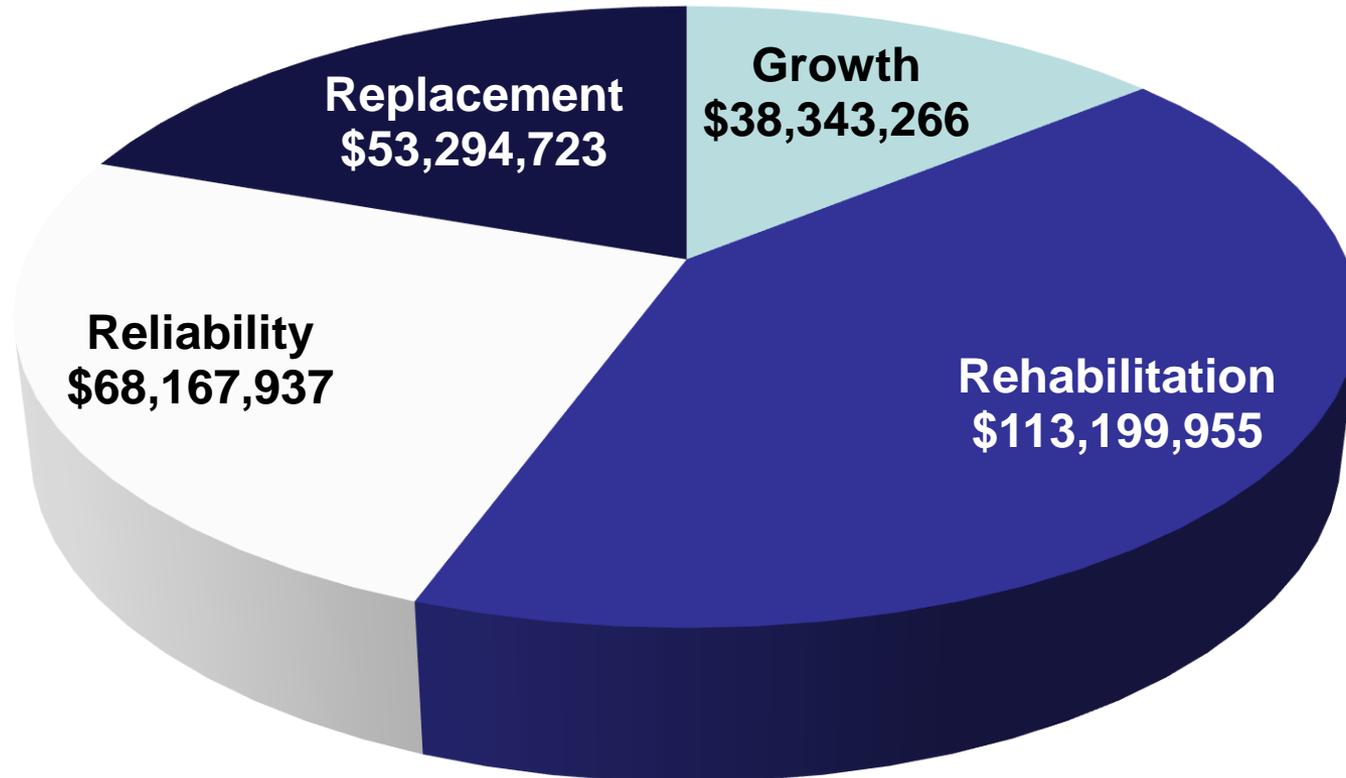
# Projects

Project (water)	District	Total
Canutillo Upper Valley Transmission Main Northwest Phase IV	1	\$1,649,892.83
Upper Valley - Strahan/Borderland Water Transmission Mains	1	6,939,000.00
High Chaparral 3.5MG Reservoir Rehabilitation	1	3,850,000.00
Airport Well Collector 30" Main Replacement	2	8,627,000.00
EPWater Headquarters New Building	3	8,214,285.72
Airport Booster Station Replacement Program	3	6,244,668.45
Franklin East 24" Waterline extension	4	2,526,409.06
Montana East Supply Waterlines	5	7,000,499.96
Jonathan Rogers WTP Improvements & Rehabilitation	6	6,604,000.01
Planned Waterline Replacement	7	5,428,571.43
Canal WTP Improvements & Rehabilitation	8	4,819,090.92
Rosa Street 16" (UMC) Installation	1,8	3,502,045.46
Pipeline Protection Program	3,7	4,678,578.93
SB3 Energy Systems Upgrades	City Wide	44,117,647.07
TXDOT Roadway Improvement Projects	City Wide	6,070,000.00
<b>Total (water)</b>		<b>\$120,271,689.84</b>

# Projects

Project (wastewater)	District	Total
Frontera Force Main	1	12,014,000.00
Northwest Facility Planned Area	1	3,140,357.12
Fred Hervey WRP Upgrades & Rehabilitation	4	8,237,727.27
Grouse Street Force Main Replacement Phase VI	4	2,909,833.33
NE Dyer/Railroad Interceptors	4	2,519,045.45
Hondo Pass Sewer Line Replacement	4	3,786,363.63
Northeast Dyer/RR Lift Station 7MGD	4	9,197,727.27
Roberto R. Bustamante WRP Upgrades & Rehabilitation	6	67,923,999.97
Haskell R. Street WWTP Upgrades & Rehabilitation	8	7,601,500.00
Alfalfa Lift Station Rehab & 6MGD Upgrade	8	3,518,181.83
John T. Hickerson WRP Upgrades & Rehabilitation	1,8	14,163,636.36
Emergency Backup Power Improvements	City Wide	17,721,818.18
<b>Total (wastewater)</b>		<b>\$152,734,190.41</b>
<b>Grand Total (water/wastewater)</b>		<b>\$273,005,880.25</b>

# 2022 Bond Funding by Category



# Debt Impact to Overall W&S Debt

Annual Period Ending	Total Existing	W&S Improvement & CP Refunding			W&S Improvement & CP Refunding			Aggregate Debt Service	Annual Period Ending
		Sale Date: March 2022			Sale Date: February 2023				
		SERIES 2022			SERIES 2023				
		Principal	Interest <sup>(1)</sup>	Total	Principal	Interest <sup>(2)</sup>	Total		
1-Mar	Debt Service								1-Mar
2022	\$ 66,517,423	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 66,517,423	2022
2023	68,760,034	500,000	10,566,026	11,066,026	-	-	-	79,826,060	2023
2024	68,765,902	500,000	12,453,875	12,953,875	500,000	11,077,400	11,577,400	93,297,177	2024
2025	68,750,099	500,000	12,436,375	12,936,375	500,000	11,057,400	11,557,400	93,243,874	2025
2026	67,632,726	1,600,000	12,418,875	14,018,875	500,000	11,037,400	11,537,400	93,189,001	2026
2027	67,830,126	1,500,000	12,362,875	13,862,875	500,000	11,017,400	11,517,400	93,210,401	2027
2028	67,734,322	7,030,000	12,310,375	19,340,375	1,500,000	10,997,400	12,497,400	99,572,097	2028
2029	67,099,320	7,345,000	12,064,325	19,409,325	2,190,000	10,937,400	13,127,400	99,636,045	2029
2030	62,263,017	7,670,000	11,807,250	19,477,250	6,940,000	10,849,800	17,789,800	99,530,067	2030
2031	56,510,467	10,200,000	11,538,800	21,738,800	7,220,000	10,572,200	17,792,200	96,041,467	2031
2032	52,605,215	10,555,000	11,181,800	21,736,800	7,505,000	10,283,400	17,788,400	92,130,415	2032
2033	45,277,272	10,920,000	10,812,375	21,732,375	7,810,000	9,983,200	17,793,200	84,802,847	2033
2034	45,025,268	11,310,000	10,430,175	21,740,175	8,120,000	9,670,800	17,790,800	84,556,243	2034
2035	40,700,762	11,700,000	10,034,325	21,734,325	8,445,000	9,346,000	17,791,000	80,226,087	2035
2036	38,348,066	12,110,000	9,624,825	21,734,825	8,780,000	9,008,200	17,788,200	77,871,091	2036
2037	29,729,368	12,535,000	9,200,975	21,735,975	9,135,000	8,657,000	17,792,000	69,257,343	2037
2038	22,558,406	12,975,000	8,762,250	21,737,250	9,500,000	8,291,600	17,791,600	62,087,256	2038
2039	15,209,047	13,425,000	8,308,125	21,733,125	9,875,000	7,911,600	17,786,600	54,728,772	2039
2040	9,598,664	13,900,000	7,838,250	21,738,250	10,275,000	7,516,600	17,791,600	49,128,514	2040
2041	5,556,644	14,385,000	7,351,750	21,736,750	10,685,000	7,105,600	17,790,600	45,083,994	2041
2042	3,107,672	14,885,000	6,848,275	21,733,275	11,110,000	6,678,200	17,788,200	42,629,147	2042
2043		15,410,000	6,327,300	21,737,300	11,555,000	6,233,800	17,788,800	39,526,100	2043
2044		15,950,000	5,787,950	21,737,950	12,020,000	5,771,600	17,791,600	39,529,550	2044
2045		16,505,000	5,229,700	21,734,700	12,495,000	5,290,800	17,785,800	39,520,500	2045
2046		17,085,000	4,652,025	21,737,025	13,000,000	4,791,000	17,791,000	39,528,025	2046
2047		17,680,000	4,054,050	21,734,050	13,520,000	4,271,000	17,791,000	39,525,050	2047
2048		18,300,000	3,435,250	21,735,250	14,060,000	3,730,200	17,790,200	39,525,450	2048
2049		18,945,000	2,794,750	21,739,750	14,620,000	3,167,800	17,787,800	39,527,550	2049
2050		19,605,000	2,131,675	21,736,675	15,205,000	2,583,000	17,788,000	39,524,675	2050
2051		20,295,000	1,445,500	21,740,500	15,815,000	1,974,800	17,789,800	39,530,300	2051
2052		21,005,000	735,175	21,740,175	16,450,000	1,342,200	17,792,200	39,532,375	2052
2053					17,105,000	684,200	17,789,200	17,789,200	2053
Total	\$ 969,579,820	\$ 356,325,000	\$ 244,945,276	\$ 601,270,276	\$ 276,935,000	\$ 221,839,000	\$ 498,774,000	\$ 2,069,624,096	

Project Funds: \$ 273,005,880  
Commercial Paper Refunding: \$ 80,000,000

\$ 194,283,438  
\$ 80,000,000

(1) Assumes a True Interest Cost of 3.50%. Preliminary and subject to change based on market conditions at the time of pricing the bonds.  
(2) Assumes a True Interest Cost of 4.00%. Preliminary and subject to change based on market conditions at the time of pricing the bonds.

**Note: For illustration purposes only. Actual debt service requirement figures will be determined at the time of pricing.**

# Open Market: Parameter Authorization

- **Parameter authorization will enable the sale of the Bonds at optimum timing and structure.**
  - Water & Sewer Revenue Improvement & Refunding Bonds, Series 2022
- **Council delegates final pricing authority to Pricing Officer(s).**
  - John Balliew
  - Marcela Navarrete
  - Arturo Duran
- **Council to approve parameters as recommended by PSB.**
  - Series 2022 (Improvement & Commercial Paper Refunding)
    - Maximum True Interest Cost – 4.25%
    - Principal Amount of Issue - \$356,325,000
    - Final Maturity Date – December 31, 2052
    - Expiration of Delegated Authority – 6 months
- **Pricing Officer can only approve sale if all Council parameters are met.**

# Underwriters

## ■ Staff Recommendation:

- **Ramirez & Co., Inc.**
- **RBC Capital Markets**
- **UBS Financial Services**
- **UMB Bank**

# Timeframe

- **March 9, 2022:** Public Service Board considers request to sell Series 2022 Bonds
- **March 29, 2022:** City Council considers request to sell Series 2022 Bonds
- **April 5, 2022:** Tentative pricing for Series 2022 Bonds
- **April 26, 2022:** Tentative closing for Series 2022 Bonds

# QUESTIONS & ANSWERS



Legislation Text

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File #: 22-221, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 6**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, Andrew Salloum, (915) 212-1603

**AGENDA LANGUAGE:**

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

An Ordinance amending the Future Land Use Map (FLUM) contained in "Plan El Paso" for the properties legally described as a portion of Section 17, Block 79, Township 3 of the T & P RR Company Surveys, City of El Paso, El Paso County, Texas, from O6, Potential Annexation to G4, Suburban (Walkable).

Subject Property: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PLCP20-00001

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

**AGENDA DATE:** March 1, 2022  
**PUBLIC HEARING DATE:** March 29, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Andrew Salloum, (915) 212-1603

**DISTRICT(S) AFFECTED:** District 6

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Improve the visual impression of the community

**SUBJECT:**

An Ordinance amending the Future Land Use Map (FLUM) contained in "Plan El Paso" for the properties legally described as a portion of Section 17, Block 79, Township 3 of the T & P RR Company Surveys, City of El Paso, El Paso County, Texas, from O6, Potential Annexation to G4, Suburban (Walkable).

Subject Property: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PLCP20-00001

**BACKGROUND / DISCUSSION:**

The applicant is requesting to revise the Future Land Use Map designation from O6, Potential Annexation to G4, Suburban (Walkable). City Plan Commission recommended 9-0 to approve the proposed amendment on November 4, 2021. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

On September 28, 2021, City Council approved the annexation.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

---

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Philip Etiwe*

---

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE FUTURE LAND USE MAP (FLUM) CONTAINED IN “PLAN EL PASO” FOR THE PROPERTIES LEGALLY DESCRIBED AS A PORTION OF SECTION 17, BLOCK 79, TOWNSHIP 3 OF THE T & P RR COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM O6, POTENTIAL ANNEXATION TO G4, SUBURBAN (WALKABLE).**

**WHEREAS**, *Plan El Paso*, as subsequently amended, was initially adopted by the El Paso City Council on March 6, 2012 pursuant to provisions of the Texas Local Government Code as the Comprehensive Plan for the City; and

**WHEREAS**, the Comprehensive Plan provides a basis for the City’s regulations and policies that directs its physical and economic development; and

**WHEREAS**, the Future Land Use Map (FLUM) is one of the policies adopted by the El Paso City Council contained within the Comprehensive Plan which identifies desired land use patterns; and

**WHEREAS**, the City’s Future Land Use Map serves as a guide to the type and manner of future development for the City of El Paso; and

**WHEREAS**, when changes and amendments to the zoning map are requested, the reviewing City departments and the City Plan Commission must make recommendations regarding the conformity of the proposed change to the City’s Comprehensive Plan; and

**WHEREAS**, in some instances when a request to amend the zoning map does not conform to the Future Land Use Map, an amendment to that map may be required; and

**WHEREAS**, the City Plan Commission, after conducting a public hearing, recommended the proposed amendment to the Future Land Use Map; and

**WHEREAS**, after conducting a public hearing, the proposed amendment to the Future Land Use Map of *Plan El Paso* will have no negative impact upon the public health, safety, morals, and general welfare of the City, and will carry out the purpose and spirit of the policies expressed in *Plan El Paso*.

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

1. That the areas identified in “Exhibit A” and legally described a portion of Section 17, Block 79, Township 3 of the T & P RR Company Surveys, City of El Paso, El Paso County, Texas, be incorporated into the City’s Comprehensive Plan, *Plan El Paso*, for all the purposes, including amending the Future Land Use Map from O6, Potential Annexation to G4, Suburban (Walkable).
2. That *Plan El Paso* and its related documents, as herein modified, shall remain in full force and effect as to the long range general policies for guiding growth and development in the City.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

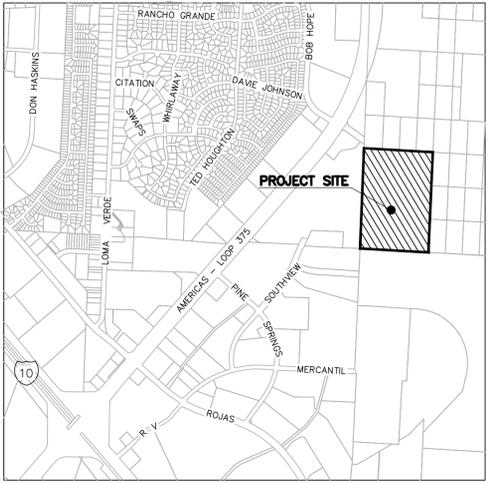
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

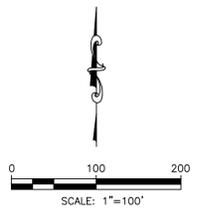
**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Philip Etiwe, Director  
Planning & Inspections Department

# EXHIBIT "A"



VICINITY MAP  
N.T.S.



- LEGEND:**
- 3890 — INDEX CONTOURS
  - 3891 — INTERMEDIATE CONTOURS
  - SURVEYED PROPERTY BOUNDARY LINE
  - E.P.C.D.R. EL PASO COUNTY, DEEDS RECORDS
  - MONUMENT AS DESCRIBED
  - E.P.C.O.R. EL PASO COUNTY, OFFICIAL RECORDS
  - FOUND MONUMENT

- SURVEY NOTES:**
1. ALL BEARINGS AND COORDINATES ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983 (NAD 83 (2011), CENTRAL ZONE. ALL ELEVATIONS ARE BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) GEOID 2012A. ALL UNITS ARE IN U. S. SURVEY FEET.
  2. THIS TOPOGRAPHIC SURVEY WAS PERFORMED UTILIZING TRIMBLE ALL TERRA VRS (VIRTUAL REFERENCE STATION) NETWORK.
  3. UTILITIES SHOWN HEREON ARE BASED ON FIELD EVIDENCE, NO DIGGING WAS PERFORMED TO DETERMINE THE COMPLETENESS OR ACCURACY OF THE LOCATION OF THE UTILITY DATA SHOWN ON THIS PLAT. FXSA RECOMMENDS THAT A 811 CALL BE PLACED BEFORE ANY EXCAVATING ON THIS PROPERTY.
  4. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. NO RESEARCH OF EL COUNTY RECORDS FOR EASEMENTS WAS PERFORMED BY FXSA, INC., OR THE UNDERSIGNED. THERE MAY BE EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD THAT MAY AFFECT THIS PROPERTY.
  7. SUBJECT PROPERTY IS LOCATED WITHIN ZONE "X" AND ZONE "A" AS DETAILED ON FEMA FIRM FOR EL PASO COUNTY, TEXAS UNINCORPORATED AREAS, COMMUNITY PANEL No. 480212 0250 B, EFFECTIVE DATE SEPTEMBER 4, 1991. ZONE "X" DENOTES AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD PLAIN; ZONE "A" DENOTES AREAS OF SPECIAL FLOOD HAZARD (100 YEARS FLOOD).
  8. NOTICE: THE TEXAS STATE BOARD OF PROFESSIONAL LAND SURVEYING REGULATES SURVEYING IN TEXAS. THE BOARD IS LOCATED AT: BUILDING A, SUITE 156, 12100 PARK 35 CIRCLE, AUSTIN, TEXAS 78753 (512) 239-5263.

## 59.892 ACRE TRACT METES AND BOUNDS DESCRIPTIONS

BEING A PORTION OF SECTION 17, BLOCK 79, TOWNSHIP 3 OF THE T & P RR COMPANY SURVEYS; SAID 59.892-ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH DIAMETER IRON ROD FOUND AT THE SOUTHEAST CORNER OF LOT 2, BLOCK 1 OF CHAMPIONS ADDITION, AS SHOWN ON PLAT RECORDED IN VOLUME 67, PAGES 49 & 49A, FILE NO. 017641 OF THE PLAT RECORDS OF EL PASO COUNTY, TEXAS; FOR THE SOUTHWEST CORNER OF SAID SECTION 17, BLOCK 79 AND THE SOUTHWEST CORNER OF THIS TRACT;

THENCE NORTH 02° 29' 01" EAST ALONG THE EAST LINE OF SAID LOT 2, BLOCK 1 AND THE WEST LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 654.40 FEET TO A 1/2-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

THENCE NORTH 02° 30' 47" EAST CONTINUING ALONG THE EAST LINE OF SAID LOT 2, BLOCK 1 AND THE WEST LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 1308.70 FEET TO A 5/8-INCH DIAMETER REBAR WITH ALUMINUM CAP STAMPED "FXS RPLS 2198" SET FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE SOUTH 86° 55' 33" E, A DISTANCE OF 331.98 FEET TO A 1/2-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

THENCE SOUTH 86° 56' 23" EAST, A DISTANCE OF 996.79 FEET TO A 1/2-INCH DIAMETER REBAR WITH SURVEYOR'S CAP STAMPED "TX 5152" FOUND FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE SOUTH 02° 29' 43" WEST, A DISTANCE OF 1963.12 TO A 5/8-INCH DIAMETER REBAR WITH ALUMINUM CAP STAMPED "FXS RPLS 2198" SET IN THE SOUTH LINE OF SAID SECTION 17, BLOCK 79 FOR THE SOUTHEAST CORNER OF THIS TRACT; WHENCE A 2-INCH DIAMETER IRON PIPE WITH MAG NAIL FOUND AT THE SOUTHEAST CORNER OF SECTION 18, BLOCK 79, TOWNSHIP 3 OF THE T & P RR COMPANY SURVEYS BEARS SOUTH 86° 56' 39" EAST, A DISTANCE OF 9303.28 FEET;

THENCE NORTH 86° 56' 39" WEST ALONG THE SOUTH LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 664.79 FEET TO A 1/2-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

THENCE NORTH 86° 55' 37" WEST, CONTINUING ALONG THE SOUTH LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 664.24 FEET TO THE POINT OF BEGINNING, CONTAINING 59.892 ACRES OF LAND, MORE OR LESS, SUBJECT TO ALL EASEMENTS OF RECORD.

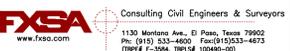
*Jesse Fuentes*  
Jesse Fuentes  
Registered Professional Land Surveyor  
State of Texas No. 5988  
Date of Survey: 07-16-2019

08/28/2019  
Date



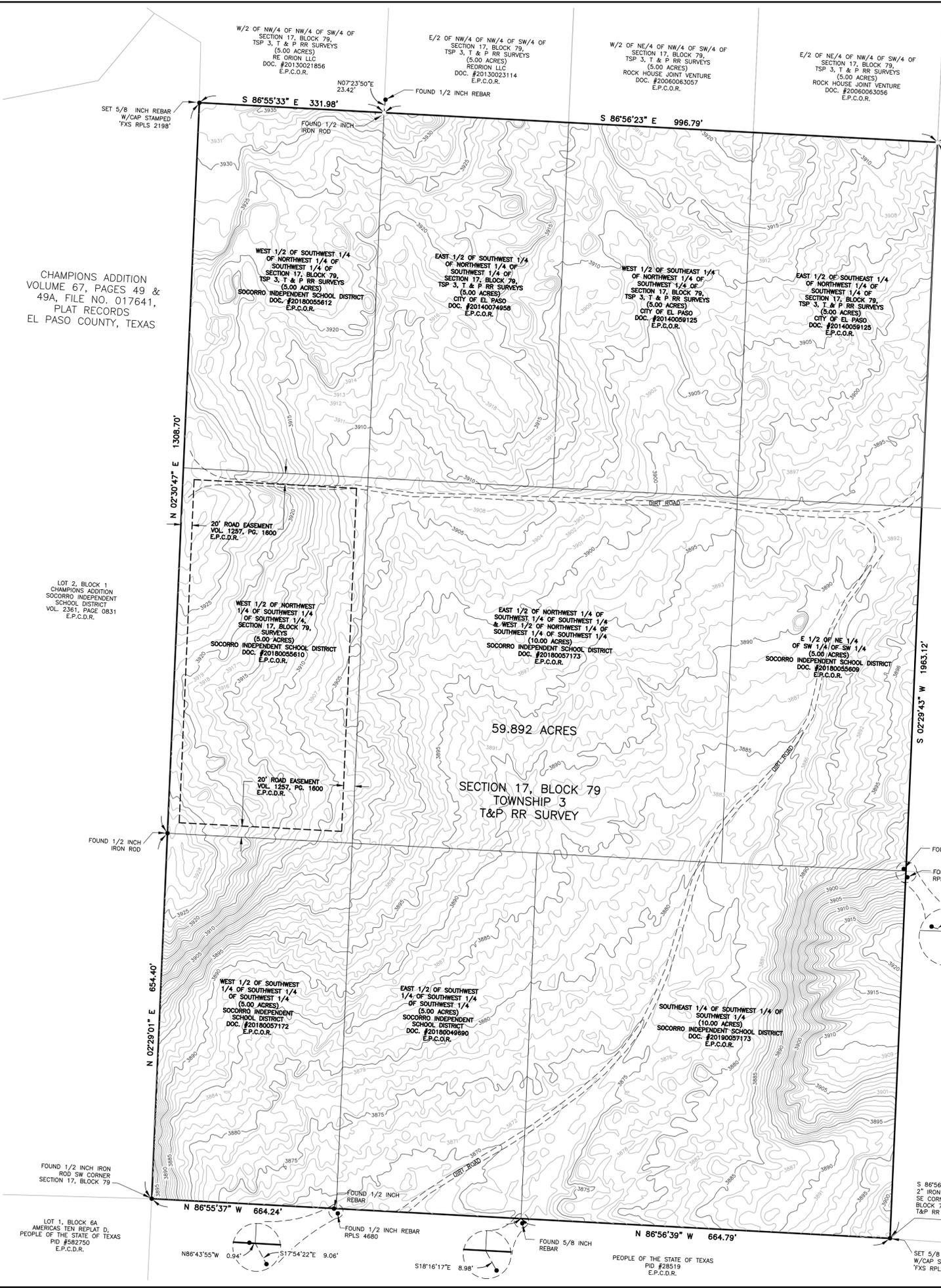
REV.	DATE	BY	DESCRIPTION

BOUNDARY & TOPOGRAPHIC SURVEY  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
STUDENT ACTIVITIES COMPLEX  
BEING A 59.892 ACRE TRACT  
SECTION 17, BLOCK 79, T&P RR SURVEY  
EL PASO COUNTY, TEXAS



IT'S THE LAW  
AND IT'S FREE - CALL BEFORE YOU DIG  
CALL TWO WORKING DAYS BEFORE YOU DIG IN TEXAS 1-800-344-8377  
(1-800-DIG-TESS)

ES LA LEY  
GRATIS PARA USTED - LLAME ANTES DE EXCAVAR  
LLAME 2 DIAS DE TRABAJO ANTES DE EXCAVAR EN TEXAS 1-800-344-8377  
(1-800-DIG-TESS)



CHAMPIONS ADDITION  
VOLUME 67, PAGES 49 &  
49A, FILE NO. 017641,  
PLAT RECORDS  
EL PASO COUNTY, TEXAS

LOT 2, BLOCK 1  
CHAMPIONS ADDITION  
SOCORRO INDEPENDENT  
SCHOOL DISTRICT  
VOL. 2361, PAGE 0831  
E.P.C.D.R.

LOT 1, BLOCK 6A  
AMERICAS TEN REPLAT D,  
PEOPLE OF THE STATE OF TEXAS  
PID #582750  
E.P.C.D.R.

N86°43'55"W 0.94'  
S17°54'22"E 9.06'

FOUND 1/2 INCH REBAR  
RPLS 4680

FOUND 5/8 INCH REBAR

PEOPLE OF THE STATE OF TEXAS  
PID #28519  
E.P.C.D.R.

N 86°56'39" W 664.79'

SET 5/8 INCH IRON ROD  
W/CAP STAMPED  
"FXS RPLS 2198"

N76°12'33"W 1.05'  
S19°03'27"E 8.09'

FOUND 1/2 INCH REBAR  
RPLS 4680

FOUND 5/8 INCH REBAR

WEST 1/2 OF SOUTHWEST  
1/4 OF SOUTHWEST 1/4 OF  
SOUTHWEST 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROBERT AND NANCY REYES  
VOLUME 3503, PAGE 1374  
E.P.C.D.R.

E 1/2 OF NE 1/4  
OF SW 1/4 OF SW 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
DOC. #2018005569  
E.P.C.D.R.

EAST 1/2 OF NORTHWEST 1/4 OF  
SOUTHWEST 1/4 OF  
SOUTHWEST 1/4 OF  
SOUTHWEST 1/4 OF  
SOUTHWEST 1/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(10.00 ACRES)  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
DOC. #20180057173  
E.P.C.D.R.

WEST 1/2 OF NORTHWEST  
1/4 OF SOUTHWEST 1/4  
OF SOUTHWEST 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
DOC. #20180056110  
E.P.C.D.R.

20' ROAD EASEMENT  
VOL. 1257, PG. 1600  
E.P.C.D.R.

N 02°30'47" E 1308.70'

WEST 1/2 OF SOUTHWEST  
1/4 OF SOUTHWEST 1/4  
OF SOUTHWEST 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
SOCORRO INDEPENDENT  
SCHOOL DISTRICT  
DOC. #20180057172  
E.P.C.D.R.

EAST 1/2 OF SOUTHWEST  
1/4 OF SOUTHWEST 1/4  
OF SOUTHWEST 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
DOC. #20180049690  
E.P.C.D.R.

SOUTHEAST 1/4 OF SOUTHWEST 1/4 OF  
SOUTHWEST 1/4  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(10.00 ACRES)  
SOCORRO INDEPENDENT SCHOOL DISTRICT  
DOC. #20180057173  
E.P.C.D.R.

FOUND 1/2 INCH IRON  
ROD SW CORNER  
SECTION 17, BLOCK 79

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH REBAR

N 86°56'39" W 664.79'

S 86°56'39" E 9303.28' TO FOUND  
2" IRON PIPE WITH MAG NAIL  
SE CORNER SECTION 18,  
BLOCK 79, TOWNSHIP 3  
& T&P RR COMPANY SURVEYS

W/2 OF NW/4 OF NW/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
RE ORION LLC  
DOC. #20130021856  
E.P.C.D.R.

FOUND 1/2 INCH REBAR

W/2 OF NE/4 OF NW/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROCK HOUSE JOINT VENTURE  
DOC. #20060063057  
E.P.C.D.R.

E/2 OF NE/4 OF NW/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROCK HOUSE JOINT VENTURE  
DOC. #20060063056  
E.P.C.D.R.

W/2 OF NW/4 OF NE/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROCK HOUSE JOINT VENTURE  
DOC. #20060063059  
E.P.C.D.R.

S 86°55'33" E 331.98'

E/2 OF NW/4 OF NW/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
RE ORION LLC  
DOC. #20130023114  
E.P.C.D.R.

W/2 OF NE/4 OF NW/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROCK HOUSE JOINT VENTURE  
DOC. #20060063057  
E.P.C.D.R.

W/2 OF NW/4 OF NE/4 OF SW/4 OF  
SECTION 17, BLOCK 79,  
TSP 3, T & P RR SURVEYS  
(5.00 ACRES)  
ROCK HOUSE JOINT VENTURE  
DOC. #20060063059  
E.P.C.D.R.

SET 5/8 INCH REBAR  
W/CAP STAMPED  
"FXS RPLS 2198"

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH REBAR  
W/CAP "TX 5152"

N07°23'50"E 23.42'

S 86°56'23" E 996.79'

S 86°56'23" E 996.79'

S 02°29'43" W 1963.12'

FOUND 1/2 INCH IRON ROD

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH REBAR

FOUND 1/2 INCH IRON ROD

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# Bob Hope Dr and Joe Battle Blvd.

City Plan Commission — October 7, 2021 - **REVISED**

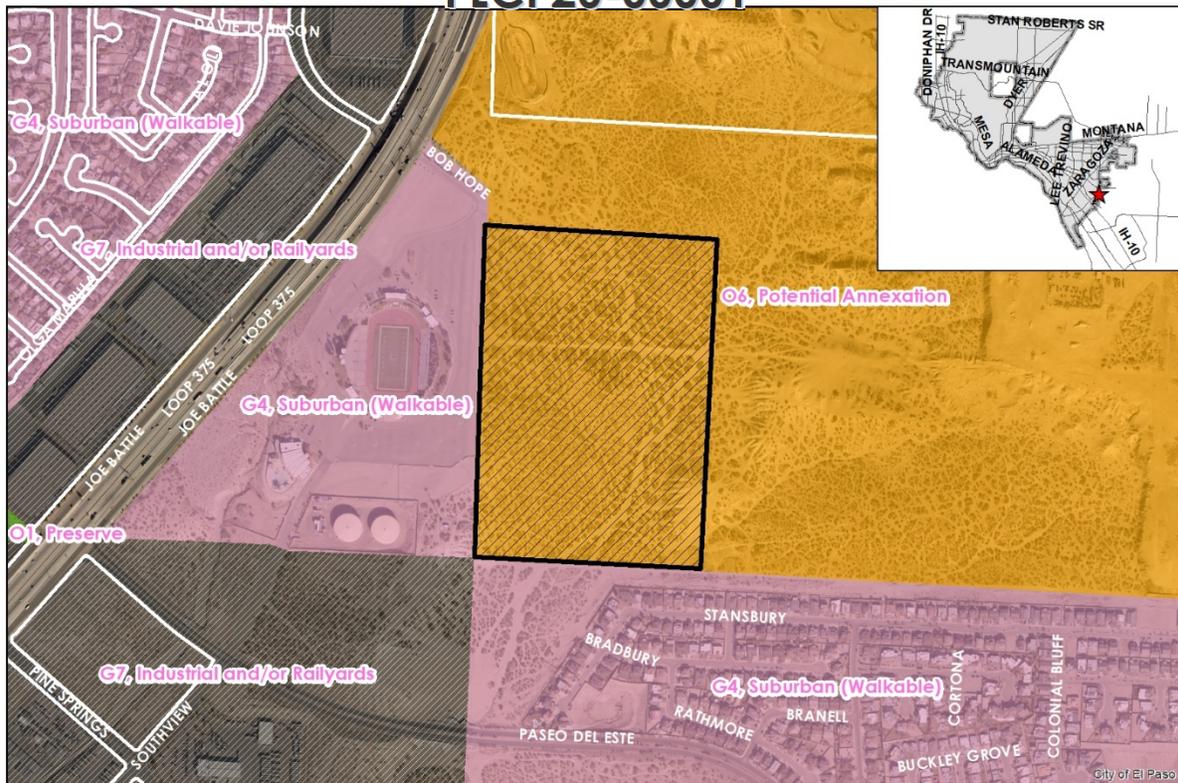


<b>CASE NUMBER:</b>	<b>PLCP20-00001</b>
<b>CASE MANAGER:</b>	John Scott, 212-1644, ScottJM1@elpasotexas.gov
<b>PROPERTY OWNER:</b>	Socorro Independent School District
<b>REPRESENTATIVE:</b>	Parkhill, Smith & Cooper-Eric Villalobos, P.E.; Jacob Hernandez, P.E.
<b>LOCATION:</b>	Bob Hope Dr. and Joe Battle Blvd, District 6
<b>PROPERTY AREA:</b>	59.892 acres
<b>REQUEST:</b>	Adjust the Future Land Use designation from O-6, Potential Annexation, to G-4, Suburban (walkable)
<b>RELATED APPLICATIONS:</b>	SUAX20-00001, PZRZ20-00016
<b>PUBLIC INPUT:</b>	N/A

**SUMMARY OF REQUEST:** The applicant is requesting an amendment to *Plan El Paso*, the City's comprehensive plan, to adjust the Future Land Use designation for one property, from O-6, Potential Annexation, to G-4, Suburban (Walkable), to accommodate proposed stadium development.

**SUMMARY OF RECOMMENDATION:** Staff recommends **APPROVAL** of the request. The proposed development is in keeping with the character of the adjacent commercial development and the policies of *Plan El Paso* for the G-4 Suburban (Walkable) Future Land Use designation.

## PLCP20-00001



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



Subject Property

0 200 400 800 1,200 1,600 Feet



Figure A. Subject Property & Immediate Surroundings

**CASE HISTORY:** SUAX20-00001 was the annexation case initiated by the Socorro Independent School District. The Annexation Service Agreement for the subject property was approved by City Plan Commission June 3, 2021 and by City Council August 3, 2021. The Annexation Ordinance for the subject property was approved by City Plan Commission on August 26, 2021 and by City Council September 28, 2021. PZRZ20-00016 is the Rezoning case being heard concurrently with the future land use amendment.

**DESCRIPTION OF REQUEST:** The applicant is proposing to adjust the Future Land Use designation on a 59.892-acre property in order to allow for development of the Socorro Student Activities Complex II. The G-4 designation is most in character with the proposed development for the property, which will be an expansion of the existing stadium directly adjacent. The proposed development is similar in scale and character to the nearby commercial development along Joe Battle Boulevard and Bob Hope Drive.

This case is related to application number PZRZ20-00016, which requests to rezone part of the subject area from R-F (Ranch-Farm) to C-4 (Commercial).

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** Nearby properties with similar developed uses are also designated G-4. There is an established residential community to the south, designated G-4, Suburban (Walkable). To the west, Socorro Student Activities Complex I is developed and also designated G-4, Suburban (Walkable). Adjacent land to the north and east lies within the City of El Paso’s Extraterritorial jurisdiction (ETJ).

<b>COMPLIANCE WITH PLAN EL PASO – When evaluating whether a proposed adjustment is in accordance with Plan El Paso, consider the following factors:</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
<p><b>Future Land Use Map:</b> Proposed Future Land Use designation for the property:</p> <p><b>G-4 – Suburban (Walkable):</b> This sector applies to modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	<p><i>Plan El Paso</i> calls out the G-4 designation as appropriate for large schools and parks, which is in keeping with the proposed uses. The associated rezoning to C-4 will ensure that any future proposed uses will remain compatible with the G-4 designation.</p>
<p><b>Preferred Development Locations:</b> Is the property in a “Compact Urban” area?</p>	N/A

<b>THE PROPOSED DESIGNATION’S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:</b>	
<p><b>Historic District or Special Designations &amp; Study Area Plans:</b> Any historic district or other special designations that may be applicable. Any adopted small area plans, including land-use maps in those plans.</p>	N/A
<p><b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested change.</p>	Development of the subject property will result in the further expansion of the developed footprint of the City and will result in an increase of local and regional vehicular traffic, as well as the expansion of occupied

	land needed to be served by emergency services and other City resources.
<b>Natural Environment:</b> Anticipated effects on the natural environment.	The subject property is currently undeveloped land. No arroyos or sensitive environments are included in the subject property.
<b>Stability:</b> Whether the area is stable or in transition.	The area within City limits to the west was annexed in 2006 and developed in a manner similar to the proposed development. It is anticipated that this development pattern will continue in the immediate area.
<b>Socioeconomic &amp; Physical Conditions:</b> Any changed social, economic, or physical conditions that make the existing designation no longer suitable for the property.	The subject property was annexed and will be developed. The O-6 designation is no longer appropriate.

**CITY PLAN COMMISSION OPTIONS:**

The City Plan Commission (CPC) has the authority to advise City Council on changes to the Comprehensive Plan. In evaluating the request, the CPC may take any of the following actions:

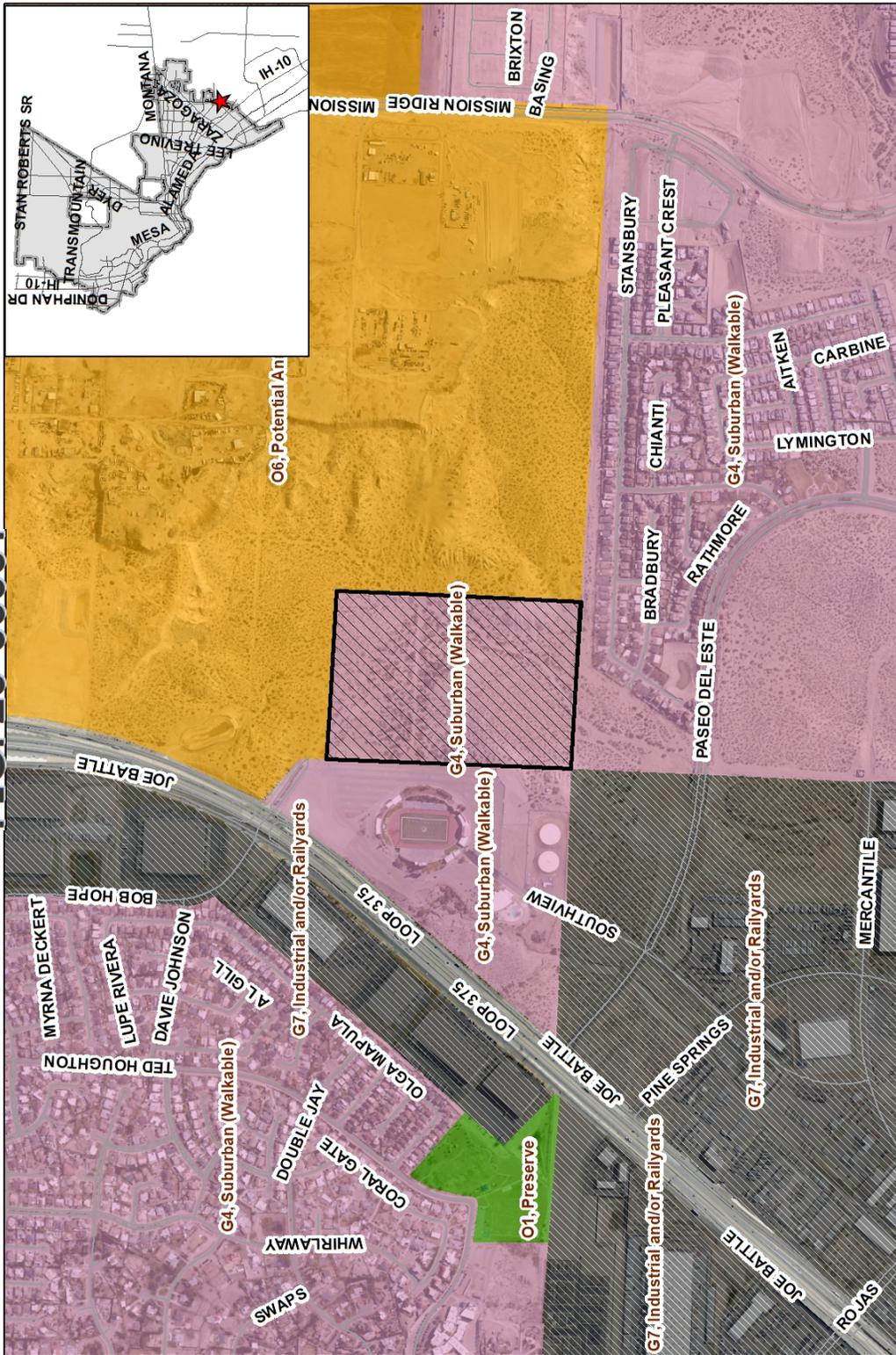
1. **Recommend Approval** of the request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. **(Staff Recommendation)**
2. **Recommend Approval of the 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 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. Proposed Future Land Use Map

# ATTACHMENT 1

PLCP20-00001



Subject Property



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ITEMS 25 & 26

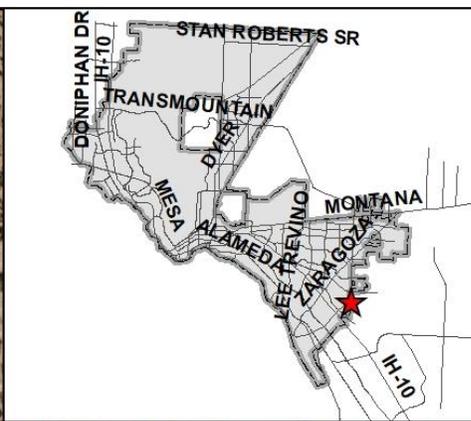
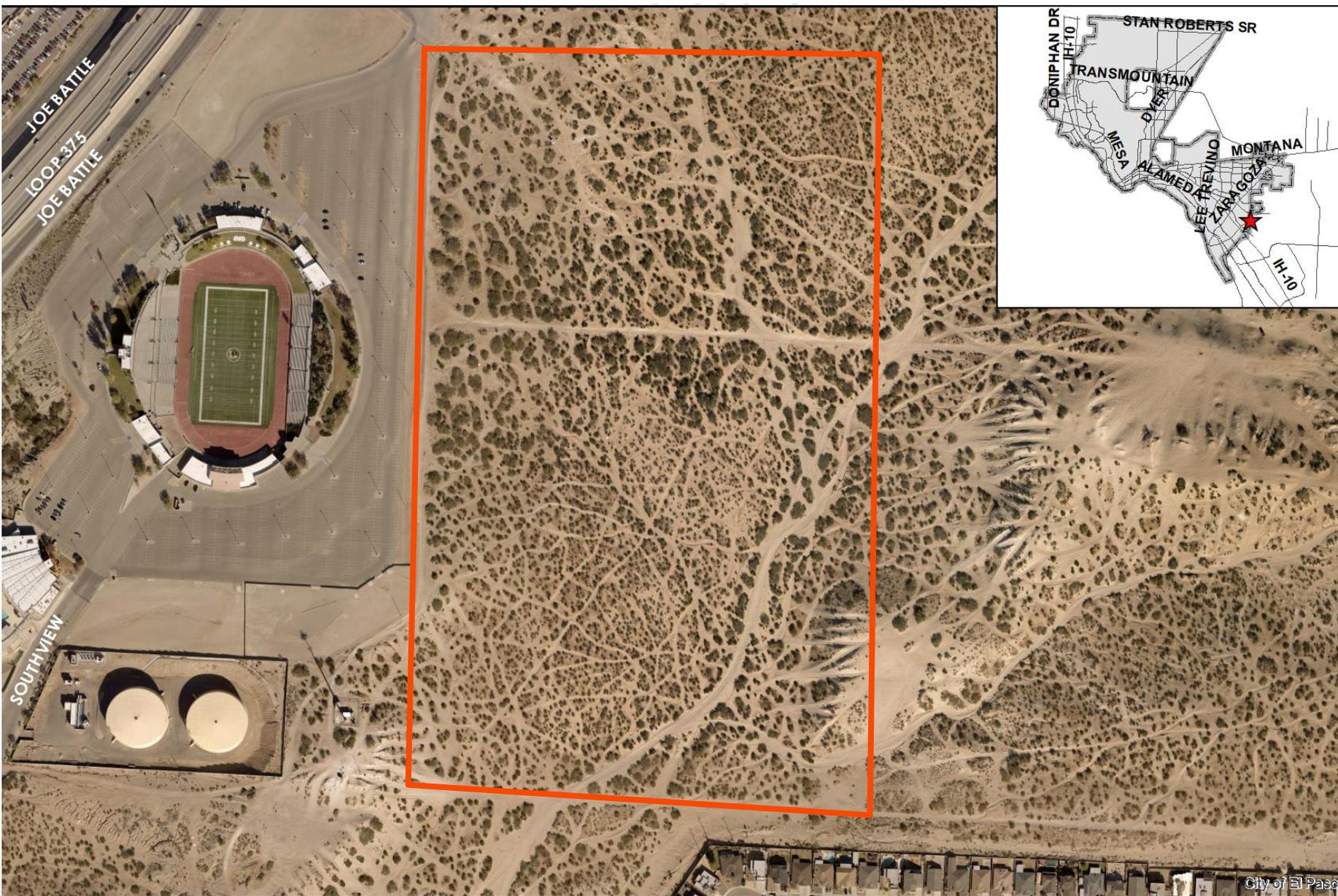
# Joe Battle Blvd. & Bob Hope Dr./SISD SAC II Future Land Use Map Amendment & Rezoning

PLCP20-00001 & PZRZ20-00016



**Strategic Goal 3.**

Promote the Visual Image of  
El Paso



# Aerial

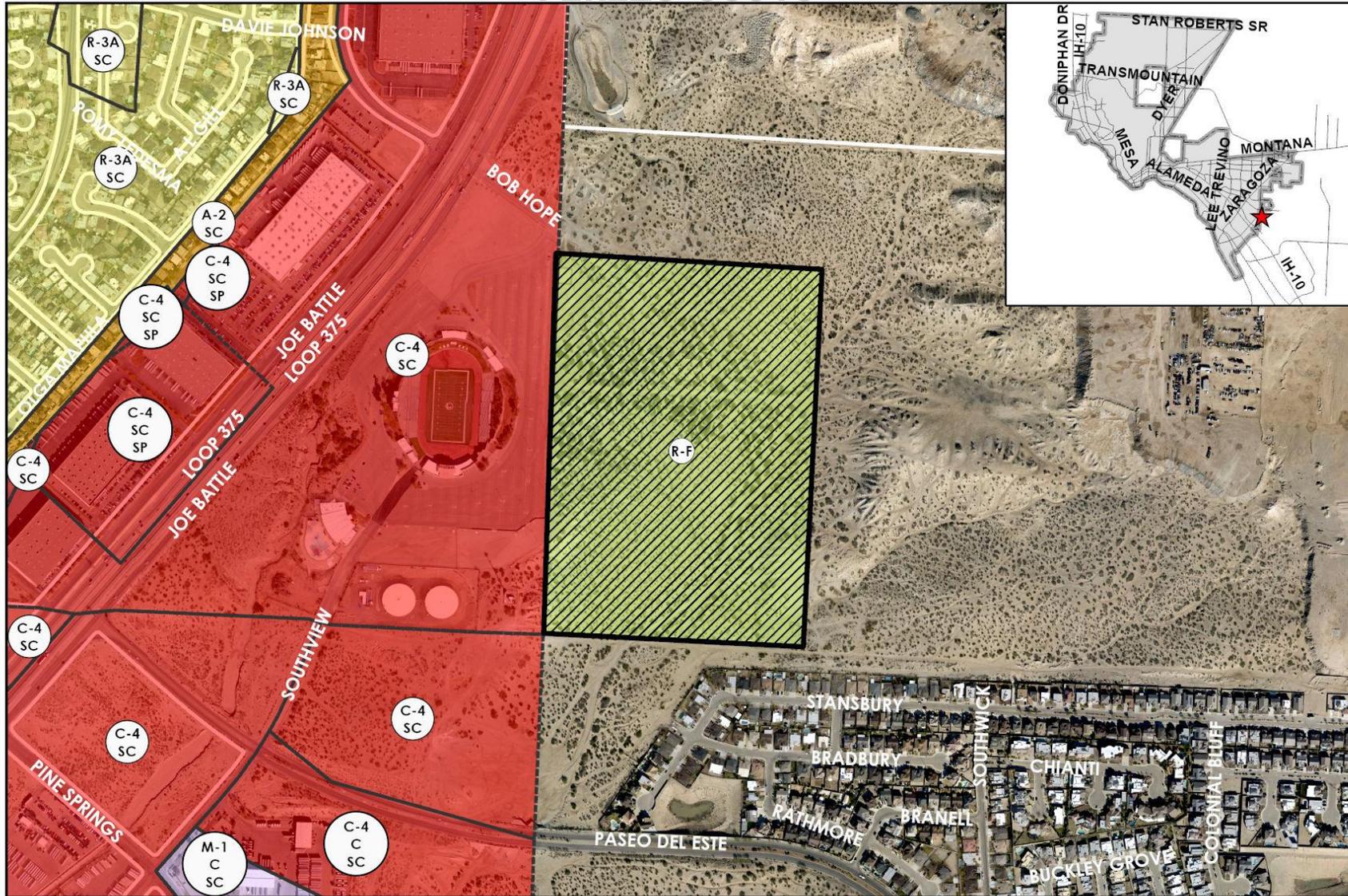
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# PZRZ20-00016



## Existing Zoning



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Subject Property



# Proposed Change

## Future Land Use Map (FLUM)

- Laid out in *Plan El Paso*
- Guide to form, direction, and timing of future growth

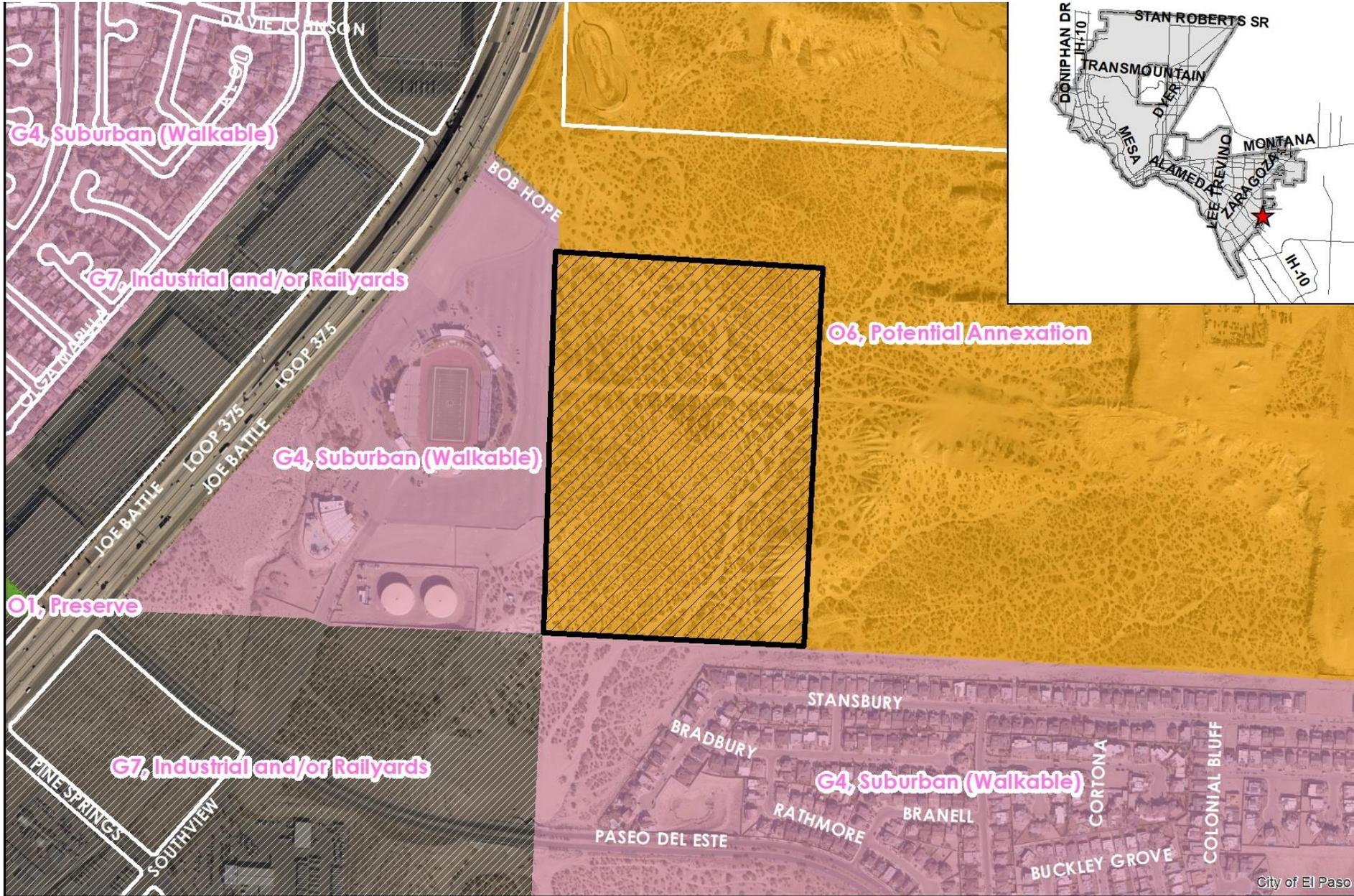
## **O-6 – Potential Annexation**

- Potentially developable land that is not needed for urban expansion at this time but is available if expansion is needed.
- Land can be redesignated from O-6 to a growth sector through a formal amendment to the Future Land Use Map.

## **G-4 – Suburban (Walkable)**

- Modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers.
- Generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

# Future Land Use - Current



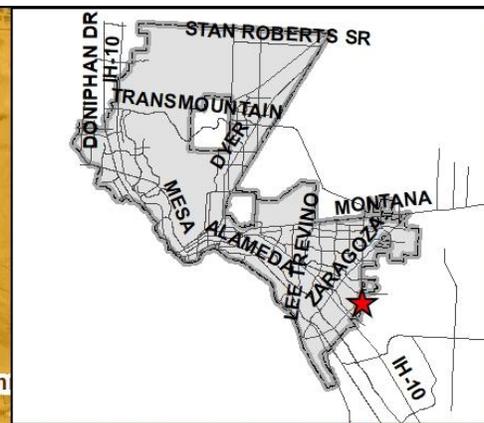
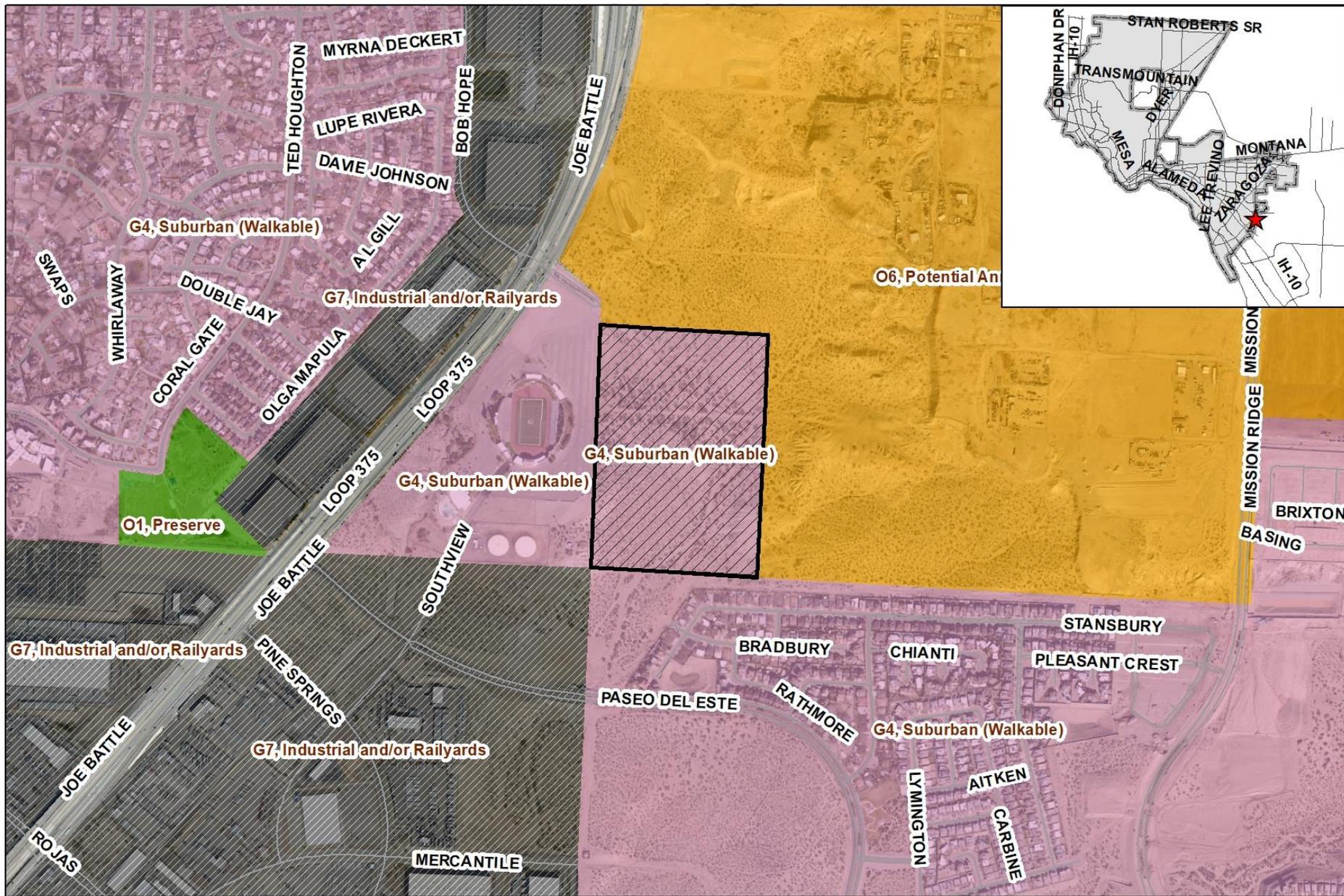
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Subject Property



# Future Land Use - Proposed



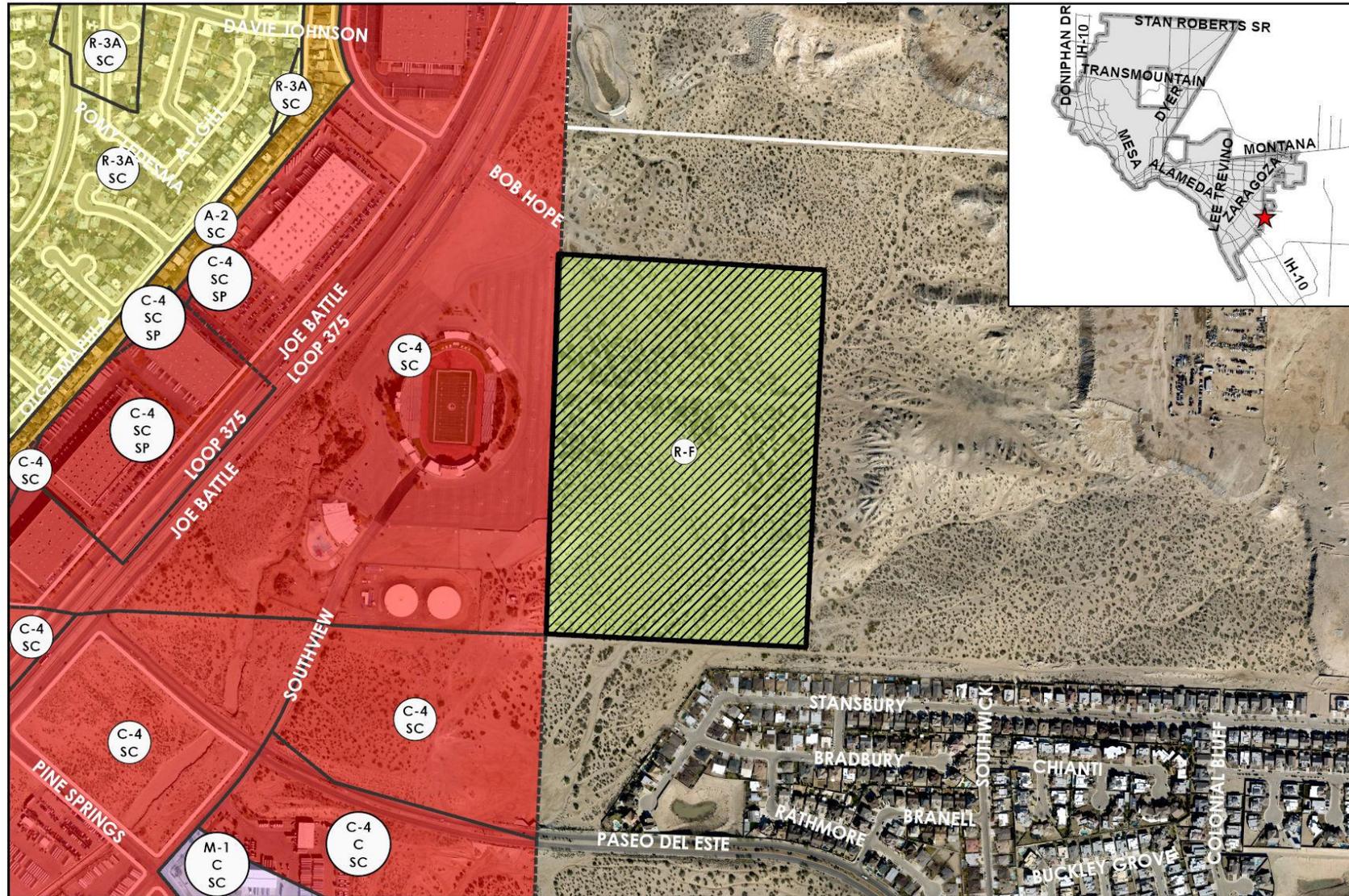
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Subject Property



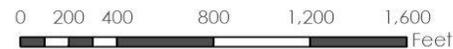
# Existing Zoning



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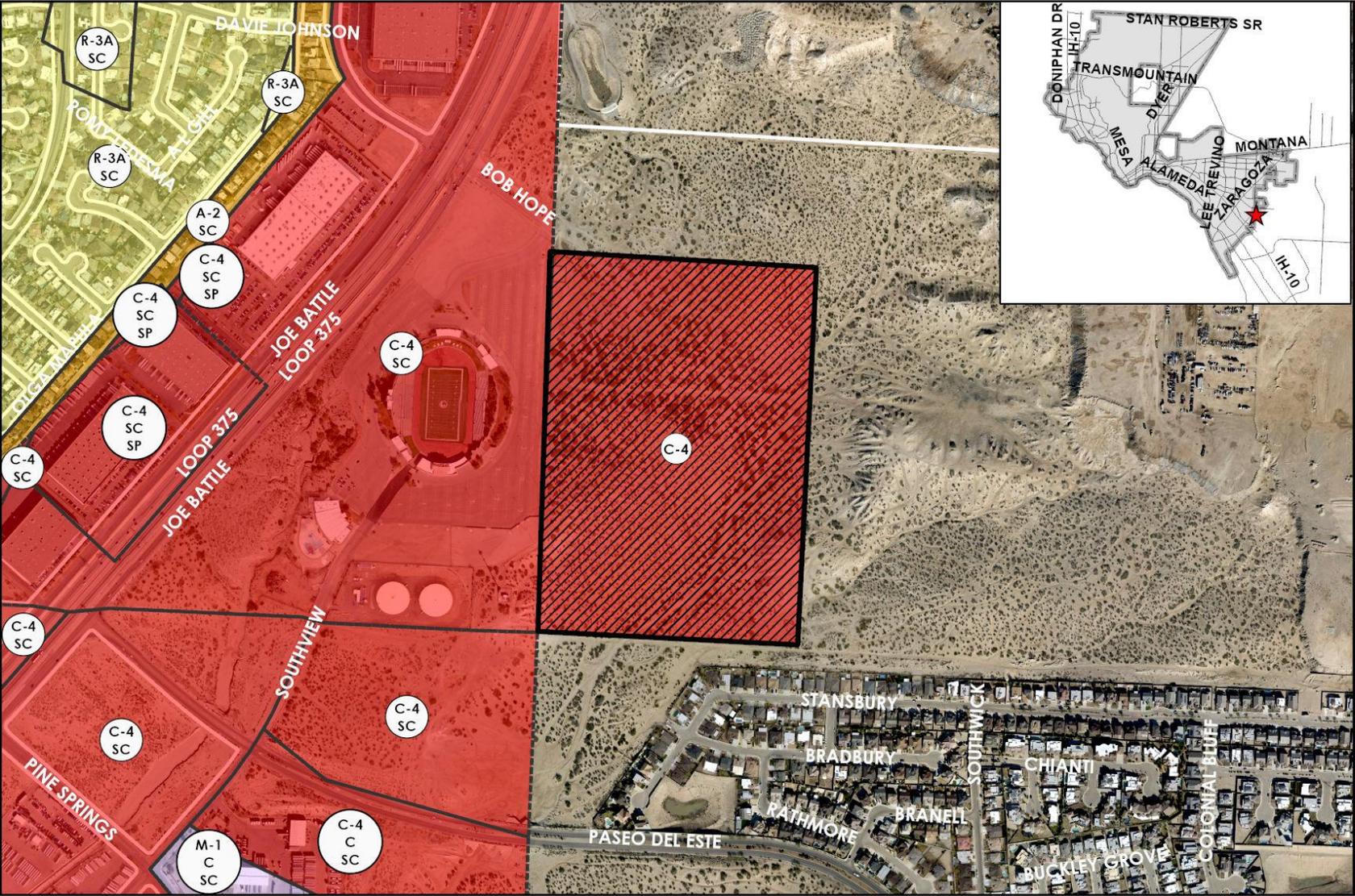
 Subject Property



# PZRZ20-00016



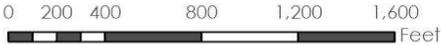
# Proposed Zoning



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 Subject Property



**TRACT METES AND BOUNDS DESCRIPTION**

BEING A PORTION OF SECTION 17, BLOCK 79, TOWNSHIP 3 OF THE T & P RR COMPANY SURVEY, SAID 59.892-ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 10-INCH DIAMETER IRON ROD FOUND AT THE SOUTHEAST CORNER OF LOT 2, BLOCK 1 OF THE CHAMPIONS ADDITION, AS SHOWN ON PLAT RECORDED IN VOLUME 87, PAGES 49 & 48A, FILE NO. 017941 OF THE PLAT RECORDS OF EL PASO COUNTY, TEXAS, FOR THE SOUTHWEST CORNER OF SAID SECTION 17, BLOCK 79 AND THE SOUTHWEST CORNER OF THIS TRACT;

THENCE NORTH 02° 29' 01" EAST ALONG THE EAST LINE OF SAID LOT 2, BLOCK 1 AND THE WEST LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 654.40 FEET TO A 10-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

THENCE NORTH 02° 29' 47" EAST CONTINUING ALONG THE EAST LINE OF SAID LOT 2, BLOCK 1 AND THE WEST LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 1308.70 FEET TO A 5/8-INCH DIAMETER REBAR WITH ALUMINUM CAP STAMPED "TX 5152" FOUND FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE SOUTH 86° 55' 33" EAST, A DISTANCE OF 331.98 FEET TO A 10-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

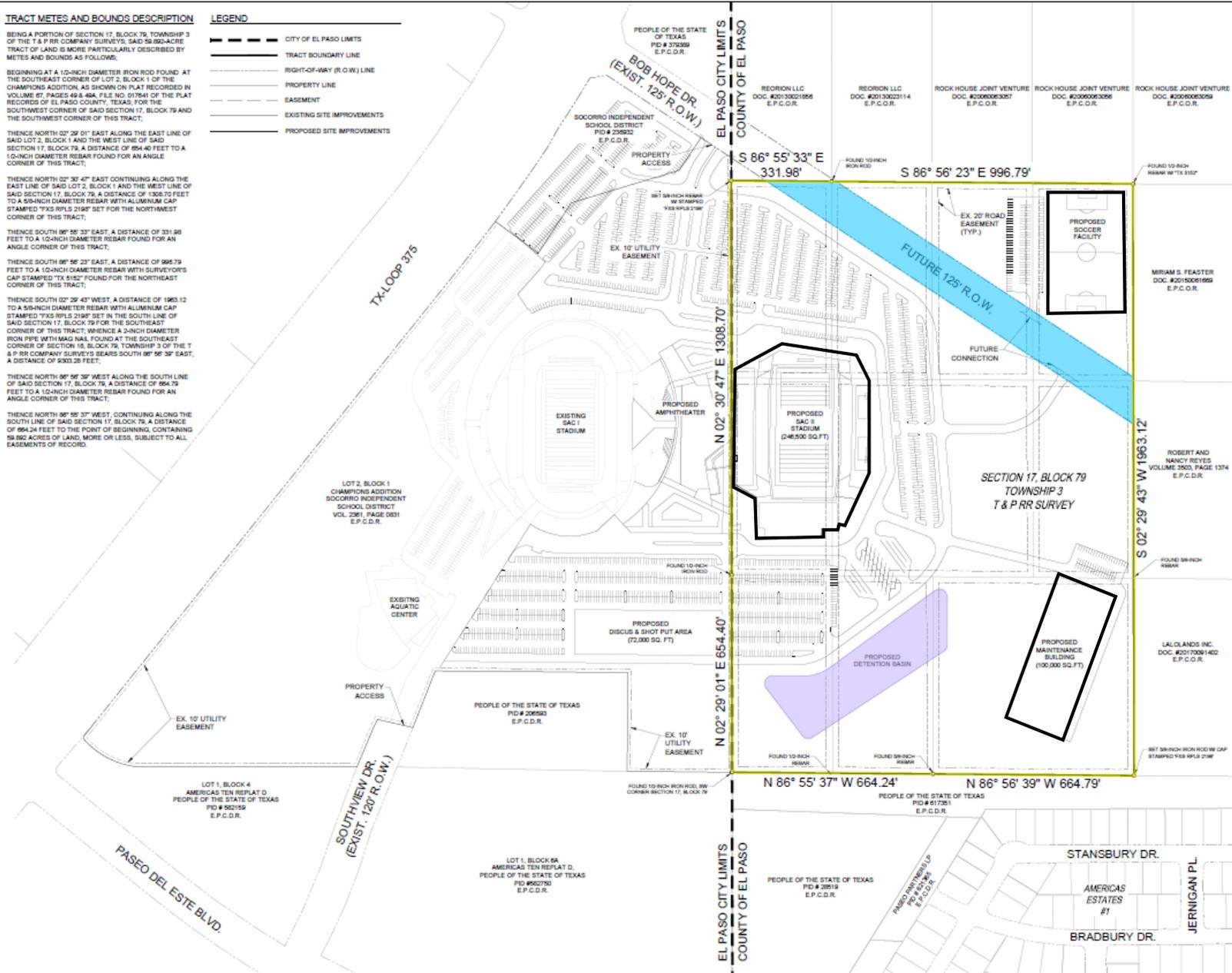
THENCE SOUTH 86° 56' 23" EAST, A DISTANCE OF 996.79 FEET TO A 10-INCH DIAMETER REBAR WITH SURVYORS CAP STAMPED "TX 5152" FOUND FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE SOUTH 02° 29' 47" WEST, A DISTANCE OF 1963.12 TO A 5/8-INCH DIAMETER REBAR WITH ALUMINUM CAP STAMPED "TX 5152" SET IN THE SOUTH LINE OF SAID SECTION 17, BLOCK 79 FOR THE SOUTHWEST CORNER OF THIS TRACT; WHEN A 2-INCH DIAMETER IRON PIPE WITH MAG NAIL FOUND AT THE SOUTHWEST CORNER OF SECTION 18, BLOCK 79, TOWNSHIP 3 OF THE T & P RR COMPANY SURVEY BEARS SOUTH 86° 56' 38" EAST, A DISTANCE OF 5983.28 FEET;

THENCE NORTH 86° 55' 37" WEST ALONG THE SOUTH LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 664.24 FEET TO A 10-INCH DIAMETER REBAR FOUND FOR AN ANGLE CORNER OF THIS TRACT;

THENCE NORTH 86° 55' 37" WEST, CONTINUING ALONG THE SOUTH LINE OF SAID SECTION 17, BLOCK 79, A DISTANCE OF 664.24 FEET TO THE POINT OF BEGINNING, CONTAINING 59.892 ACRES OF LAND, MORE OR LESS, SUBJECT TO ALL EASEMENTS OF RECORD.

- LEGEND**
- CITY OF EL PASO LIMITS
  - TRACT BOUNDARY LINE
  - RIGHT-OF-WAY (R.O.W.) LINE
  - PROPERTY LINE
  - EASEMENT
  - EXISTING SITE IMPROVEMENTS
  - PROPOSED SITE IMPROVEMENTS



**OWNER**

SOCORRO INDEPENDENT SCHOOL DISTRICT  
12440 RUJAS DR. EL PASO, TEXAS 79628  
(915) 837-0280  
CONTACT: THOMAS A. EYENGTON, AIA  
CHIEF OPERATIONS OFFICER

**SURVEYOR**

**FXSA** Consulting Civil Engineers & Surveyors  
www.fxsa.com  
1108 Montana Ave., El Paso, Texas 79902  
PH: (915) 533-4650 FAX: (915) 533-4652  
(915) 7-204, 1915 (915) 5049-85  
CONTACT: JESSE FUENTES, R.P.L.S.

**CIVIL ENGINEER**

**PARKHILLSMITH&COOPER**  
501 W. SAN ANTONIO AVE. EL PASO, TEXAS 79901  
(915) 533-8811 (TSP# # 7-955)  
CONTACT: ERIC VILLALOBOS, P.E.



**SOCORRO ISD STUDENT ACTIVITIES COMPLEX II (SAC II) ADDITION**

BEING A PORTION OF SECTION 17, BLOCK 79, TOWNSHIP 3 TEXAS AND PACIFIC RAILWAY COMPANY SURVEY EL PASO COUNTY, TEXAS CONTAINING 59.892 ACRES ±

GENERALIZED PLOT PLAN  
DATE OF COMPLETION: MAY 2020



# Conceptual Plan



## Previous Case History

- The Annexation Service Agreement for the subject property was approved by City Plan Commission June 3, 2021 and by City Council August 3, 2021.
- The Annexation Ordinance for the subject property was approved by City Plan Commission on August 26, 2021 and by City Council September 28, 2021.



# Subject Property

# Surrounding Development



W



N



S



E

# Public Input

- Notices were mailed to property owners within 300 feet on October 22, 2021.
- As of November 4, 2021, the Planning Division has received one (1) email in opposition to the rezoning request and no communication in support of the rezoning request.



## Recommendation

- Staff recommends approval of the future land use map amendment and approval of the rezoning request



## 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



Legislation Text

File #: 22-223, 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 6**

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

Planning and Inspections, Andrew Salloum, (915) 212-1603

**AGENDA LANGUAGE:**

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

An Ordinance changing the zoning of the following real property known as PARCEL 1: The East ½ of the Northeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 2: The East ½ of the Northwest ¼ of the Southwest ¼ of the Southwest ¼ & the West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 3: The Southeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 4: The West ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼ Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 5: The West ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 6: The East ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 7: The West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 8: The West ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 9: The East ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, PARCEL 10: The East ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (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

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**File #: 22-223, Version: 1**

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accordance with Plan El Paso, the City's Comprehensive Plan.

Subject Property: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PZRZ20-00016

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

**AGENDA DATE:** March 1, 2022  
**PUBLIC HEARING DATE:** March 29, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Andrew Salloum, (915) 212-1603

**DISTRICT(S) AFFECTED:** District 6

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

**SUBJECT:**

An Ordinance changing the zoning of the following real property known as

**PARCEL 1:** The East ½ of the Northeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 2:** The East ½ of the Northwest ¼ of the Southwest ¼ of the Southwest ¼ & the West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 3:** The Southeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 4:** The West ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼ Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 5:** The West ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 6:** The East ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 7:** The West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 8:** The West ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 9:** The East ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (Commercial); and, **PARCEL 10:** The East ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, from R-F (Ranch and Farm) TO C-4 (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: South of Bob Hope Drive and East of Joe Battle Boulevard  
Applicant: Socorro Independent School District, PZRZ20-00016

**BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone from R-F (Ranch and Farm) to C-4 (Commercial) to allow for development of the Socorro ISD Student Activities Complex II Addition. City Plan Commission recommended 9-0 to approve the proposed rezoning on November 4, 2021. As of January 24, 2022, the Planning Division has received one (1) email in opposition to the rezoning request. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

On September 28, 2021, City Council approved the annexation.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  X  YES \_\_\_ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Philip Tiwe*

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE CHANGING THE ZONING OF THE FOLLOWING REAL PROPERTY KNOWN AS:**

**PARCEL 1:** The East ½ of the Northeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 2:** The East ½ of the Northwest ¼ of the Southwest ¼ of the Southwest ¼ & the West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 3:** The Southeast ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 4:** The West ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼ Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 5:** The West ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Survey, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 6:** The East ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 7:** The West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 8:** The West ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 9:** The East ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

AND,

**PARCEL 10:** The East ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (Ranch and Farm) TO C-4 (Commercial);

**THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of *Parcel 1*: **The East ½ of the Northeast ¼ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 2*: **The East ½ of the Northwest ¼ of the Southwest ¼ of the Southwest ¼ & the West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 3*: **The Southeast ¼ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 4*: **The West ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 5*: **The West ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Survey, 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; and, *Parcel 6*: **The East ½ of the Southwest ¼ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 7*: **The West ½ of the Northwest ½ of the Southwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 8*: **The West ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 9*: **The East ½ of the Southeast ¼ of the Northwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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; and, *Parcel 10*: **The East ½ of the Southwest ¼ of the Northwest ¼ of the Southwest ¼**, Section 17, Block 79, Township 3, Texas and Pacific Railway Company Surveys, 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 as listed for **PARCEL 1: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 2: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 3: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 4: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 5: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 6: FROM R-F (Ranch and Farm) TO C-4 (Commercial);**

PZRZ20-00016 SISD SAC II | Rezoning Ordinance Multiple Lots No Conditions  
22-1007-2842 | 1144768 | WNV

**ORDINANCE NO.** \_\_\_\_\_

**Zoning Case No:** PZRZ20-00016

**PARCEL 7: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 8: FROM R-F (Ranch and Farm) TO C-4 (Commercial); PARCEL 9: FROM R-F (Ranch and Farm) TO C-4 (Commercial); and PARCEL 10 R-F (Ranch and Farm) TO C-4 (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.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO**

**ATTEST:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Laura D. Prine, City Clerk

**APPROVED AS TO FORM:**

*Wendi N. Vineyard*  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Philip F. Etiwe*  
\_\_\_\_\_  
Philip F. Etiwe, Director  
Planning and Inspections Department



# Bob Hope Dr. and Joe Battle Blvd.

City Plan Commission — November 4, 2021 - **REVISED**

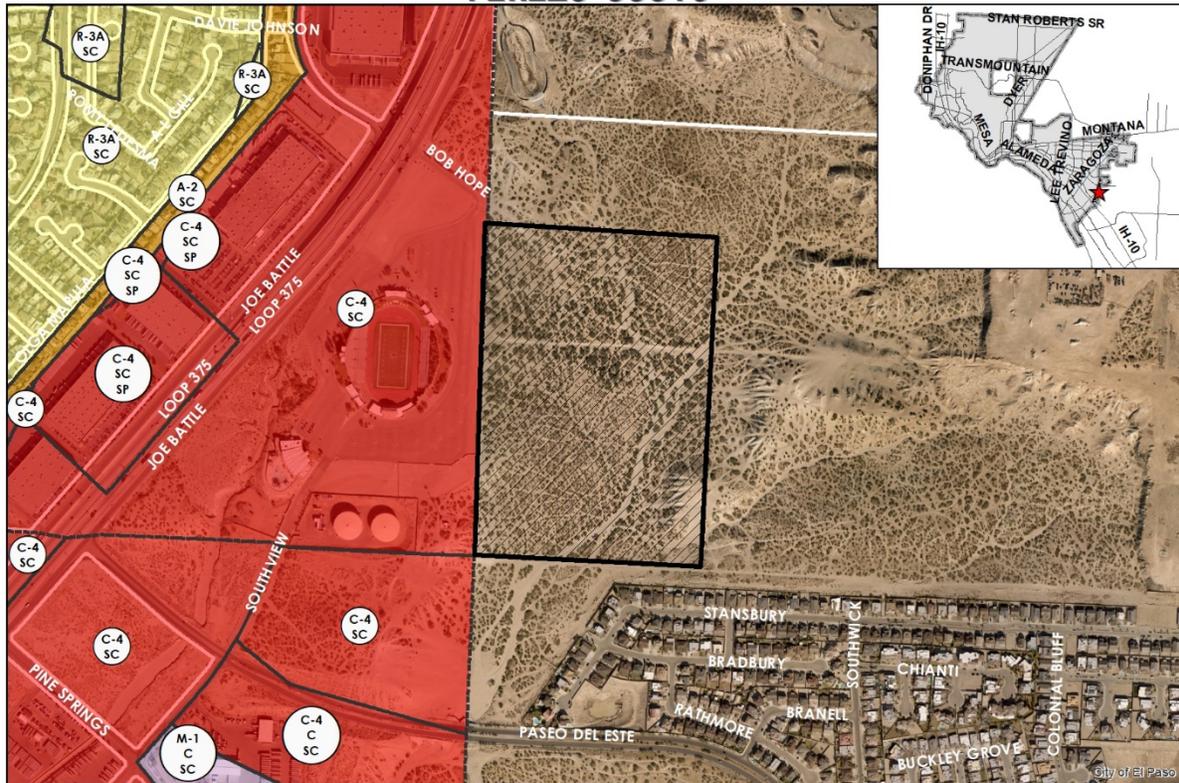


**CASE NUMBER:** PZRZ20-00016  
**CASE MANAGER:** John Scott, (915) 212-1644, ScottJM1@elpasotexas.gov  
**PROPERTY OWNER:** Socorro Independent School District  
**REPRESENTATIVE:** Parkhill, Smith & Cooper-Eric Villalobos, P.E.; Jacob Hernandez, P.E.  
**LOCATION:** Bob Hope Dr. and Joe Battle Blvd. (ETJ)  
**PROPERTY AREA:** 59.892 acres  
**REQUEST:** Rezone from R-F (Ranch-Farm) to C-4 (Commercial)  
**RELATED APPLICATIONS:** SUAX20-00001, PLPC20-00001  
**PUBLIC INPUT:** One (1) email in opposition as of November 4, 2021

**SUMMARY OF REQUEST:** The applicant is requesting to rezone the subject property from R-F (Ranch-Farm) to C-4 (Commercial) to allow for development of the Socorro ISD Student Activities Complex II Addition.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the rezoning request. The recommendation is based on the compatibility of the proposed zoning district with the surrounding residential and commercial districts in the immediate area. Further, the proposed development meets the intent of the G4, Suburban (Walkable) land use designation of *Plan El Paso*, the City's adopted Comprehensive Plan in the Northeast Planning area.

## PZRZ20-00016



This map is designed for illustrative purposes only. The features described here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



 Subject Property

0 200 400 800 1,200 1,600 Feet



Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant proposes to rezone approximately fifty-nine (59) acres of land from R-F (Ranch-Farm) to C-4 (Commercial). The property is located near the corner of Bob Hope Drive and Joe Battle Boulevard within the Northeast Planning area. The subject property is currently vacant. The generalized site plan proposes to develop the approximate fifty-nine (59) acre lot into a 246,500 sq. ft. athletic stadium, a 96,900 sq. ft. Soccer facility, a 100,000 sq. ft. maintenance building, and one (1) proposed detention basin. Note the site plan is conceptual, as the final lot configurations will be addressed at the Subdivision stage. The development is proposing access from Bob Hope Drive.

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed development meets the intent of the G4, Suburban (Walkable) land use designation of *Plan El Paso*. Abutting properties to the north, east and south are all vacant land located in El Paso's Extraterritorial jurisdiction (ETJ). Abutting properties to the west are zoned C-4/ sc (Commercial/ special contract) and developed as the Socorro Student Activities Complex I.

<b>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:</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
<p><b>Future Land Use Map:</b> Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p><b>G-4, Suburban (Walkable):</b> This sector applies to modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	<p>Yes, the G4, Suburban (Walkable) land use designation is compatible with the proposed C-4 (Commercial) zone designation. The abutting properties are either part of the Socorro Student Activities Complex development or are vacant land in the ETJ with no proposed annexation plans.</p>
<p><b>Compatibility with Surroundings:</b> The proposed zoning district is compatible with those surrounding the site:</p> <p><b>C-4 (Commercial) District:</b> The purpose of these districts is to provide for locations for the most intensive commercial uses intended to serve the entire city. It is intended that the district regulations permit heavy commercial uses characterized by automotive and light warehousing. The regulations of the districts are intended to provide a transition from general business areas to industrial and manufacturing uses, and to accommodate major locations of commerce, service and employment activities. Within the central business district, more intensive commercial uses are allowed, the predominant of which are retail trade and service uses, providing less restrictive height and area regulations.</p>	<p>Yes, the proposed zoning district is compatible with the surrounding zone districts. Properties abutting to west are zoned C-4 (Commercial) and consist of previous development of the Socorro Student Activities complex. The proposed use of a school student activities complex is compatible with the surrounding existing and planned residential development and is permitted by right in the C-4 (Commercial) district.</p>

<b>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:</b>	
<b>Preferred Development Locations:</b> <i>Is the property in a preferred development location identified in Plan El Paso? State which one.</i>	Yes, the subject property is located along Bob Hope Drive, which is classified as proposed major arterial on the City of El Paso's Major Thoroughfare Plan (MTP).
<b>THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:</b>	
<b>Historic District or Special Designations &amp; Study Area Plans:</b> Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.	No, the proposed development is not located within any historic districts or other special designation areas.
<b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.	There are no adverse effects anticipated from the proposed rezoning. The abutting, existing development coincides with the proposed district and uses.
<b>Natural Environment:</b> Anticipated effects on the natural environment.	There are no anticipated effects on the natural environment.
<b>Stability:</b> Whether the area is stable or in transition.	The area is stable. The subject property and the immediate abutting properties have not been rezoned within the last ten (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.	N/A

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The subject property has access from Bob Hope Drive, which is classified as a minor arterial on the City of El Paso's Major Thoroughfare Plan. In addition, water and sanitary sewer service to the development will not require the construction of facilities, as per comments from El Paso Water. Water/sewer service and additional infrastructure will be addressed at the Subdivision stage.

**PUBLIC COMMENT:** As of November 4, 2021, the Planning Division has received one (1) email in opposition to the rezoning request and no communication in support of the rezoning request.

**RELATED APPLICATIONS:** SUAX20-00001 was the annexation case initiated by the Socorro Independent School District. The Annexation Service Agreement for the subject property was approved by City Plan Commission June 3, 2021 and by City Council August 3, 2021. The Annexation Ordinance for the subject property was approved by City Plan Commission on August 26, 2021 and by City Council September 28, 2021. PLCP20-00001 is the Future Land Use Amendment case being heard concurrently with the rezoning case.

**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 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)**

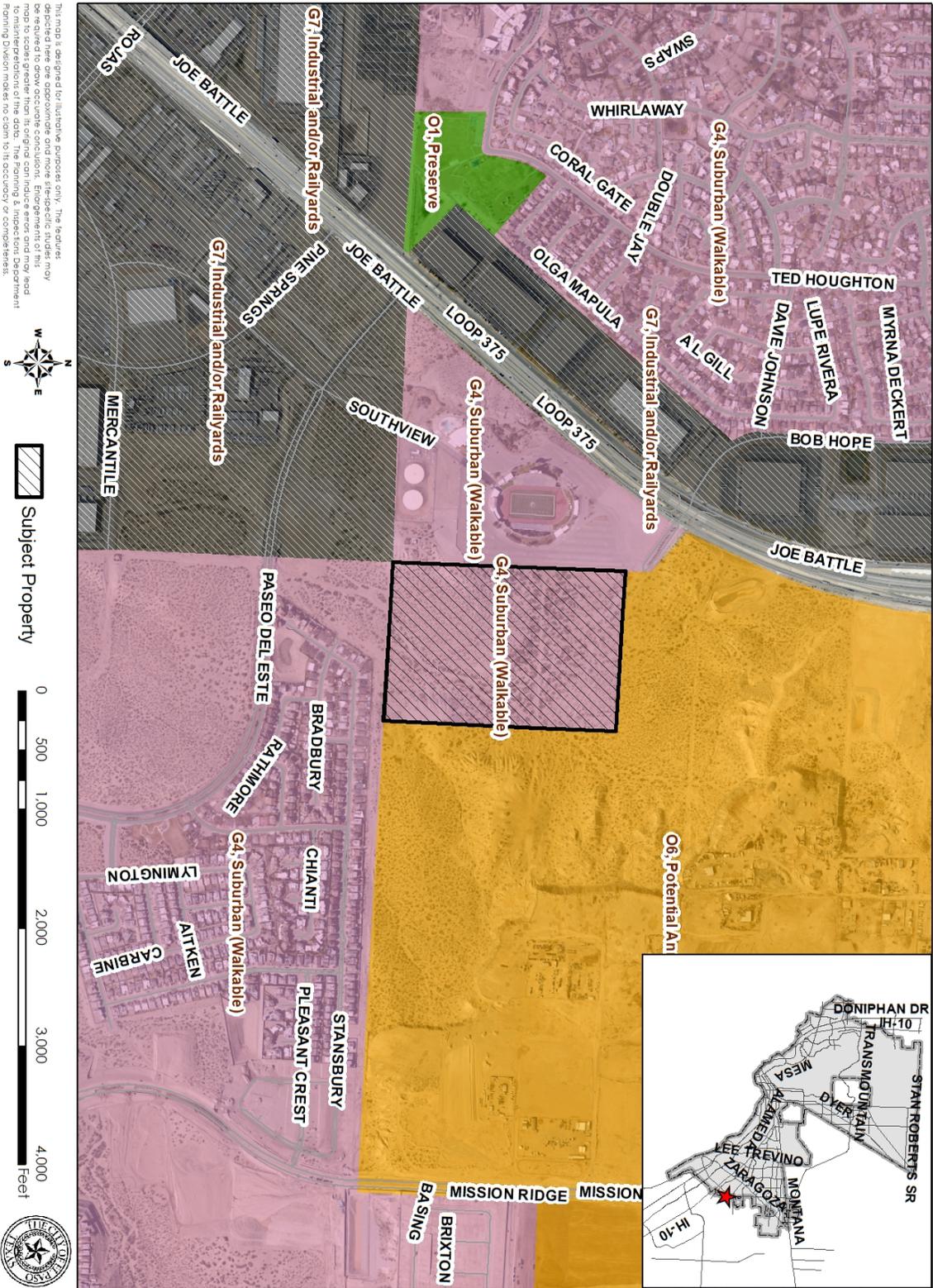
2. **Recommend Approval of the rezoning request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
3. **Recommend Denial** of the rezoning request, 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. Department Comments
3. Neighborhood Notification Boundary Map
4. Email in opposition
5. Conceptual Site Plan (non-binding)

# ATTACHMENT 1

PLPC20-00001



# **ATTACHMENT 2**

## **Planning and Inspections Department – Planning**

Planning staff recommends approval of the rezoning request

## **Texas Department of Transportation**

No comments from the TxDOT side, since it does not abut state ROW

## **Planning and Inspections Department – Land Development**

No comments received.

## **Sun Metro**

Recommend approval – no objections.

## **El Paso Water**

El Paso Water does not object to this request.

The subject property is located within the Eastside Impact Fee Service Area. Impact fees will be assessed and collected at the time the El Paso Water receives an application for water and sanitary sewer services.

### **Water:**

There is an existing 12-inch diameter water main along Southview Dr, approximate 25-foot east of and parallel to the western right-of-way line of Southview Dr. This water main is available for service.

There is an existing 48-inch diameter water transmission main along the east side of Southview Dr. No direct service connections are allowed to this sewer main as per the El Paso Water Utilities – Public Service Board Rules and Regulations.

### **Sanitary Sewer:**

There is an existing 12-inch diameter sanitary sewer main along Southview Dr. and along an existing PSB Easement. This main is located approximately 40 feet west of and parallel to the eastern right-of-way line. This sanitary sewer main is available for service.

### **General:**

No building, reservoir, structure, parking stalls or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced EPWater-PSB easement without the written consent of EPWater-PSB. The Developer shall refrain from constructing rock walls, signs, buildings, curbs or any structure that will interfere with the access to the PSB easements. There shall be at least 5-foot setback from the easement line to any building, sign or structure. All easements dedicated for public water and sanitary sewer facilities shall comply with the EPWater-PSB Easement Policy. The PSB easements shall be improved to allow the operation of EPWater maintenance vehicles. EPWater-PSB requires access to the proposed water, sanitary sewer facilities, appurtenances, and meters within the easement 24 hours a day, seven (7) days a week.

During the site improvement work, the Owner/Developer shall safeguard the existing water, sanitary sewer mains and appurtenant structures located within the subdivision. The Owner/Developer shall minimize changes in grade above or near the vicinity of the existing PSB facilities and is responsible for the costs of setting appurtenant structures to final grade.

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.

**Fire Department**

No comments received.

**El Paso County Water Improvement District**

Not within the boundaries of EPCWID1

**911**

The 911 District does not have any comments or concerns regarding this rezoning.

**Streets and Maintenance Department**

1. A TIA has been submitted but has not been approved by our department.
2. Please have the Engineering Consultant coordinate with Adam McCreary @ [McCrearyAM@elpasotexas.gov](mailto:McCrearyAM@elpasotexas.gov) to address pending comments.

**Police Department**

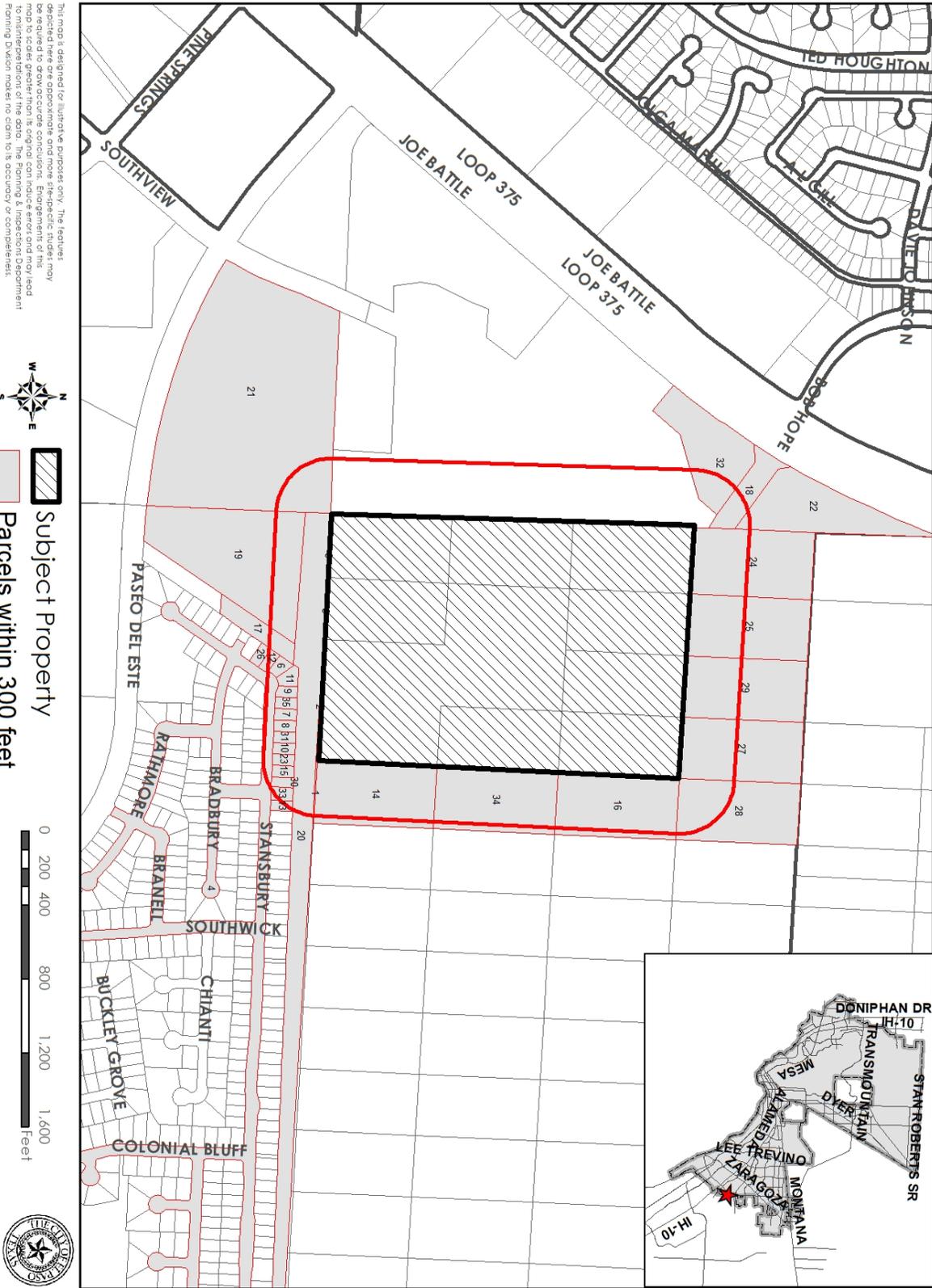
No comments received.

**Environment Services**

No comments received.

# ATTACHMENT 3

PZR220-00016



# **ATTACHMENT 4**

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From: Lorraine <[rainy2324@gmail.com](mailto:rainy2324@gmail.com)>  
Sent: Wednesday, November 3, 2021 10:13 AM  
To: Scott, John M. <[ScottJM1@elpasotexas.gov](mailto:ScottJM1@elpasotexas.gov)>  
Subject: Case: PZRZ20-00016 SISD SAC II

You don't often get email from [rainy2324@gmail.com](mailto:rainy2324@gmail.com). [Learn why this is important](#)

**CAUTION:** This email originated from outside of the City of El Paso. Do not click links or open attachments unless you recognize the sender and know the content is safe. [Learn why this is important](#)

Case: PZRZ20-00016 SISD SAC II  
Lorraine Sanchez  
12145 Stansbury Dr.  
Concern: Security/Safety Issue

Good morning Scott, I have a couple concerns about the property's surrounding security/residential safety.

I've lived on Stansbury Dr. for almost 10 years now and the issue of trespassing has not been resolved. I want to know if more security is going to be issued around the area, with City Officers /Sheriffs /District Security. With rising property taxes in my area, including to the SISD, I would hope more security would be offered in this area.

For years there has been trespassing. With the trespassing there has been unattended bonfires, underage drinking, drug use, littering, illegal dumping, fireworks all year round, and firearms being shot. We had an incident where a young man from a bonfire jumped into our backyard and started banging on our windows,

1

the authorities were called and they took him. One early morning, shots were heard and several people were injured leaving one dead in the sand. Houses along Stansbury and the area have been hit by stray bullets. I've heard gunshots from 12am-4am all week and now feel I am experiencing emotional distress.

After talking with the Sheriff's Office they claim there are several owners of the property surrounding the current SAC and cannot determine who's property to file any charges. However, with today's technology in GPS I'm sure this claim is not viable.

My concern is that the new construction will be pushing the trespassers/violators activities closer to the residential areas and not be effectively secured. Hope to hear back with effective solutions.

**-Lorraine**

Case: PZRZ20-00016 SISD SAC II  
Lorraine Sanchez  
12145 Stansbury Dr.  
Concern: Security/Safety Issue

# ATTACHMENT 5





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File #: 22-225, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 3**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, David Samaniego, (915) 212-1608

**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 Lot 12 and 13, save and except a portion thereof, R.L. Dorbandt Subdivision, 170 Polo Inn Road, City of El Paso, El Paso County, Texas from R-4 (Residential) to R-MU (Residential Mixed Use) and approving a Master Zoning Plan. 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: 170 Polo Inn Road  
Applicant: Ricardo Pacheco and Cynthia Pacheco, PZRZ21-00025

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

**AGENDA DATE:** March 1, 2022  
**PUBLIC HEARING DATE:** March 29, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
David Samaniego, (915) 212-1608

**DISTRICT(S) AFFECTED:** District 3

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

**SUBJECT:**

An Ordinance changing the zoning of a portion of Lot 12 and 13, save and except a portion thereof, R.L. Dorbandt Subdivision, 170 Polo Inn Road, City of El Paso, El Paso County, Texas from R-4 (Residential) to R-MU (Residential Mixed Use) and approving a Master Zoning Plan. 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: 170 Polo Inn Road  
Applicant: Ricardo Pacheco and Cynthia Pacheco, PZRZ21-00025

**BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone the subject property from R-4 (Residential) to R-MU (Residential Mixed Use) and approval of a Master Zoning Plan to allow for a private, residential development. City Plan Commission recommended 7-0 to approve the proposed rezoning on December 16, 2021. As of February 22, 2022, the Planning Division has not received any communication in support or opposition to the rezoning request. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Philip Etiwe*

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Philip F. Etiwe – Planning and Inspections Director

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOT 12 AND 13, SAVE AND EXCEPT A PORTION THEREOF, R.L. DORBANDT SUBDIVISION, 170 POLO INN ROAD, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO R-MU (RESIDENTIAL MIXED USE) AND APPROVING A MASTER ZONING PLAN. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of a portion of Lot 12 and 13, save and except a portion thereof, R.L. Dorbandt Subdivision, 170 Polo Inn Road, City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached Exhibit "A" be changed from R-4 (Residential) to R-MU (Residential Mixed Use) and approving a Master Zoning Plan, as defined in Section 20.06.020, such land uses allowed as being reflected in the Master Zoning Plan attached as Exhibit "B" and the Master Zoning Report attached as Exhibit "C" incorporated herein for all purposes, 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 Chapter 20.24 of the El Paso City Code.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF EL PASO:

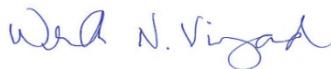
ATTEST:

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

  
\_\_\_\_\_  
Philip F. Etlive, Director  
Planning & Inspections Department

## Exhibit "A"

Prepared for: Richard & Cynthia Pacheco  
August 26, 2021

### METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Lot 12 and 13, save and except a portion thereof, R.L. Dorbandt Subdivision, as recorded in Volume 9, Page 27, Real Property Records of El Paso County, Texas being more particularly described by metes and bounds as follows:

Commencing for reference at an existing mag nail on the original easterly right of way line of Polo In, from which a found 5/8" rebar on the common line of Lots 16 and 17, R.L. Dorbandt Subdivision bears South 33°54'00" West a distance of 588.00 feet and the Northeast corner of Lot 12, Dorbandt Subdivision bears, North 33°54'00" East a distance of 240.00 feet; Thence leaving said right of way line of Polo Inn Road, South 54°07'00" East a distance of 20.01 feet to a point on the easterly right of way line of Polo Inn Road as described in clerks file no. 20190023114, Official Records of El Paso County, Texas for the "TRUE POINT OF BEGINNING".

Thence along the common line that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114, and deed to Delilah Muro in clerks file no. 20150025234, Official Records of El Paso County, Texas, South 54°07'00" East a distance of 141.00 feet to a found nail in rock wall;

Thence along said line, North 33°54'00" East, passing the common line of deed to Delilah Muro in clerks file no. 2015025234, Official Records of El Paso County, Texas at a distance of 58.00 feet a total distance of 120.00 feet to a point on the common line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114 and that deed to Oscar & Silvia Alderate in Volume 990, Page 574, Official Records of El Paso County, Texas;

Thence along the northerly line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114, Official Records of El Paso County, Texas; South 54°07'00" East a distance of 240.00 feet to a point on the southeasterly line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114, Official Records of El Paso County, Texas;

Thence along said line, South 33°54'00" West a distance of 422.00 feet to a point on the southerly line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114, Official Records of El Paso County, Texas;

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CONDE INC  
ENGINEERING / LAND SURVEYING / PLANNING  
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905  
(915) 592-0283 FAX (915) 592-0286 FIRM# 10078100

Thence along said line, North 54°07'00" West a distance of 241.00 feet to a point on the common line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114 and that deed to Jesus and Reyna Martinez in clerks file no. 20130019669, Official Records of El Paso County, Texas;

Thence along said line, North 33°54'00" East, passing the common line of deed to Jesus and Reyna Martinez in clerks file no. 20130019669, Official Records of El Paso County, Texas at a distance of 85.00 feet a total distance of 145.00 feet to a point on the common line of that general Warranty Deed to Richard and Cynthia Pacheco in clerks file no. 20190023114 and that deed to Leo Nungaray in Volume 2163, Page 73, Official Records of El Paso County, Texas;

Thence along said line, North 54°07'00" West a distance of 140.00 feet to a point on the new easterly right of way line of Polo Inn Road as described in clerks file no. 20190023114, Official Records of El Paso County, Texas;

Thence along said right of way line, North 33°54'00" East a distance of 157.00 feet to The "TRUE POINT OF BEGINNING" and containing 120,348 Square Feet or 2.7628 Acres of land more or less.

Note: A drawing of even date accompanies this description.

  
Ron R. Conde  
R.P.L.S. No. 5152



job # 821-13

**CONDE, INC.**  
**ENGINEERING / LAND SURVEYING / PLANNING**  
**6080 SURETY DR. / SUITE 100 / EL PASO, TEXAS 79905 /**  
**(915) 592-0283 / FAX (915) 592-0286 / FIRM#10078100**

# Exhibit "B"

# 170 POLO INN MASTER ZONING PLAN

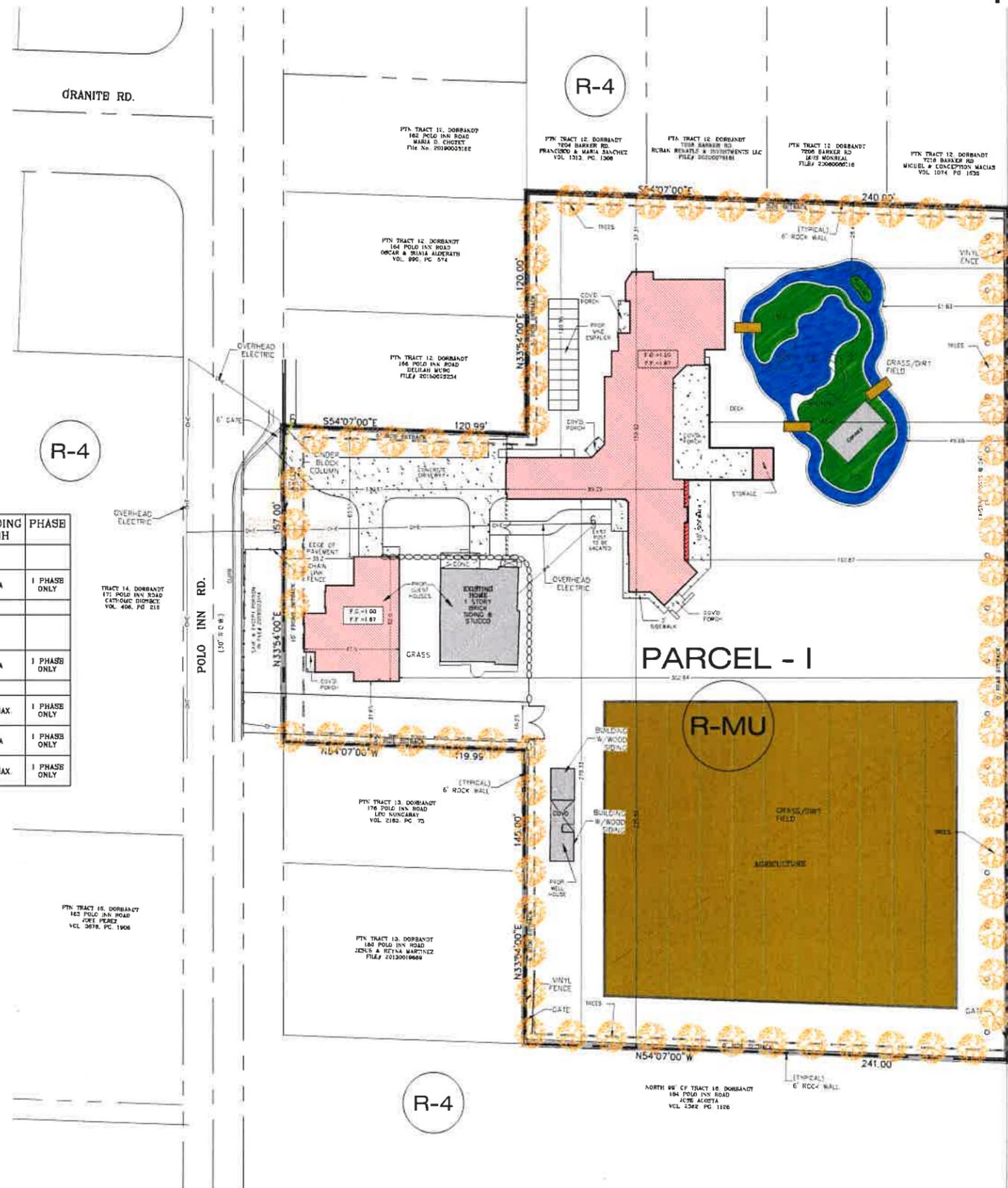
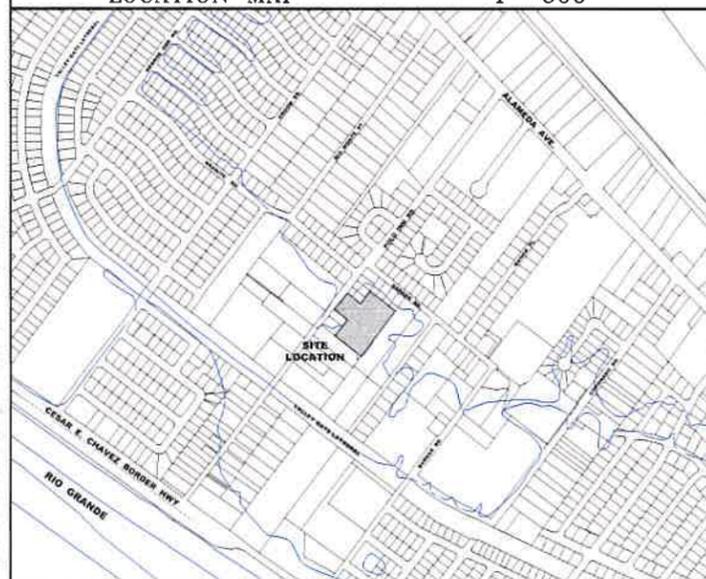
BEING A PORTION OF LOTS 12 AND 13, SAVE AND EXCEPT A PORTION THEREOF, R.L. DORBANDT'S SUBDIVISION AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9, PAGE 27, REAL PROPERTY RECORDS, EL PASO COUNTY TEXAS, CONTAINING 2.7628 ACRES

	RESIDENTIAL (0.3058±Ac. - 11.07%)
	AGRICULTURE/ LANDSCAPE (TREES) (0.6998±Ac. - 21.71%)
	RECREATIONAL (0.1309±Ac. - 4.74%)
	CONCRETE (0.1050±Ac. - 3.80%)
	OPEN SPACE (1.8213±Ac. - 68.68%)



PROPOSED LAND USE	ACRAGE	% OF LOT COVERAGE	DENSITY	SETBACKS	BUILDING HIGH	PHASE
1.0 AGRICULTURAL AND RELATED OPERATION	0.5998		N/A			
1.13/1.20 HARVESTING AND RAISING OF FIELDS AND CROPS		21.71%		FRONT=10' SIDE=5' REAR=0'	N/A	1 PHASE ONLY
1.21 LANDSCAPE (70± TREES)						
11.0 RECREATION, AMUSEMENT AND ENTERTAINMENT	1.7263		N/A			
11.00 OPEN SPACE - PRIVATE		62.48%		FRONT=10' SIDE=5' REAR=0'	N/A	1 PHASE ONLY
13.0 RESIDENTIAL	0.4367		1.06			
13.31 SINGLE FAMILY DETACHED DWELLING		7.04%	0.6 units/acre	FRONT=10' SIDE=5' REAR=0'	36' MAX	1 PHASE ONLY
13.32 SWIMMING POOL (NON COMMERCIAL)		4.74%		FRONT=10' SIDE=5' REAR=0'	N/A	1 PHASE ONLY
13.12 (GUEST QUARTERS)		3.73%	1.3 units/acre	FRONT=10' SIDE=5' REAR=0'	35' MAX	1 PHASE ONLY

LOCATION MAP 1"=600'

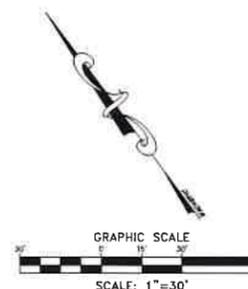


PROPOSED SETBACKS

FRONT YARD	10 ft.
REAR YARD	0 ft.
SIDE YARD	5 ft.

MAXIMUM BUILDING HIGH: 35'

PARCEL	ACRES	PROPOSED ZONING	EXISTING ZONING
1	2.7628	RMU	R-4



PLANNING & INSPECTIONS DEPARTMENT  
PLANNING DIVISION  
MASTER ZONING PLAN  
APPROVED BY CITY COUNCIL

2-16-22  
DATE

APPLICANT  
*Kevin Smith*  
EXECUTIVE SECRETARY, CITY PLAN COMMISSION

CITY MANAGER

DATE OF PREPARATION: SEPTEMBER 8, 2021

**CONDE INC.**  
ENGINEERING / PLANNING  
EPA / ISIRI/ENR / CAD  
SINCE FOUNDED IN 1953  
EL PASO, TEXAS  
PHONE: (915) 785-1111  
FAX: (915) 785-1111

# Exhibit "C"

170 POLO INN MASTER ZONING PLAN ..... 2021



PLANNING & INSPECTIONS DEPARTMENT  
PLANNING DIVISION  
MASTER ZONING PLAN  
APPROVED BY CITY COUNCIL

2-16-22

DATE

*Kevin Smith*

APPLICANT

EXECUTIVE SECRETARY, CITY PLAN COMMISSION

CITY MANAGER

## MASTER ZONING PLAN

170 POLO INN- Master Zoning Plan for a Residential Mixed- Use District

### SECTION I

#### PURPOSE AND INTENT-

The purpose of this Master Zoning Plan is to provide detail on the compatibility between land use and structures within and adjacent to this district. The district is intended to provide a unified community as described within the City of El Paso Comprehensive Plan and Smart Growth Objectives as follows:

- To accommodate, encourage and promote innovatively designed development that preserves the existing neighborhoods residential, open space and agriculture uses.
- To permit a mix of private residential, open space, recreational and agriculture uses that will be compatible and that will enhance the existing neighborhood.

#### OBJECTIVE

The objective of this Master Zoning Plan district is to allow for a mix of residential uses that meets the objectives of the RMU within Title20, Section 20.06.020.D.10. This district will accommodate, encourage and promote an innovatively designed mix of private residential, open space, agricultural and recreational uses as follows:

- 1.0 Agriculture and related operations:
  - a). 1.13 - Harvesting (field, tree, and bush crops)
  - b). 1.20 - Raising (field, tree, and bush crops)
- 11.0 Recreation, amusement and entertainment:
  - 11.30 - Open Space (common -private)
- 13.0 Residential
  - a). 13.31 - Single Family detached dwelling
  - b). 13.32 - Swimming Pool (noncommercial)
  - c). 13.12 – Guest Quarters

### SECTION II

#### CHARACTERISTICS AND COMPONENTS OF THIS DISTRICT

1. General Design Principles as per Title 20.10.360G are design principles to serve as guidelines that are met by this district.
  - a. Development Perspective:

CONDE, INC.

6080 Surety, Suite 100

El Paso, Texas 79905

(1). That the natural infrastructure and visual character of the development area be retained as derived from existing topography, riparian corridors and other environmentally sensitive area. **This district will enhance the existing neighborhoods natural infrastructure with the mix of private residential, enhanced open space and recreational while utilizing and improving the agriculture uses of this area.**

(2). That the development strategy utilized encourages infill and redevelopment in parity with new and existing neighborhoods. **This district will provide for a mix of residential, agriculture and recreational uses that will complement the existing neighborhood.**

(17). That a development has sufficient size to accommodate the mixed-use concentration of uses. **This district is more than sufficient in size to accommodate a mix of private residential, open space, agriculture and recreational uses that is compatible to the existing neighborhood.**

b. Building Perspective:

(1). That buildings and landscaping contribute to the physical definition of streets and civic places. **This district will complement the existing neighborhood by providing significant amount of trees and landscaping while incorporating a mix of residential, agriculture and recreational areas that enhance the physical definitions of the neighborhood.**

(3). That architectural and landscape design grow from local climate, topography, history and building practices. **This district will complement and enhance the existing neighborhood characteristics with the design of a mix of residential buildings, agriculture and recreational uses. The planting of trees and crops within the residential and recreational uses is in harmony with the local climate, topography, history and building practices of this neighborhood.**

2. General Design Elements as per Title 20.10.360G are design elements to serve as guidelines that are met by this District.

e. Natural features and undisturbed areas that are incorporated into the open space of the neighborhood.

h. Buildings, spaces, and other features that act as landmarks, symbols, and focal points for community identity.

i. Compatibility of buildings and other improvements as determined by their arrangement, bulk, form, character, and landscaping to establish a livable and harmonious environment.

**This district will provide for a mix of residential, agriculture and recreational uses that will enhance the natural features of the neighborhood while providing residential buildings and recreational uses that will enhance that are compatible to the neighborhood.**

3. Architectural objectives as per Title 20.10.360G

a. Architectural compatibility

b. Human scale design

c. Integration of uses

d. Buildings that relate to and are orientated toward the street and surrounding buildings

e. Residential scale buildings in any mixed residential area

- f. Buildings that contain special architectural features to signify entrances to the mixed-use development, and
  - g. Buildings that focus activity on neighborhood open space, square or plaza.  
**This district will meet and exceed the architectural objectives by providing compatible residential buildings design that includes agriculture and recreational uses designed to truly enhance the surrounding neighborhood.**
4. Roadway design as per Title 20.10.360G – **N/A**
  5. Parking – **off-street parking within the district is provided for the mix of private residential, agriculture and recreational uses.**
  6. Setbacks – **this district will have a 10’ Front setback, a 5’ side setback and a 0’ rear setback.**
  7. Density – **this district will contain a maximum of 1 unit/acre maximum. This district will contain one Single Family residence as well as two Guest houses (approximately 11% of total district area).**
  8. Landscaping – **this district will contain a significant amount of landscaping, agriculture and recreational areas.**
  9. Sub districts – **this district will not have any sub districts.**
  10. Commercial uses within the district - **None.**

### **SECTION III**

#### **PHASING**

**The entire District will be built within a One-year timeframe. Thus, there will be no phasing of this District.**

### **SECTION IV**

#### **RELATIONSHIP TO THE PLAN FOR EL PASO**

The Plan for El Paso states the Goals and Policies that define the form and function of the City. This Master Zoning Plan is in accordance with the goals and policies as per the following points:

- A. City-Wide Land Use Goals and Policies:  
Policy: Develop land use patterns that protect neighborhoods while supporting the economic viability of the City.

Action: Maintain development standards that protect residential neighborhoods from uses that increase traffic, noise, reduce privacy, and adversely affect the health, safety and welfare of residents.

**This district will enhance protect the existing neighborhood from uses that would adversely affect it by providing for a mix of private residential, common open space, recreational and agriculture uses.**

B. Residential Land Use Goals and Policies:

- 1. Goal: Provide a wide range of housing types that respond to the needs of all economic segments of the community.

Policy: Encourage innovative home design and development to promote housing opportunities

Action: Provide adequate open space, either in private yards or common areas, in all residential developments.

**This district will enhance the existing neighborhood by providing a well-designed private mix of residential, open space, agriculture and recreational uses that will enhance the open space in private yards in this area.**

- 2. Goal: Protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.

Action: Employ development standards to protect residential environments.

**This district will provide for a mix of private residential, open space, agriculture and recreational uses that will protect the existing neighborhood environment.**

C. Neighborhoods Land Use Goals and Policies:

- 1. Preserve, protect, and enhance the integrity, economic vitality and livability of the City’s neighborhoods.

Action: Encourage neighborhood amenities that include places for interaction among residents such as parks, community centers, schools, commercial areas, churches, and other gathering points throughout the City.

Action: Public and private development should be designed to improve the character of the existing neighborhoods.

**This district will enhance the integrity, economic vitality and livability of the existing neighborhood by providing a mix of private residential, open space, agriculture and recreational uses that will enhance the character of the neighborhood.**

# 170 Polo Inn Rd.

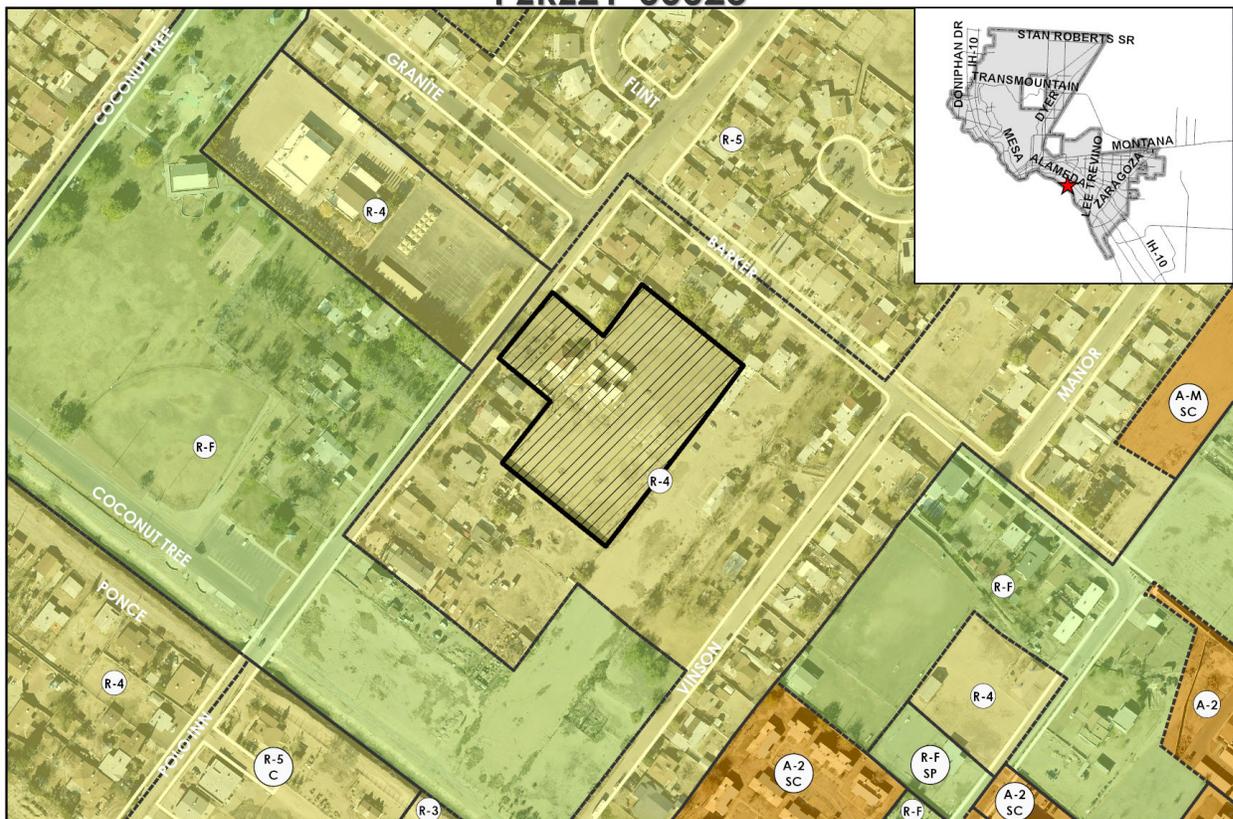
City Plan Commission — December 16, 2021

<b>CASE NUMBER:</b>	<b>PZRZ21-00025</b>
<b>CASE MANAGER:</b>	David Samaniego, (915) 212-1608, SamaniegoDC@elpasotexas.gov
<b>PROPERTY OWNER:</b>	Ricardo Pacheco and Cynthia Pacheco
<b>REPRESENTATIVE:</b>	Conde, Inc.
<b>LOCATION:</b>	170 Polo Inn Rd. (District 3)
<b>PROPERTY AREA:</b>	2.76 acres
<b>REQUEST:</b>	Rezone from R-4 (Residential) to R-MU (Residential Mixed Use)
<b>RELATED APPLICATIONS:</b>	None
<b>PUBLIC INPUT:</b>	Six (6) calls of inquiry received as of December 9, 2021

**SUMMARY OF REQUEST:** The applicant is requesting to rezone the subject property from R-4 (Residential) to R-MU (Residential Mixed Use) to allow for a private mix of residential, recreational, and agricultural uses.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the rezoning request. The proposed rezoning is in keeping with the purpose of the R-MU (Residential Mixed Use) zone district and the character of the surrounding area. Furthermore, the request complies with the *Plan El Paso* policies for the G-3, Post-War land use designation of *Plan El Paso*, the City's adopted Comprehensive Plan in the Mission Valley Planning area.

## PZRZ21-00025



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



Subject Property

0 75 150 300 450 600 Feet



Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant proposes to rezone approximately 2.76 acres of land from R-4 (Residential) to R-MU (Residential Mixed Use). The Master Zoning Plan (MZP) shows the proposed private, mixed-use development on the subject property as a single-family detached dwelling, two (2) guest quarters buildings consisting of one unit each, and a private swimming pool area. The recreation use consists of open space areas, with the agricultural use shown as a grass/dirt field with trees surrounding the perimeter of the property. The MZP breaks down the uses as follows:

1. Residential (0.4367 acres / 7.34% of development)
  - Single family detached dwelling;
  - Two (2) guest quarters;
  - Swimming Pool (noncommercial)
  
2. Recreation, Amusement and Entertainment (1.7263 acres / 62.48% of development)
  - Open space (common – private);
  
3. Agricultural and Related Operation (0.5998 acres / 21.71% of development)
  - Harvesting (field, tree, and bush crops)
  - Raising (field, tree, and bush crops)

In addition, the MZP calls out a maximum building height of thirty-five (35)-feet and proposed setbacks of zero (0)-feet for the front, rear, and side yards. None of the existing or proposed structures is considered to be constructed at zero-foot setback, per the MZP. Access to the development is proposed from Polo Inn Road.

**PREVIOUS CASE HISTORY:** N/A

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** Abutting properties are zoned R-4 (Residential) and R-F (Ranch and Farm) and consist of a church and single-family, residential uses. The proposed development proposes residential, recreational, and agricultural uses intended for private use.

<b>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:</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
<p><b>Future Land Use Map:</b> Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p><b>G-3, Post-War:</b> This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	<p>Yes, the proposed rezoning will allow for a private mix of uses. The proposed uses are 1) Residential (single family detached dwelling, two (2) guest quarters, and a swimming pool – noncommercial); 2) Recreation (open space); and 3) Agricultural (harvesting and raising). The proposed uses are compatible with the G-3, Post-War land use designation and the surrounding residential and church uses.</p>

**COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors:**

<p><b>Compatibility with Surroundings:</b> The proposed zoning district is compatible with those surrounding the site:</p> <p><b>R-MU (Residential Mixed Use) District:</b> The purpose of the district is to accommodate, encourage and promote innovatively designed developments involving neighborhood-serving residential and commercial land uses, which together form an attractive and harmonious unit of the city. The regulations of this district are intended to allow for developments that are intended by their size and nature of operation to provide service to a neighborhood. It is intended that the district regulations permit uses that are compatible with the residential areas that the uses serve, and allow flexibility and encourage more creative, efficient and aesthetically desirable design and placement of land uses.</p>	<p><b>Yes.</b> The proposed zoning district is compatible with other zoning districts surrounding the property. Abutting properties are zoned R-4 (Residential) and R-F (Ranch and Farm) and consist of a church and single-family, residential uses.</p>
<p><b>Preferred Development Locations:</b> Is the property in a “Compact Urban” area?</p>	<p>The proposal would allow for a mix of private residential, recreational, and agricultural uses and fits the physical context of abutting residential and church properties</p>
<p><b>THE PROPOSED ZONING DISTRICT’S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:</b></p>	
<p><b>Historic District or Special Designations &amp; Study Area Plans:</b> Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.</p>	<p>The subject property is not located within any historic districts, other special designations, or areas with adopted study area plans.</p>
<p><b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.</p>	<p>No adverse effects are anticipated.</p>
<p><b>Natural Environment:</b> Anticipated effects on the natural environment.</p>	<p>There are no anticipated effects on the natural environment.</p>
<p><b>Stability:</b> Whether the area is stable or in transition.</p>	<p>The area is in transition. The church site across the street from the subject property was rezoned in 2018.</p>
<p><b>Socioeconomic &amp; Physical Conditions:</b> Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.</p>	<p>The existing R-4 (Residential) zone district does not permit two guest quarters and the proposed mix of residential, recreational, and agricultural uses are best served through an R-MU (Residential Mixed Use) zone district.</p>

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The subject property is accessed from Polo Inn Road, which is classified as a local street as per the City of El Paso's Major Thoroughfare Plan. It is adequate to serve the proposed development.

**PUBLIC COMMENT:** The subject property lies within the Corrido 20 Civic Association, the El Paso Lower Valley Association and within the Mission Valley Planning area. Notices were mailed to property owners within 300 feet of the subject property on November 30, 2021. As of December 9, 2021, Planning has received six (6) phone call of inquiry, but no communication in support or opposition to the rezoning request.

**RELATED APPLICATIONS:** N/A

**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. Neighborhood Notification Boundary Map
3. Master Zoning Plan
4. Master Zoning Report
5. Department Comments

# ATTACHMENT 1

PZR21-00025



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Engagements of this nature are not intended to constitute a contract. The Planning and Development Division makes no claim to its accuracy or completeness.

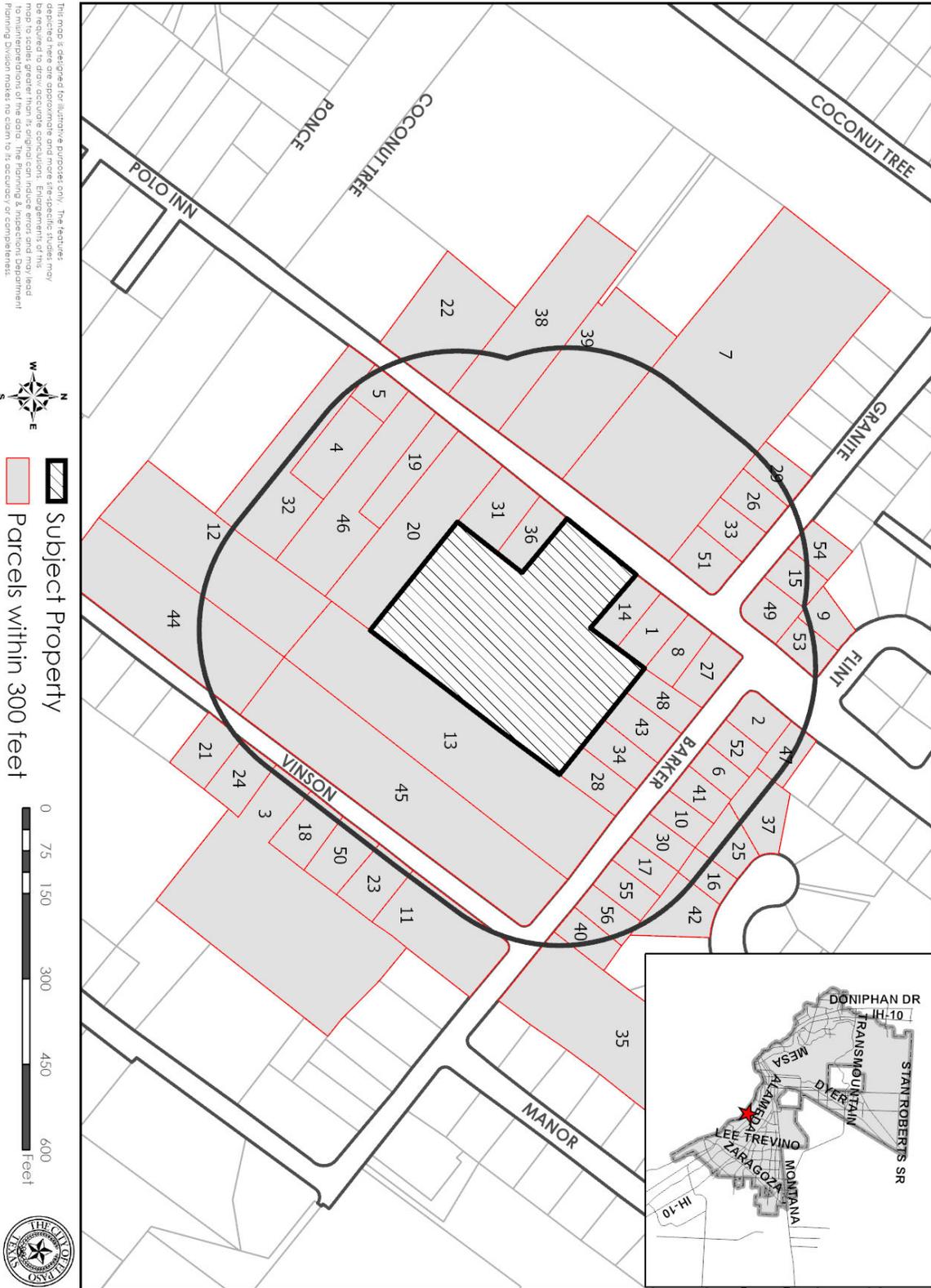


Subject Property

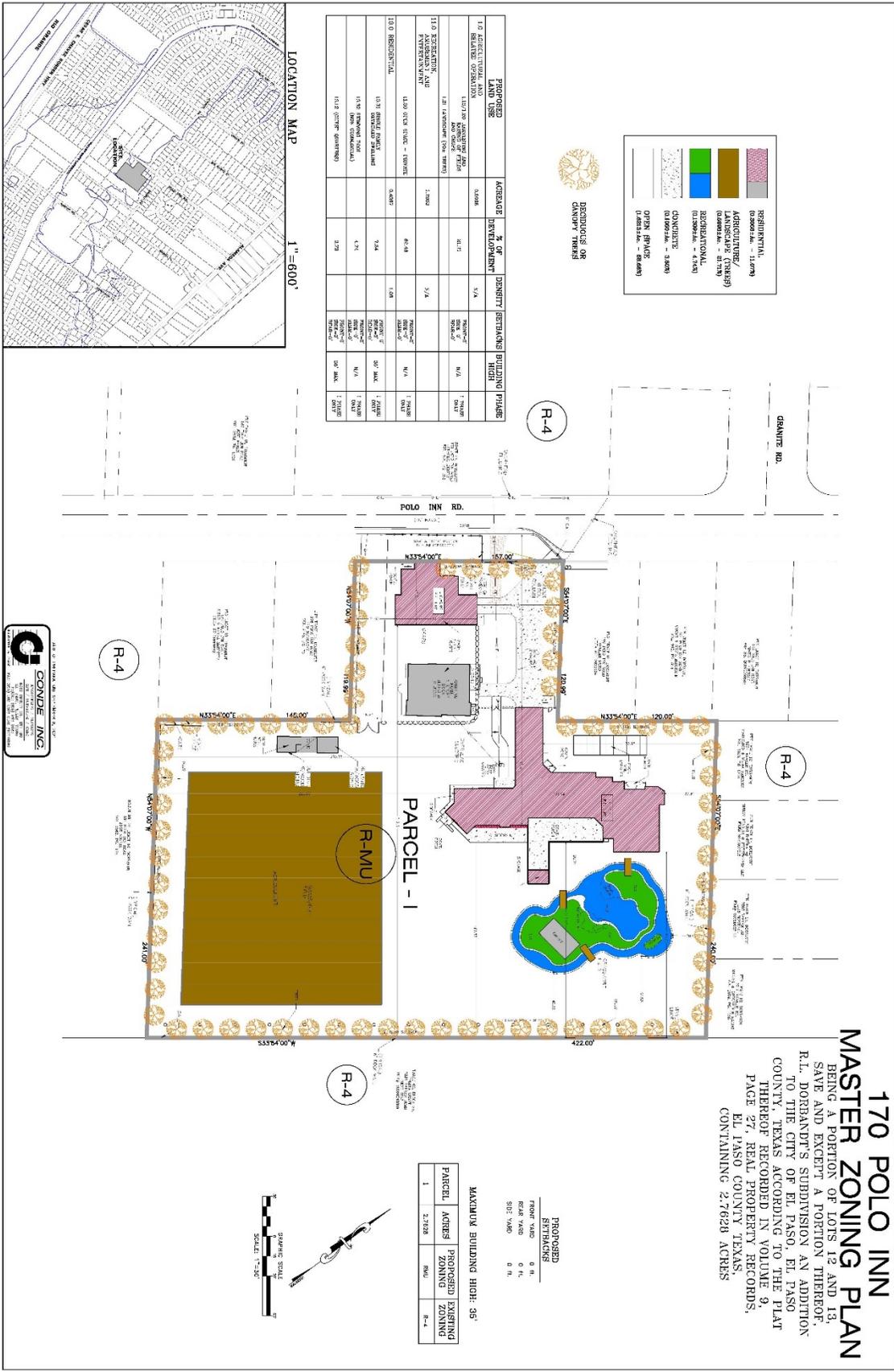


# ATTACHMENT 2

PZR21-00025



# ATTACHMENT 3



# ATTACHMENT 4

170 POLO INN MASTER ZONING PLAN ..... 2021

## MASTER ZONING PLAN

### 170 POLO INN- Master Zoning Plan for a Residential Mixed- Use District

#### SECTION I

##### PURPOSE AND INTENT-

The purpose of this Master Zoning Plan is to provide detail on the compatibility between land use and structures within and adjacent to this district. The district is intended to provide a unified community as described within the City of El Paso Comprehensive Plan and Smart Growth Objectives as follows:

- To accommodate, encourage and promote innovatively designed development that preserves the existing neighborhoods residential, open space and agriculture uses.
- To permit a mix of private residential, open space, recreational and agriculture uses that will be compatible and that will enhance the existing neighborhood.

##### OBJECTIVE

The objective of this Master Zoning Plan district is to allow for a mix of residential uses that meets the objectives of the RMU within Title20, Section 20.06.020.D.10. This district will accommodate, encourage and promote an innovatively designed mix of private residential, open space, agricultural and recreational uses as follows:

- 1.0 Agriculture and related operations:
  - a). 1.13 - Harvesting (field, tree, and bush crops)
  - b). 1.20 - Raising (field, tree, and bush crops)
- 11.0 Recreation, amusement and entertainment:
  - 11.30 - Open Space (common -private)
- 13.0 Residential
  - a). 13.31 - Single Family detached dwelling
  - b). 13.32 - Swimming Pool (noncommercial)
  - c). 13.12 – Guest Quarters

#### SECTION II

##### CHARACTERISTICS AND COMPONENTS OF THIS DISTRICT

1. General Design Principles as per Title 20.10.360G are design principles to serve as guidelines that are met by this district.
  - a. Development Perspective:

CONDE, INC.

6080 Surety, Suite 100

El Paso, Texas 79905

1

(1). That the natural infrastructure and visual character of the development area be retained as derived from existing topography, riparian corridors and other environmentally sensitive area. **This district will enhance the existing neighborhoods natural infrastructure with the mix of private residential, enhanced open space and recreational while utilizing and improving the agriculture uses of this area.**

(2). That the development strategy utilized encourages infill and redevelopment in parity with new and existing neighborhoods. **This district will provide for a mix of residential, agriculture and recreational uses that will complement the existing neighborhood.**

(17). That a development has sufficient size to accommodate the mixed-use concentration of uses. **This district is more than sufficient in size to accommodate a mix of private residential, open space, agriculture and recreational uses that is compatible to the existing neighborhood.**

b. Building Perspective:

(1). That buildings and landscaping contribute to the physical definition of streets and civic places. **This district will complement the existing neighborhood by providing significant amount of trees and landscaping while incorporating a mix of residential, agriculture and recreational areas that enhance the physical definitions of the neighborhood.**

(3). That architectural and landscape design grow from local climate, topography, history and building practices. **This district will complement and enhance the existing neighborhood characteristics with the design of a mix of residential buildings, agriculture and recreational uses. The planting of trees and crops within the residential and recreational uses is in harmony with the local climate, topography, history and building practices of this neighborhood.**

2. General Design Elements as per Title 20.10.360G are design elements to serve as guidelines that are met by this District.

e. Natural features and undisturbed areas that are incorporated into the open space of the neighborhood.

h. Buildings, spaces, and other features that act as landmarks, symbols, and focal points for community identity.

i. Compatibility of buildings and other improvements as determined by their arrangement, bulk, form, character, and landscaping to establish a livable and harmonious environment.

**This district will provide for a mix of residential, agriculture and recreational uses that will enhance the natural features of the neighborhood while providing residential buildings and recreational uses that will enhance that are compatible to the neighborhood.**

3. Architectural objectives as per Title 20.10.360G

a. Architectural compatibility

b. Human scale design

c. Integration of uses

d. Buildings that relate to and are orientated toward the street and surrounding buildings

e. Residential scale buildings in any mixed residential area

- f. Buildings that contain special architectural features to signify entrances to the mixed-use development, and
- g. Buildings that focus activity on neighborhood open space, square or plaza.  
**This district will meet and exceed the architectural objectives by providing compatible residential buildings design that includes agriculture and recreational uses designed to truly enhance the surrounding neighborhood.**
- 4. Roadway design as per Title 20.10.360G – N/A
- 5. Parking – **off-street parking within the district is provided for the mix of private residential, agriculture and recreational uses.**
- 6. Setbacks – **this district will have zero (0) setbacks.**
- 7. Density – **this district will contain a maximum of 1 unit/acre maximum. This district will contain one Single Family residence as well as two Guest houses (approximately 11% of total district area).**
- 8. Landscaping – **this district will contain a significant amount of landscaping, agriculture and recreational areas.**
- 9. Sub districts – **this district will not have any sub districts.**
- 10. Commercial uses within the district - **None.**

**SECTION III**

**PHASING**

**The entire District will be built within a One-year timeframe. Thus, there will be no phasing of this District.**

**SECTION IV**

**RELATIONSHIP TO THE PLAN FOR EL PASO**

The Plan for El Paso states the Goals and Policies that define the form and function of the City. This Master Zoning Plan is in accordance with the goals and policies as per the following points:

- A. City-Wide Land Use Goals and Policies:  
Policy: Develop land use patterns that protect neighborhoods while supporting the economic viability of the City.

CONDE, INC.

6080 Surety, Suite 100

El Paso, Texas 79905

Action: Maintain development standards that protect residential neighborhoods from uses that increase traffic, noise, reduce privacy, and adversely affect the health, safety and welfare of residents.

**This district will enhance protect the existing neighborhood from uses that would adversely affect it by providing for a mix of private residential, common open space, recreational and agriculture uses.**

B. Residential Land Use Goals and Policies:

- 1. Goal: Provide a wide range of housing types that respond to the needs of all economic segments of the community.

Policy: Encourage innovative home design and development to promote housing opportunities

Action: Provide adequate open space, either in private yards or common areas, in all residential developments.

**This district will enhance the existing neighborhood by providing a well-designed private mix of residential, open space, agriculture and recreational uses that will enhance the open space in private yards in this area.**

- 2. Goal: Protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.

Action: Employ development standards to protect residential environments.

**This district will provide for a mix of private residential, open space, agriculture and recreational uses that will protect the existing neighborhood environment.**

C. Neighborhoods Land Use Goals and Policies:

- 1. Preserve, protect, and enhance the integrity, economic vitality and livability of the City’s neighborhoods.

Action: Encourage neighborhood amenities that include places for interaction among residents such as parks, community centers, schools, commercial areas, churches, and other gathering points throughout the City.

Action: Public and private development should be designed to improve the character of the existing neighborhoods.

**This district will enhance the integrity, economic vitality and livability of the existing neighborhood by providing a mix of private residential, open space, agriculture and recreational uses that will enhance the character of the neighborhood.**

# **ATTACHMENT 5**

## **Planning and Inspections Department – Planning**

Planning staff recommends approval of the rezoning request.

## **Planning and Inspections Department – Plan Review and Landscaping Division**

No objections to proposed rezoning. At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC and Municipal Code

## **Planning and Inspections Department – Land Development**

No objections to the proposed rezoning.

## **Fire Department**

Recommend approval – no adverse comments.

## **Sun Metro**

Recommend approval – no objections.

## **Streets and Maintenance Department**

No TIA related comments/objections.

## **El Paso Water**

Stormwater:

EP Water-SW reviewed the property described above and provide the following comments:

The subject property shall continue to retain its runoff in addition to half of Polo Inn Rd. We recommend using principles of low impact development such as recessed landscaping, rainwater harvesting, and permeable pavement.

## **Texas Department of Transportation**

No comments received.

## **Police Department**

No comments received.



# 170 Polo Inn Rd. Rezoning

PZRZ21-00025

**Strategic Goal 3.**  
Promote the Visual Image of  
El Paso



# Aerial



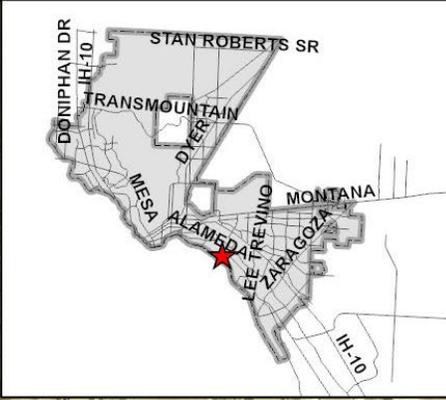
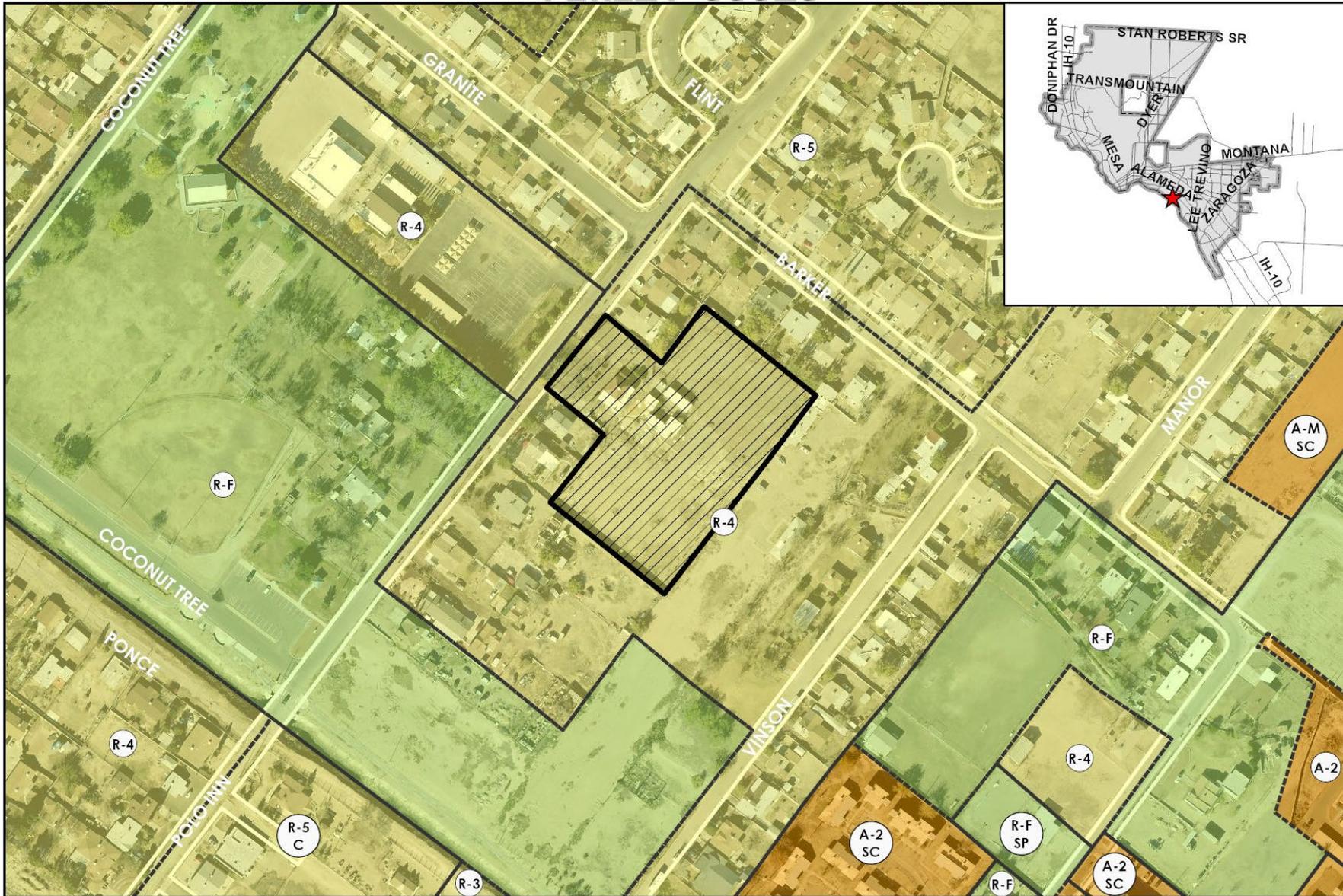
This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



 Subject Property



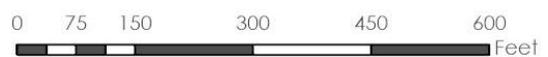
# Existing Zoning



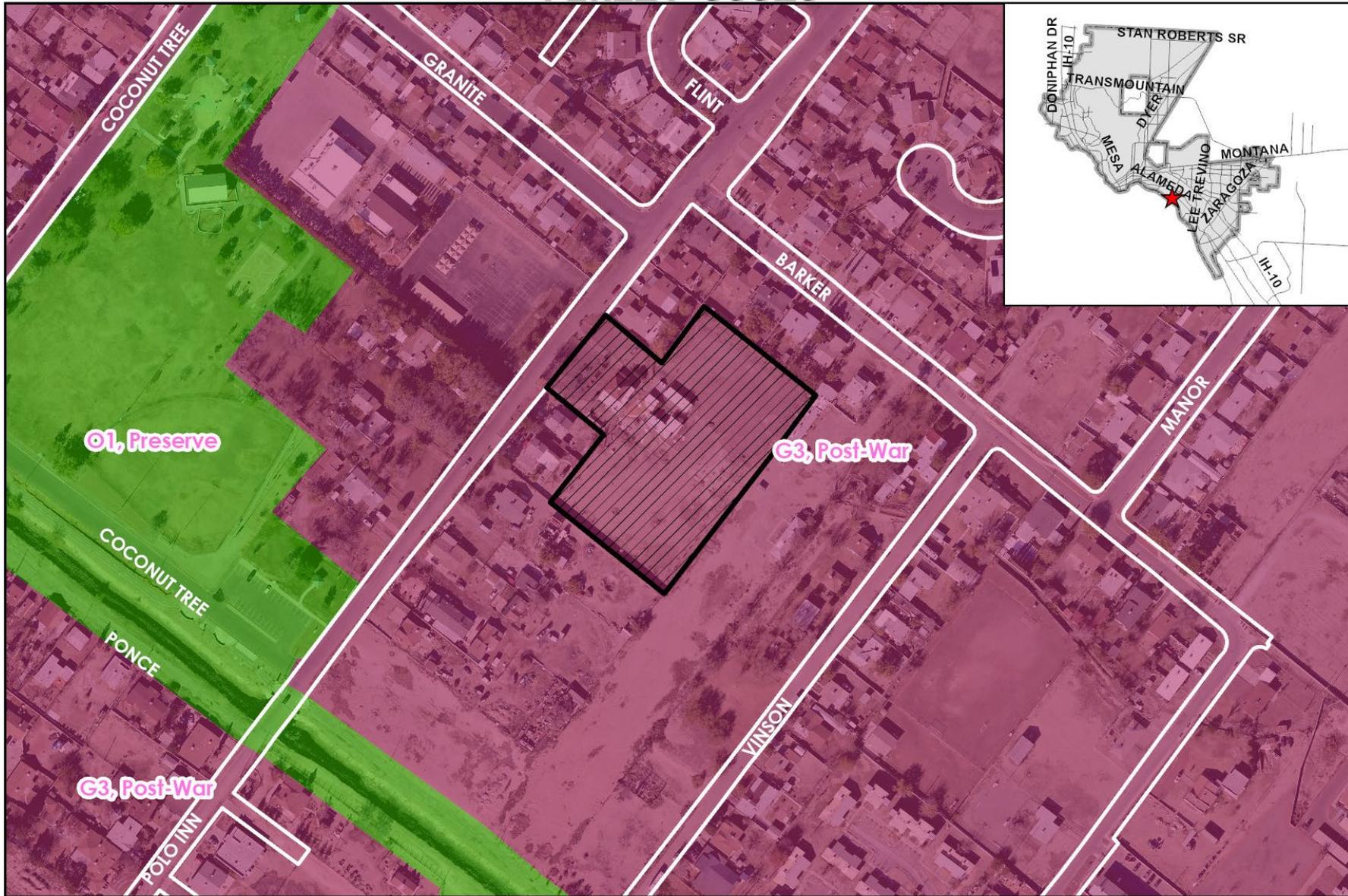
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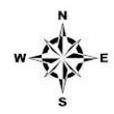
 Subject Property



# Future Land Use



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 Subject Property



# 170 POLO INN MASTER ZONING PLAN

BEING A PORTION OF LOTS 12 AND 13,  
SAVE AND EXCEPT A PORTION THEREOF,  
R.L. DORBANDT'S SUBDIVISION AN ADDITION  
TO THE CITY OF EL PASO, EL PASO  
COUNTY, TEXAS ACCORDING TO THE PLAT  
THEREOF RECORDED IN VOLUME 9,  
PAGE 27, REAL PROPERTY RECORDS,  
EL PASO COUNTY TEXAS,  
CONTAINING 2.7628 ACRES

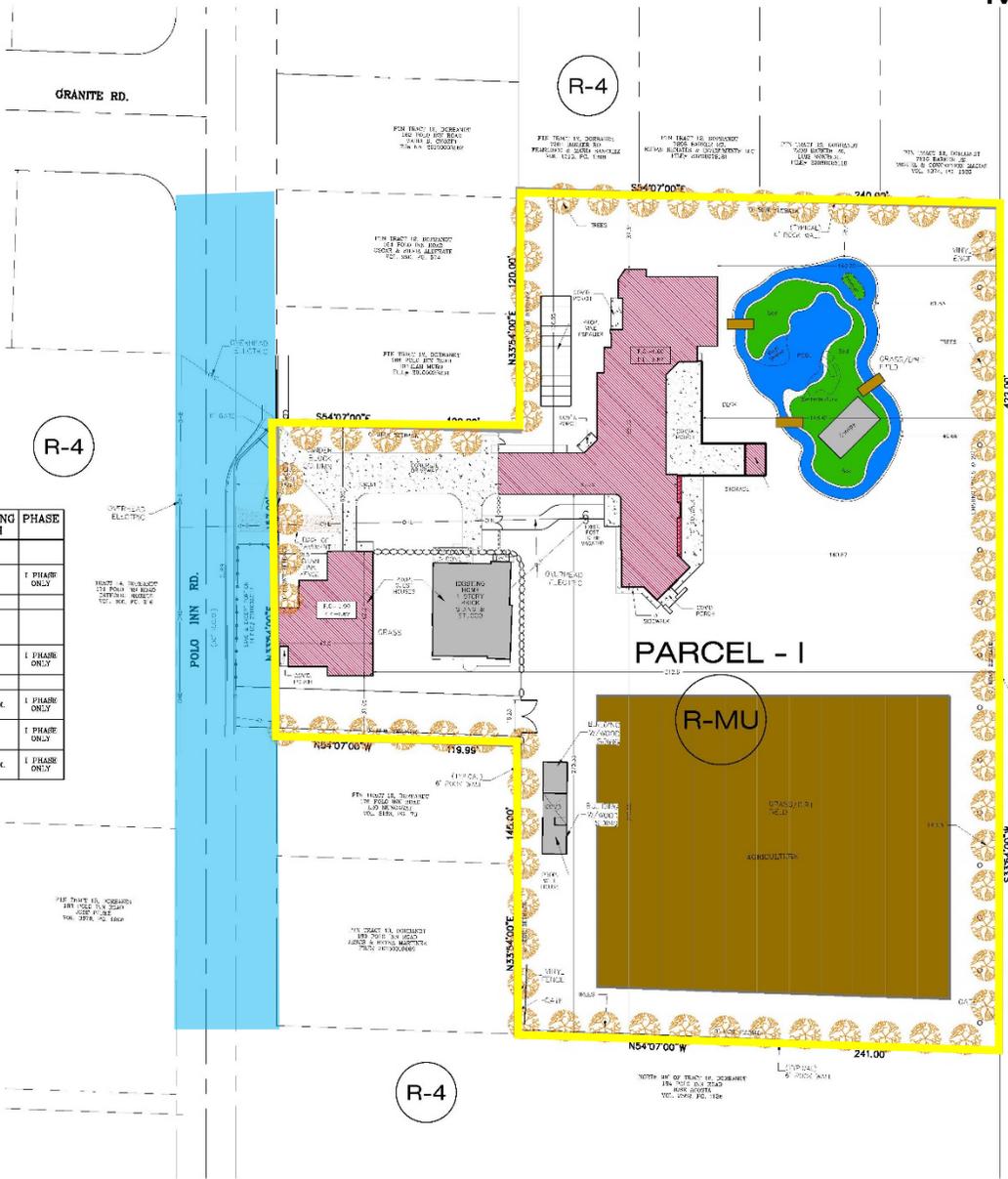
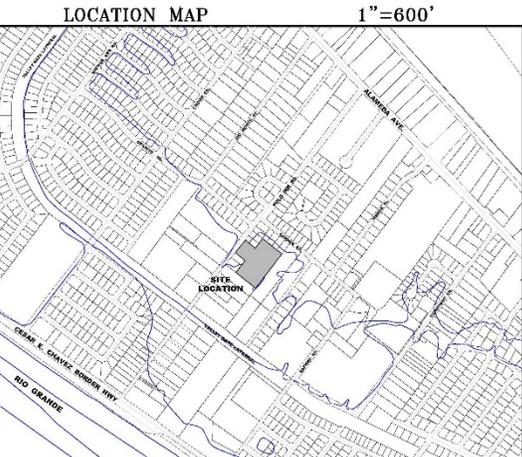


## Site Plan

	RESIDENTIAL (0.3068±Ac. - 11.07%)
	AGRICULTURE/ LANDSCAPE (TREES) (0.6088±Ac. - 21.71%)
	RECREATIONAL (0.1308±Ac. - 4.74%)
	CONCRETE (0.1060±Ac. - 3.80%)
	OPEN SPACE (1.6213±Ac. - 59.68%)



PROPOSED LAND USE	ACREAGE	% OF DEVELOPMENT	DENSITY	SETBACKS	BUILDING HIGH	PHASE
<b>1.0 AGRICULTURAL AND RELATED OPERATION</b>	0.5998		N/A			
1.19/1.20 HARVESTING AND RAISING OF FIELDS AND CROPS		21.71		FRONT-0' SIDE-0' REAR-0'	N/A	1 PHASE ONLY
1.21 LANDSCAPE (TALL TREES)						
<b>11.0 RECREATION, AMUSEMENT AND ENTERTAINMENT</b>	1.7283		N/A			
11.30 OPEN SPACE - PRIVATE		62.48		FRONT-0' SIDE-0' REAR-0'	N/A	1 PHASE ONLY
<b>13.0 RESIDENTIAL</b>	0.4367		1.08			
13.31 SINGLE FAMILY DETACHED DWELLING		3.34		FRONT-0' SIDE-0' REAR-0'	35' MAX.	1 PHASE ONLY
13.35 SWIMMING POOL (NON COMMERCIAL)		4.74		FRONT-0' SIDE-0' REAR-0'	N/A	1 PHASE ONLY
13.12 CURB QUARTERS		3.73		FRONT-0' SIDE-0' REAR-0'	35' MAX.	1 PHASE ONLY

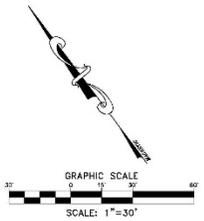


PROPOSED SETBACKS

FRONT YARD	0 ft.
REAR YARD	0 ft.
SIDE YARD	0 ft.

MAXIMUM BUILDING HIGH: 35'

PARCEL	ACRES	PROPOSED ZONING	EXISTING ZONING
1	2.7628	RMU	R-4



# Subject Property



# Surrounding Development



N



W

S

E



# Public Input

- Notices were mailed to property owners within 300 feet on November 30, 2021.
- The Planning Division has received seven (7) phone calls of inquiry, but no communication in support or opposition to the request as of December 16, 2021.





## Recommendation

- Staff recommends approval of the rezoning request.



## 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



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File #: 22-226, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 6**

Planning and Inspections, Philip F. Etiwe, (915) 212-1553  
Planning and Inspections, David Samaniego, (915) 212-1608

**AGENDA LANGUAGE:**

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

An Ordinance granting Special Permit No. PZST21-00018, to allow for a crematorium on the property described as Lots 6 and 7, Block 2, Golden Gate Commercial Park, 1755 Zaragoza Road, City of El Paso, El Paso County, Texas. 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: 1755 Zaragoza Road  
Applicant: Golden Gate Family LTD, PZST21-00018

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

**AGENDA DATE:** March 1, 2022  
**PUBLIC HEARING DATE:** March 29, 2022

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
David Samaniego, (915) 212-1608

**DISTRICT(S) AFFECTED:** District 6

**STRATEGIC GOAL:** #3 Promote the Visual Image of El Paso

**SUBGOAL:** 3.2 Set one standard for infrastructure across the city

**SUBJECT:**

An Ordinance granting Special Permit No. PZST21-00018, to allow for a crematorium on the property described as Lots 6 and 7, Block 2, Golden Gate Commercial Park, 1755 Zaragoza Road, City of El Paso, El Paso County, Texas. 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: 1755 Zaragoza Road  
Applicant: Golden Gate Family LTD, PZST21-00018

**BACKGROUND / DISCUSSION:**

The applicant is requesting a special permit to allow for the addition of a crematorium to an existing funeral home in the C-4 (Commercial) zone district. City Plan Commission recommended 7-0 to approve the proposed special permit request on December 16, 2021. As of February 22, 2022, the Planning Division has not received any communication in support or opposition to the special permit request. See attached staff report for additional information.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Philip Etiwe*

---

**Philip F. Etiwe – Planning and Inspections Director**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST21-00018, TO ALLOW FOR A CREMATORIUM ON THE PROPERTY DESCRIBED AS LOTS 6 AND 7, BLOCK 2, GOLDEN GATE COMMERCIAL PARK, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.320 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

**WHEREAS**, the Golden Gate Family Limited Partnership, has applied for a Special Permit under Section 20.10.280 of the El Paso City Code to allow for a Crematorium; and,

**WHEREAS**, a report was made by the City Plan Commission and a public hearing was held regarding such application; and,

**WHEREAS**, the City Plan Commission has recommended approval of the subject Special Permit; and

**WHEREAS**, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and

**WHEREAS**, the City Council of the City of El Paso finds that the application conforms to all requirements of Section 20.04.320 of the El Paso City Code.

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

1. That the property described as follows, is in a C-4 (Commercial) District:  
*Lots 6 and 7, Block 2, Golden Gate Commercial Park, City of El Paso, El Paso County, Texas;* and,
2. That the City Council hereby grants a Special Permit under Section 20.04.320 of the El Paso City Code to allow for Crematorium on the property described in Paragraph 1 of this Ordinance; and,
3. That this Special Permit is issued subject to the development standards in the C-4 (Commercial) District regulations and is subject to the approved Detailed Site Development Plan signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as Exhibit "A" and is incorporated herein by reference for all purposes; and,
4. That if at any time the Applicant fails to comply with any of the requirements of this Ordinance, Special Permit No. PZST21-00018, shall be subject to termination; construction or occupancy shall be discontinued; and the Applicant shall be subject to the penalty provisions of Chapter 20.24 and any other legal or equitable remedy; and,

5. That the Applicant shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary to the City Plan Commission before building permits are issued.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF EL PASO:**

**ATTEST:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

*Wendi N. Vineyard*  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant Attorney

*Philip F. Etiwe*  
\_\_\_\_\_  
Philip F. Etiwe, Director  
Planning & Inspections Department





# 1755 Zaragoza Rd.



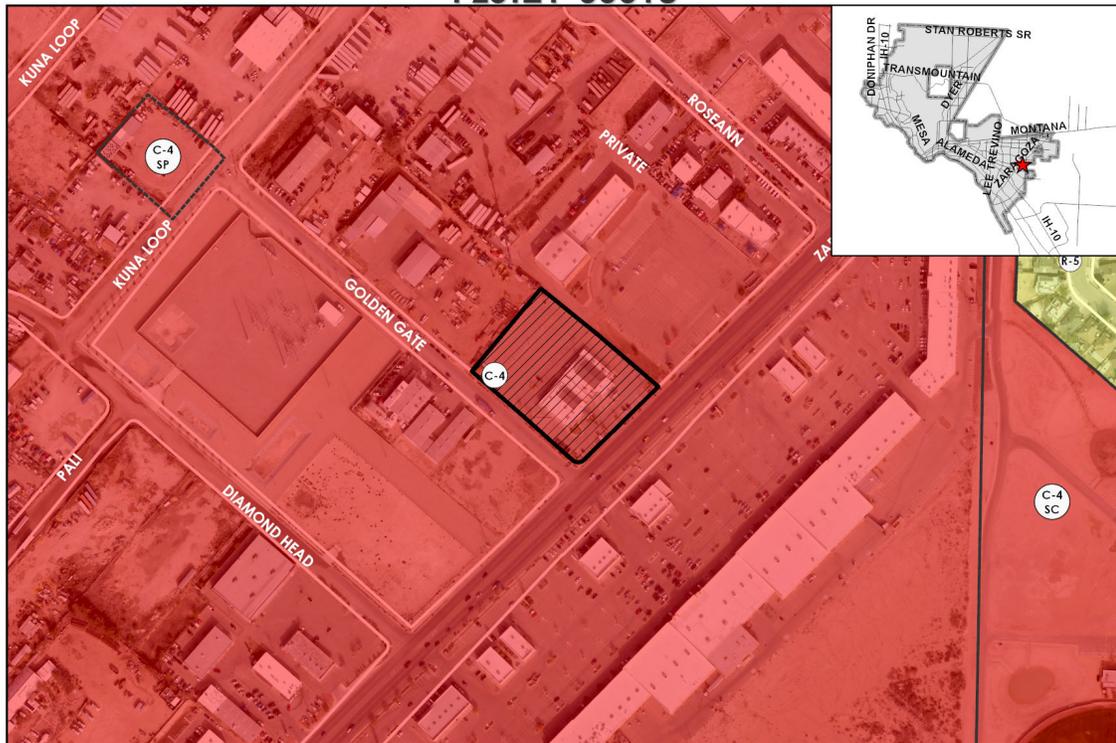
City Plan Commission — December 16, 2021

<b>CASE NUMBER:</b>	<b>PZST21-00018</b>
<b>CASE MANAGER:</b>	David Samaniego, (915) 212-1608, <a href="mailto:SamaniegoDC@elpasotexas.gov">SamaniegoDC@elpasotexas.gov</a>
<b>PROPERTY OWNER:</b>	Golden Gate Family Limited Partnership
<b>REPRESENTATIVE:</b>	H2O Terra
<b>LOCATION:</b>	1755 Zaragoza Rd. (District 6)
<b>PROPERTY AREA:</b>	2.362 acres
<b>EXISTING ZONING:</b>	C-4 (Commercial)
<b>REQUEST:</b>	Special Permit for addition of a crematorium
<b>RELATED APPLICATIONS:</b>	None
<b>PUBLIC INPUT:</b>	No support or opposition received as of December 9, 2021

**SUMMARY OF REQUEST:** The applicant is requesting a special permit and the approval of a detailed site development plan to allow for the addition of a crematorium to an existing funeral home in a C-4 (Commercial) zone district.

**SUMMARY OF STAFF RECOMMENDATION:** Planning recommends **APPROVAL** of the special permit request and detailed site development plan as it complies with El Paso City Code Sections 20.04.260 and 20.04.320 – Special Permit, and 20.04.150, Detailed Site Development Plan. Further, the special permit request meets the intent of the G-4, Suburban (Walkable) land use designation of *Plan El Paso*, the City of El Paso’s Comprehensive Plan in the East Planning area.

## PZST21-00018



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Subject Property

0 60 120 240 360 480 Feet



Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting a special permit and detailed site development plan approval to allow for the addition of a crematorium, to be constructed inside of the an existing funeral home, in the C-4 (Commercial) zone district. The property is located at 1755 Zaragoza Road within the East Planning Area. The detailed site development plan shows an existing 17,240 square-foot building, with a maximum building height of 12-feet. A funeral home is a permitted use in the C-4 (Commercial) zone district and the addition of a crematorium, to be constructed inside of the existing funeral home, may be permitted with an approved Special Permit. The existing development requires a minimum of 72 parking spaces and the applicant is providing 193 parking spaces. As there is no construction proposed to the existing building footprint, additional trees are not required within the existing development. Access to the subject property is provided from Zaragoza Road and Golden Gate Road.

<b>COMPLIANCE WITH SPECIAL PERMIT REQUIREMENTS (EL PASO CITY CODE SECTION 20.04.320.D)</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
1. The proposed development complies, except to the extent waived, varied or modified pursuant to the provisions of this title, with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.	Yes, the existing development, as shown on the detailed site development plan, complies with all density and dimensional standards for the C-4 (Commercial) zone district. A funeral home is a permitted use in the C-4 (Commercial) zone district and the addition of a crematorium may be permitted with an approved Special Permit by City Council.
2. Furthers <i>Plan El Paso</i> and applicable neighborhood plans or policies.	Yes. No additional square footage to the footprint of the building is proposed. In addition, the request complies with the recommendations of <i>Plan El Paso</i> and the G4, Suburban (Walkable) land use designation.
3. Adequately served by and will not impose an undue burden upon public improvements.	Yes. Access to the subject property is from Zaragoza Road., a major arterial street, which is adequate to serve the existing funeral home and the proposed crematorium use.
4. Any impacts of the proposed development on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.	Yes. There are no adverse effects anticipated from the proposed special permit. The existing infrastructure will support the mix of uses for the surrounding properties. No additional square footage to the footprint of the building is proposed on the subject property.
5. The design of the proposed development mitigates substantial environmental problems.	Yes. The subject property does not involve greenfield/environmentally sensitive land or arroyo disturbance.
6. The proposed development provides adequate landscaping and/or screening where needed.	Yes. The existing development complies with the landscaping ordinance requirement of Title 18.46 of the <i>El Paso City Code</i> .
7. The proposed development is compatible with adjacent structures and uses.	Yes. The existing building configuration is similar to other properties in the immediate area. The proposed addition of a crematorium is compatible with the surrounding uses: contractor's yard, church, retail, and a variety of low to medium intensity commercial uses.

<b>COMPLIANCE WITH SPECIAL PERMIT REQUIREMENTS (EL PASO CITY CODE SECTION 20.04.320.D)</b>	
8. The proposed development is not materially detrimental to the property adjacent to the site.	Yes. No additional square footage to the footprint of the building is proposed. There are no negative impacts anticipated from the proposed crematorium use and the existing funeral home on the adjacent commercial, retail, and church developments.

<b>COMPLIANCE WITH PLAN EL PASO GOALS &amp; POLICIES – When evaluating whether a proposed special permit is in accordance with <i>Plan El Paso</i>, consider the following factors:</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
<p><b>Future Land Use Map:</b> Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p><b>G-4, Suburban (Walkable):</b> This sector applies to modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.</p>	Yes. The subject property is located in an area of low to medium intensity commercial and church uses.
<p><b>Compatibility with Surroundings:</b> The proposed zoning district is compatible with those surrounding the site:</p> <p><b>C-4 (Commercial) District:</b> The purpose of the district is to provide for locations for the most intensive commercial uses intended to serve the entire city. It is intended that the district regulations permit heavy commercial uses characterized by automotive and light warehousing. The regulations of the districts are intended to provide a transition from general business areas to industrial and manufacturing uses, and to accommodate major locations of commerce, service and employment activities.</p>	Yes. A funeral home is a permitted use in the C-4 (Commercial) zone district and the proposed crematorium may be permitted, subject to an approved special permit. The development is in character with the surrounding area. In addition, the development will not result in an increase in density.
<b>THE PROPOSED PROJECT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:</b>	
<p><b>Historic District or Special Designations &amp; Study Area Plans:</b> Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.</p>	N/A. The property is not located within any historic districts or specially designated areas.
<p><b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.</p>	No adverse effects are anticipated. The development configurations are existing and

<b>COMPLIANCE WITH PLAN EL PASO GOALS &amp; POLICIES – When evaluating whether a proposed special permit is in accordance with <i>Plan El Paso</i>, consider the following factors:</b>	
	are similar to other properties in the surrounding area.
<b>Natural Environment:</b> Anticipated effects on the natural environment.	The subject property does not involve greenfield/environmentally sensitive land or arroyo disturbance.
<b>Stability:</b> Whether the area is stable or in transition.	The area is stable and the proposed crematorium use is compatible with the existing C-4 (Commercial) zoning and uses of the surrounding properties.
<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 proposed development is within an older, stable area of the city comprised of a funeral home, contractor's yard, church, retail, and a variety of low to medium intensity commercial uses.

**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** Access to the subject property is from Zaragoza Road, which is designated as a major arterial street on the City of El Paso's Major Thoroughfare Plan. The major arterial classification is appropriate to serve the existing funeral home and proposed crematorium. In addition, the existing utility services and infrastructure are adequate to serve a funeral home and crematorium uses.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** There are no objections to the proposed special permit. There were no adverse comments received. Applicant is responsible for obtaining all applicable permits and approvals prior to construction.

**PUBLIC COMMENT:** Public notices were mailed to all property owners within 300 feet of the subject property on November 30, 2021. As of December 9, 2021, the Planning Division has received no comment in support of or opposition to the special permit request.

**RELATED APPLICATIONS:** N/A

**CITY PLAN COMMISSION OPTIONS:**

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

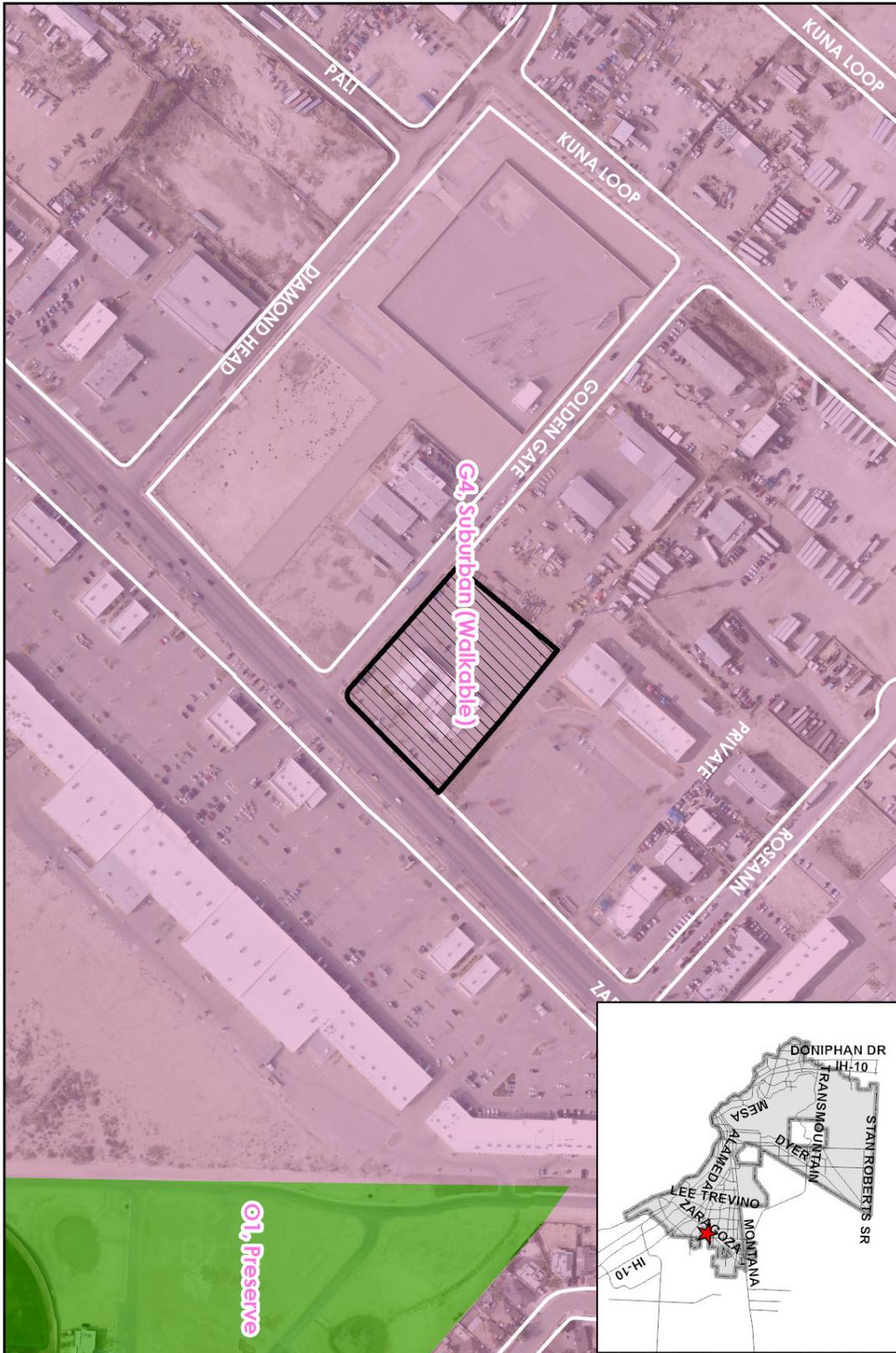
1. **Recommend Approval** of the special permit request, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. **(Staff Recommendation)**
2. **Recommend Approval of the special permit request With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.
3. **Recommend Denial** of the special permit request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

**ATTACHMENTS:**

1. Future Land Use Map
2. Neighborhood Notification Boundary Map
3. Detailed Site Plan
4. Department Comments

# ATTACHMENT 1

PZST21-00018



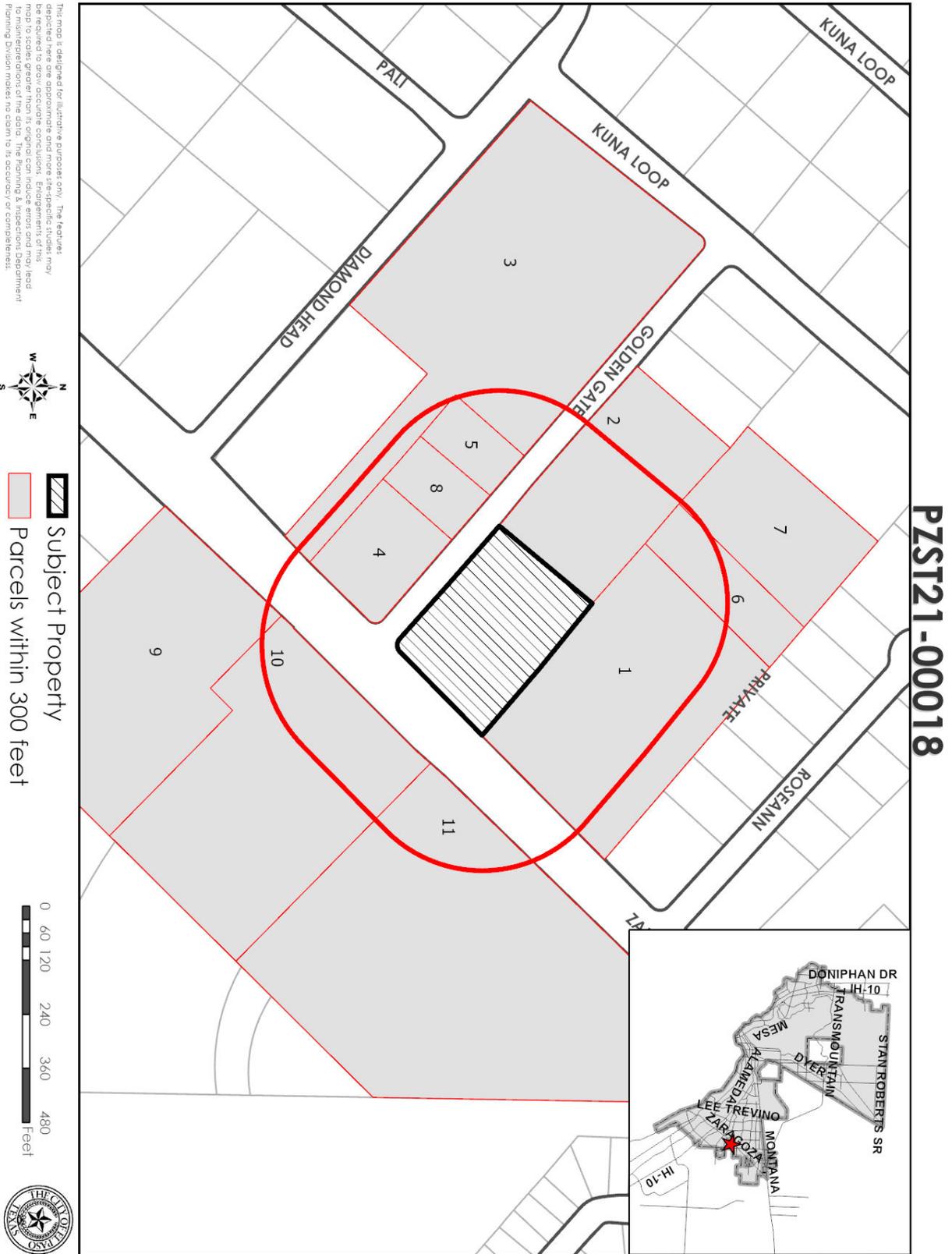
This map is designed for illustrative purposes only. The features depicted here are approximate and more if-specific studies may be required to draw accurate conclusions. Engineers or other professionals should be consulted to determine if this map is suitable for your project. The Planning Division makes no claim to its accuracy or completeness.



 Subject Property



# ATTACHMENT 2





# **ATTACHMENT 4**

## **Planning and Inspections Department – Planning**

Planning recommends approval of the special permit request with the following comment:

1. Provide a stamped/sealed Detailed Site Development Plan.

## **Planning and Inspections Department – Plan Review and Landscaping Division**

No objections to the proposed special permit. At the time of submittal for building permits, the project will need to comply with all applicable municipal and building code requirements.

## **Planning and Inspections Department – Land Development**

No objections to proposed special permit.

## **Streets and Maintenance Department**

No TIA comments.

## **Fire Department**

Recommend approval – no adverse comments.

## **Sun Metro**

Recommend approval – no objections.

## **El Paso Water**

We have reviewed the subdivision and provide the following comments: Zaragoza Rd. is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Zaragoza Rd. right-of-way requires written permission from TxDOT.

El Paso Water (EPWater) does not object to this request.

Water:

There is an existing 12-inch diameter water main extending along Zaragoza Rd., located approximately 6-feet south of the north right-of-way line. This main is available for service.

There is an existing 8-inch diameter water main extending along Golden Gate Rd., located approximately 20-feet south of the north right-of-way line. This main is available for service.

EPWater records indicate an active 1½-inch domestic water meter serving the subject property. The service address for this meter is 1755 N Zaragoza Rd.

Previous water pressure from fire hydrant #5640 located on the northwest corner of the intersection of Zaragoza Rd. and Golden Gate Rd. has yield a static pressure of 54 (psi), a residual pressure of 52 (psi), and a discharge of 978 gallons per minute.

Sewer:

There is an existing 8-inch diameter sanitary sewer main extending along Zaragoza Rd., located approximately 22-feet south of the north right-of-way line. This main is available for service.

There is an existing 8-inch diameter sanitary sewer main extending along Golden Gate Rd., located approximately 35-feet south of the north right-of-way line. This main is available for service.

**General:**

EPWater requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWater – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

**Stormwater:**

EPWater-SW has no objections to this proposal.

**Texas Department of Transportation**

No comments from TxDOT

**El Paso County Water Improvement District #1**

The attached item is not within the boundaries of EPCWID1.

**911**

The 911 District has no comments/concerns regarding this request.

**Police Department**

No comments received.

**Environment Services**

No comments received.



1755 Zaragoza Rd.  
Special Permit

PZST21-00018

**Strategic Goal 3.**  
Promote the Visual Image of  
El Paso



# PZST21-00018



# Aerial

This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

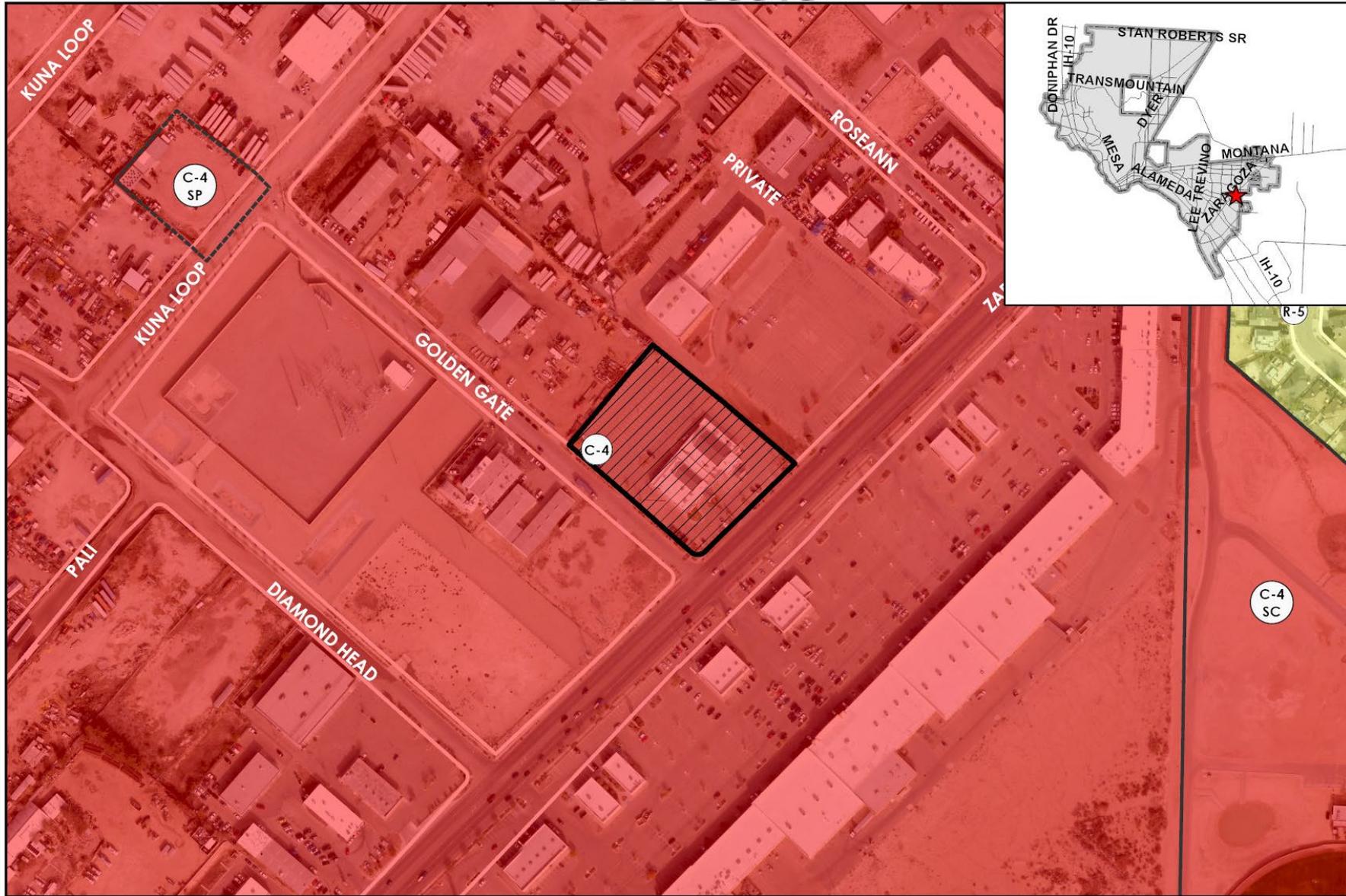


 Subject Property

0 60 120 240 360 480  
Feet



# Existing Zoning



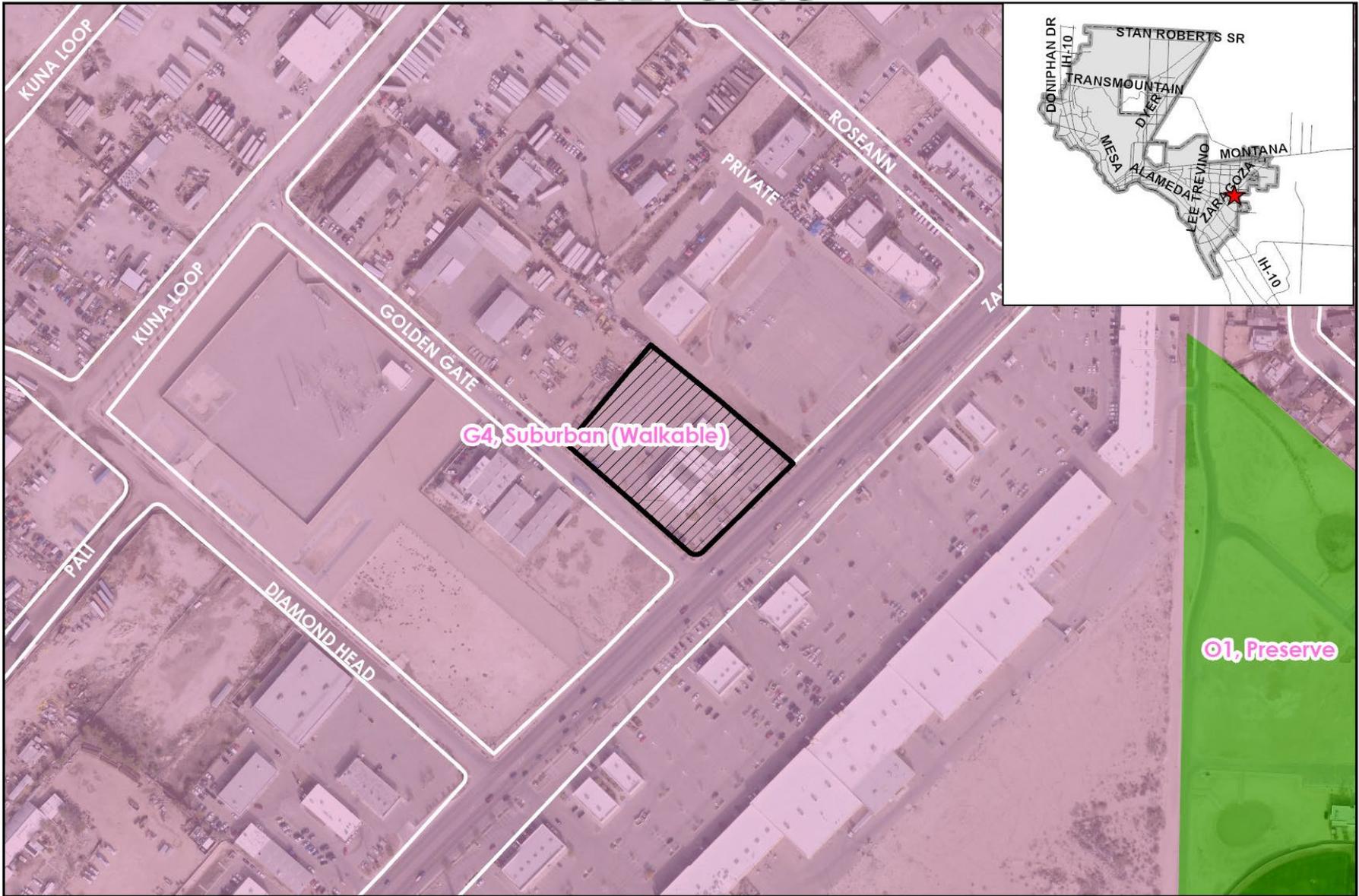
This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



 Subject Property



# PZST21-00018

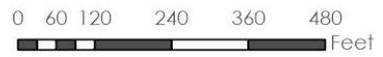


## Future Land Use

This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



 Subject Property





- IMPROVEMENT KEYED NOTES**
- ① EXISTING CONCRETE SIDEWALK TO REMAIN
  - ② EXISTING PARKING SPACES TO REMAIN
  - ③ EXISTING LANDSCAPE AREA TO REMAIN
  - ④ EXISTING DRIVEWAY TO REMAIN
  - ⑤ EXISTING H.C. PARKING TO REMAIN
  - ⑥ EXISTING CANOPY TO REMAIN
  - ⑦ EXISTING FUNERAL SIGN TO REMAIN
  - ⑧ EXISTING ASPHALT PAVING TO REMAIN
  - ⑨ EXISTING CONCRETE APRON TO REMAIN
  - ⑩ EXISTING CHAIN LINK FENCE TO REMAIN
  - ⑪ EXISTING BICYCLE RACK TO REMAIN
  - ⑫ EXISTING ACCESS FOR H.C. FROM THE STREET
  - ⑬ EXISTING CAMPER LOCATION
  - ⑭ EXISTING PEDESTRIAN ACCESS FROM THE STREET

**CODE DATA:**

**Legal Description:**  
 LOTS 4 AND 7, BLOCK 2,  
 GOLDEN GATE COMMERCIAL PARK  
 CITY OF EL PASO,  
 EL PASO COUNTY, TEXAS.  
 Zoning: C-4

**Setbacks:**  
 Front - 15'-0"  
 Rear - 10'-0"  
 Interior Side - 10'-0"

**PARKING SPACES:**  
 EXISTING - 193 EXISTING PARKING SPACES

**OCCUPANCY:**  
 ASSEMBLY - A-3

**PARKING REQUIRED:** MAX. - MIN.

FUNERAL HOME	100	-	144
STORAGES	5,000	-	7,200
FUNERAL AREAS	10,248 / 130 = 102	10,248 /	144 = 71
& OFFICES			
STORAGE	6,992 / 5000 = 1.39	6,992 / 7200 = 0.92	
TOTAL PARKING REQUIRED	100 MAX.		72 MIN.

**EXISTING PARKING SPACES:**  
 STANDARD - 9' X 20' = 187 PARKING SPACES  
 H.C. AS SHOWN = 6 PARKING SPACES  
 TOTAL = 193 PARKING SPACES

**BICYCLE REQUIRED FOR FUNERAL HOME - 3 SPACES**  
 BICYCLE REQUIRED FOR STORAGE - NONE  
 BICYCLE RACK PROVIDED - ONE

**LANDSCAPING REQUIREMENTS:**  
 BASED ON TENANT IMPROVEMENTS  
 ADDITION - TENANT IMPROVEMENT: 600 S.F. X 0.15% = 90 S.F.  
 AREA REQUIRED: 90 S.F.  
 AREA PROVIDED: 90 S.F. \*

- \* EXISTING LANDSCAPING BASED ON CODE 2003  
 LOT: 150,812 S.F. X 7.0% = 7,474 S.F.
- \* EXISTING LANDSCAPING = 6,748 S.F.
- \* PROPOSED LANDSCAPING REQUIREMENTS, CODE 2021 = 90 S.F.  
 PROPOSED LANDSCAPING TO BE INCORPORATED IN EXISTING AREA

**LANDSCAPING SUMMARY:**

ITEM	REQUIRED	PROVIDED	REMARKS
AREA	90 S.F.	* 90 S.F.	PROPOSED LANDSCAPING TO BE INCORPORATED IN EXISTING LANDSCAPING. NEW TREES AND SHRUBS TO BE INSTALLED WITH EXISTING IRRIGATION SYSTEM
PROJECT TREES	1	0	2" CAL. 10' HGT. SUBSTITUTION: 4 PROJECT TREES FOR 20-3 GAL. SHRUBS
30 FT. TREES	N/A	N/A	
BUFFER TREES	N/A	N/A	
PARKING TREES	N/A	N/A	EXISTING PARKING
5 GAL. SHRUBS	45	25	SUBSTITUTION: 20 = 0 GAL. SHRUBS WITH 4 PROJECT TREES

ALL AREAS TO RECEIVE MULCH SHALL BE DROPPED 1" BELOW BALKS OR CURBS. MULCH OR ROCK TO BE 2" DEEP ABOVE WEED BARRIER, AS PER SPEC. TYPAR-SPUNBONDED POLYPROPYLENE, STYLE NO. 3201 AS MANUFACTURED BY DUPONT, OR APPROVED EQUAL, 9 MILS, 1.9 OZ./YD., FREE OF HOLES AND TEARS

**NOTE:**  
 ALL EXISTING ELEMENTS AND BUILDING WERE PREVIOUSLY APPROVED BY THE CITY OF EL PASO IN TWO DIFFERENT PERMITS.

**TYPE OF CONSTRUCTION:**  
 Type V-B un sprinklered per table 601 (EXISTING)

**BUILDING AREA ALLOWED:**  
 19,081.65 S.F.

**EXISTING AREAS**

FUNERAL AREAS & OFFICES	10,248.00 S.F.
STORAGE	6,992.00 S.F.
TOTAL	17,240.00 S.F.

**FIRE PROTECTION:**  
 NOT REQUIRED.  
 FIRE PROTECTION REQUIRED - NONE

STRUCTURAL	= 0 Hr.
BEARING WALLS	= 0 Hr.
NON BEARING WALLS	= 0 Hr.
ROOF CONSTRUCTION	= 0 Hr.

EXISTING LANDSCAPE AREA - 6,748.20 S.F.

DATE: 12-01-2021  
 DRAWN BY: JG  
 CHECKED BY: JG  
 TITLE: EXISTING DETAIL SITE PLAN  
 REV: 001  
 PROJECT NUMBER: 21-250  
 The City of El Paso is an Equal Opportunity Employer. All individuals are encouraged to apply regardless of race, sex, age, religion, or national origin. For more information, call (915) 237-1111 or (915) 234-3000.

DATE SIGNED: 12-01-2021  
 PROJECT NUMBER: 21-250

EXISTING DETAIL SITE PLAN  
 MT. CARMEL FUNERAL HOMES  
 1755 N. ZARAGOZA  
 EL PASO, TEXAS 79936

6009 STARVIEW DRIVE  
 EL PASO, TEXAS 79912  
 (915) 726-0148  
 agonzalez@arturoa.com  
 ARTURO A. GONZALEZ

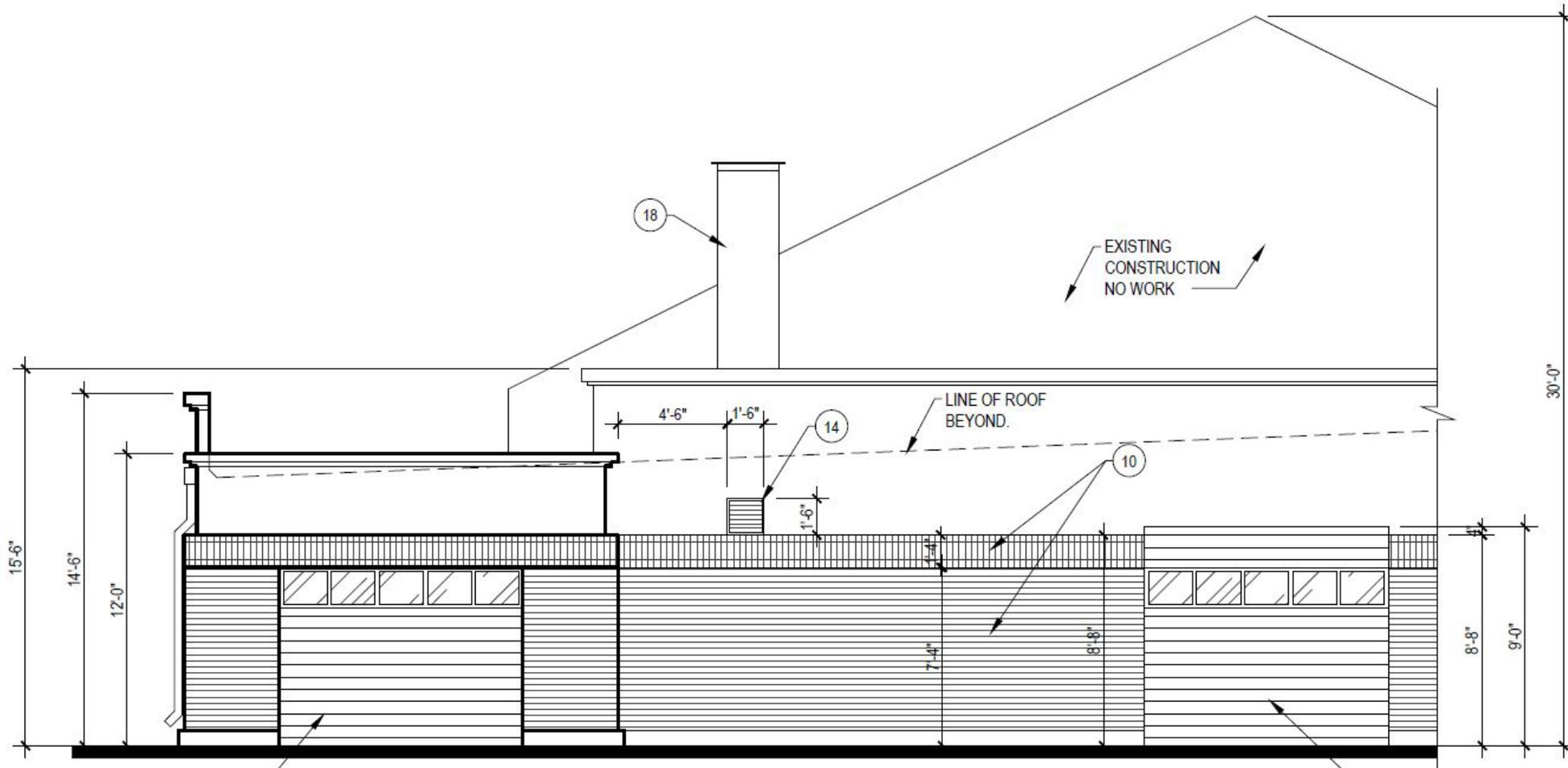
A0.0



# Detailed Site Plan



# Elevations



**2** PARTIAL EXTERIOR ELEVATION

# Subject Property



1755 N. Zaragoza Rd.

# Surrounding Development



N



W



S

E



# Public Input

- Notices were mailed to property owners within 300 feet on November 30, 2021.
- The Planning Division has not received any communications in support nor opposition to the request.



## Recommendation

- Staff recommends approval of the special permit request



## 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



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File #: 22-321, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 2**

Economic and International Development, Mirella Craigo, (915) 212-1617

**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 Chapter 380 Economic Development Program Agreement ("Agreement") by and between CITY OF EL PASO ("City") and SCENIC VIEW TOWNHOMES, LLC ("Applicant") in support of an infill development project located at 1360 N Cotton Street, El Paso, Texas 79930. The Agreement requires the Applicant to make a minimum investment of \$950,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$56,949.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Mirella Craigo, 915-212-1617

**DISTRICT(S) AFFECTED:** 2

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

**SUBGOAL:** Goal 1.1 Stabilize and Expand El Paso's Tax Base

**SUBJECT:**

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") by and between CITY OF EL PASO ("City") and SCENIC VIEW TOWNHOMES, LLC ("Applicant") in support of an infill development project located at 1360 N Cotton Street, El Paso, Texas 79930. The Agreement requires the Applicant to make a minimum investment of \$950,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$56,949.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

**BACKGROUND / DISCUSSION:**

SCENIC VIEW TOWNHOMES, LLC applied and qualified for a 5-year Infill redevelopment incentive grant. The Applicant is proposing to invest a minimum of \$950,000 to construct two multifamily residential buildings on currently vacant land. The project will increase the tax value of the property and result in additional rental housing units. Upon satisfying all contract metrics, the Applicant is eligible to receive the following incentive:

- Property Tax Rebate (City's Portion): The City's portion of ad valorem incremental property taxes. 5-year grant period. Capped at \$42,199
- Construction Materials Sales Tax Rebate- A one-time rebate of the City's Portion (1%) of Sales Taxes levied on project-related construction materials. Capped at \$4,750
- Building Construction Fee Rebate: A one-time rebate of certain building construction fees and planning fees as identified in Ordinance No. 018581 paid for the project. Capped at \$10,000

The total proposed incentive is not to exceed \$56,949.

**PRIOR COUNCIL ACTION:**

None

**AMOUNT AND SOURCE OF FUNDING:**

General Fund

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Economic and International Development

**SECONDARY DEPARTMENT:** N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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

**RESOLUTION**

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

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) by and between **CITY OF EL PASO** (“City”) and **SCENIC VIEW TOWNHOMES, LLC** (“Applicant”) in support of an infill development project located at 1360 N. Cotton Street, El Paso, Texas 79930. The Agreement requires the Applicant to make a minimum investment of \$950,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$56,949.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

**APPROVED THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_ **2022.**

**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leaser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Frances M. Maldonado Engelbaum  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Elizabeth Triggs, Director  
Economic & International Development

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO ) CHAPTER 380 ECONOMIC DEVELOPMENT  
PROGRAM AGREEMENT  
(Infill Development)

This Chapter 380 Economic Development Program Agreement (the "**Agreement**") is made on this \_\_\_\_ day of \_\_\_\_\_, 2022 ("**Effective Date**") between the City of El Paso, Texas, a Texas home rule municipal corporation, (the "**City**"), and **SCENIC VIEW TOWNHOMES, LLC** (the "**Applicant**"), for the purposes and considerations stated below:

**RECITALS**

**WHEREAS**, the City has the authority under Chapter 380 of the Texas Local Government Code ("Chapter 380") to make loans or grants of public funds for the purpose of promoting local economic development and stimulating business and commercial activity within the City; and

**WHEREAS**, on May 11, 2021 the El Paso City Council adopted an Infill Development Incentive Policy (the "Infill Policy") to promote infill development by providing economic incentives for eligible projects meeting Infill Policy criteria; and

**WHEREAS**, the Applicant's real property, located at **1360 N Cotton Street El Paso, Texas 79930**, is within the Policy's designated incentive area and the Applicant's proposed development meets the Policy's eligibility requirements; and

**WHEREAS**, the City desires to provide incentives to the Applicant, pursuant to Chapter 380 and the Infill Policy, for the construction of a development located on the Applicant's real property, and the Applicant wishes to receive the incentives in exchange for compliance with the obligations set forth herein; and

**WHEREAS**, the City concludes and hereby finds that this Agreement promotes economic development in the City and meets the requirements of Chapter 380.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- A. "**Agreement**" means this Chapter 380 Economic Development Program Agreement, together with all exhibits and schedules attached and incorporated herein by reference.
- B. "**Base Year Value**" means valuation of the real and personal property by the El Paso Central Appraisal District on the rolls as of January 1<sup>st</sup> of the year of the Effective Date of this Agreement. The Base Year Value shall not be interpreted to be equivalent or determinative

for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **\$61,766.00**.

- C. **“Construction Materials Sales Tax Rebate”** means a one-time 100% rebate of the City’s 1% Sales and Use Tax from receipts for materials and labor of taxable items used in the construction of the Development. The Construction Materials Sales Rebate shall not exceed **\$4,750.00**.
- D. **“Development”** means new construction on a vacant lot or renovation of an existing vacant or blighted building(s) to be used for any of the following land uses: office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local law. The Development is described in Exhibit B, which is attached and incorporated for all purposes.
- E. **“Building Construction Fee Rebate”** means the one-time rebate of certain building construction fees and planning fees as identified in Ordinance No. 018581 paid for the Project and payable from the City’s general revenue fund. The Building Construction Fee Rebate shall not exceed **\$10,000.00** and will be rebated upon the Applicant’s provision of the Grant Submittal Package to the City to demonstrate that the total construction cost for the Project is greater than the Base Year Value.
- F. **“Effective Date”** means the date the El Paso City Council approves the Agreement.
- G. **“Grant”** means each rebate payment made by the City to the Applicant pursuant to the terms of this Agreement. The aggregate amount that the City will provide in Grants shall not exceed **\$56,949.00**. This aggregate amount reflects the sum total of all applicable rebates.
- H. **“Grant Submittal Package”** means the documentation required to be supplied to City as a condition of receipt of any Grant, with such documentation more fully described in the Grant Submittal Package, which is attached as Exhibit C to this Agreement.
- I. **“Minimum Appraisal Value”** means the valuation of the Real Property appraised by El Paso Central Appraisal District during and after the construction or renovation of the Development. For the purposes of this Agreement, the Minimum Appraisal Value is **\$1,040,000**. Under no circumstances shall the Minimum Appraisal Value be interpreted to be equivalent of or determinative for appraisal purposes or to be used in any way to determine market value.
- J. **“Minimum Investment”** means those costs incurred, self-performed or contracted to third parties by the Applicant over the course of the renovation or construction project or furnishing of the improvements for the Development. For purposes of this Agreement, the Minimum Investment to qualify for the Grant is **\$950,000.00**.
- K. **“Property Tax Rebate”** means a rebate, according to the Incremental Property Tax Rebate Table found in Exhibit D of this Agreement, of the City’s portion of the incremental ad valorem property tax revenue generated by the subject property above the Base Year Value

for the Grant Period (as defined herein). For the purposes of this Agreement, the total Property Tax Rebate amount shall not exceed **\$42,199.00**.

- L. **“Qualified Expenditures”** means the monetary expenditures paid or caused to be paid by the Applicant after the Effective Date for material used in constructing or renovating the Development; and labor required for the construction or renovation of the Development.
- M. **“Real Property”** means the real property owned by the Applicant located at **1360 N Cotton Street, El Paso, Texas, 79930**, and described on Exhibit A, which is attached and incorporated by reference. The Real Property is the location for the Applicant’s proposed Development.
- N. **“Vacant Building”** means a building that is 60% or more unoccupied and is registered as a vacant building with the City, pursuant to Title 18, Chapter 18.40, El Paso City Code.

## **SECTION 2. TERM AND GRANT PERIOD.**

- A. This Agreement shall commence on the Effective Date and shall terminate on the first to occur of: (i) the date when the aggregate amount of Grants is paid; (ii) **8** years from the Effective Date; (iii) the proper termination of this Agreement in accordance with the applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing (“Term”).
- B. The Applicant’s eligibility for Grant payments shall be limited to **5** consecutive years within the Term of this Agreement (the “Grant Period”). The first year of the Grant Period shall be the first tax year after the issuance of the certificate of occupancy for the Development. A temporary certificate of occupancy does not qualify as a certificate of occupancy.

## **SECTION 3. OBLIGATIONS OF APPLICANT.**

### **A. DEVELOPMENT.**

- (1) The Applicant represents that the Development complies with, and adheres to, the provisions and requirements of the City’s Infill Policy and is located within the eligible incentive areas identified within the Infill Policy.
- (2) The Applicant shall renovate or construct, at its sole cost and expense, the Development, and shall expend a minimum of **\$950,000.00** in Qualified Expenditures to construct the Development.
- (3) The Applicant shall obtain all building permits for the Project within **6** months from the Effective Date of this Agreement.
- (4) Within **24** months after the Effective Date, the Applicant shall submit documentation to the City to verify the following:

- (a) The expenditure of a minimum of **\$950,000.00** in Qualified Expenditures; and
  - (b) That the Applicant has received a **Certificate of Occupancy** for the Development.
- (5) The Applicant agrees that the Development shall not include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by El Paso City Council.
- (6) The Applicant agrees that Development shall be in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City municipal code, where applicable.
- (7) The Applicant shall diligently and faithfully in a good and workmanlike manner pursue the completion of the Development and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations.
- (8) The Applicant agrees that during the Term of this Agreement, the Real Property shall be limited to those uses consistent with the Development.
- (9) The Applicant shall demonstrate, before the receipts of any Grant payments, that the Applicant has incurred no delinquency taxes by providing certified city tax certificates for any parcel of property owned in the City of El Paso.
- (10) The Applicant agrees that during the Term of this Agreement it shall not challenge nor permit anyone else to take actions on its behalf to challenge any assessments by the El Paso Central Appraisal District of **\$1,040,000.00** or less. It is the intent of the parties that the assessed value of the Property on the tax rolls have a minimum appraisal value of **\$1,040,000.00** during the Term of this Agreement. This property value should in no way be interpreted to affect the values set by the Central Appraisal District for tax purposes. Upon the termination of this Agreement, the Applicant agrees that neither this Agreement, nor the values contained herein, will be utilized to contest appraisal values or in the determination of the market value of the Development.
- (11) The Applicant, during normal business hours, at its principal place of business in the city of El Paso, Texas, shall allow the City or its agents reasonable access to operating records, accounting books, and any other records related to the economic development considerations and incentives described herein, which are in Applicant's possession, custody, or control, for purposes of verifying the Qualified Expenditures and for audit purposes, if so requested by the City. The confidentiality of such records will be maintained in accordance with all applicable laws.
- (12) Applicant shall provide all required invoices and other required documentation to City electronically at the following address: [EDcompliance@elpasotexas.gov](mailto:EDcompliance@elpasotexas.gov)

**B. GRANT SUBMITTAL PACKAGE.**

In order to receive the disbursement of the Grant, the Applicant must submit a Grant Submittal Package, as specified below.

- (1) The Applicant shall annually submit one Grant Submittal Package which shall be in the form provided in Exhibit C, together with the requisite documentation. The Applicant shall submit to the City the initial Grant Submittal Package on **March 29, 2025**, or within 30 business days after this date. Thereafter, the Applicant's annual Grant Submittal Package must be submitted on or within 30 business days after the 29<sup>th</sup> **day of March** of each year. A failure by the Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant year.
- (2) Concurrent with the submittal of a Grant Submittal Package, the Applicant will submit to the City documentation as may be reasonably necessary to verify the expenditure to date of the Minimum Investment, which has not otherwise been verified as part of a prior submittal. The City will provide to the Applicant a written explanation for any Minimum Investment that the City determines cannot be verified. The Applicant may submit additional documentation to the City in order to obtain verification.
- (3) The City's determination of the amount of the Grant payment due to the Applicant is final.

**SECTION 4. OBLIGATIONS OF THE CITY.**

During the Term of this Agreement, and so long as an Event of Default has not occurred and the Applicant is in compliance with the Agreement, the City agrees as follows:

- A. The City agrees to provide a Construction Materials Sales Tax Rebate not to exceed **\$4,750.00** in accordance with the terms and provisions of this Agreement.
- B. The City agrees to provide a Building Construction Fee Rebate not to exceed **\$10,000** in accordance with the terms and provisions of this Agreement.
- C. The City agrees to provide a Property Tax Rebate not to exceed **\$42,199.00** in accordance with the terms and provisions of this Agreement.
- D. The City will process any eligible Grant payment within **90 days** after receipt of the Applicant's annual Grant Submittal Package.

**SECTION 5. EVENTS OF DEFAULT.**

Each of the following Paragraphs A through D shall constitute an Event of Default:

- A. **Failure to Comply.** The Applicant's failure to comply with, or to perform any obligation or condition of this Agreement or in any related documents, or the Applicant's failure to comply

with or to perform any obligation or condition of any other agreement between the City and the Applicant.

- B. **False Statements.** Any representation or statement made or furnished to the City by the Applicant pursuant to this Agreement or any document(s) related hereto, that is/are false or misleading in any material respect; or if the Applicant obtains actual knowledge that any such representation or statement has become false or misleading after the time that it was made, and the Applicant fails to provide written notice to the City of the false or misleading nature of such representation or statement within 10 days after the Applicant learns of its false or misleading nature.
- C. **Insolvency.** The Applicant files a voluntary petition in bankruptcy, or a proceeding in bankruptcy is instituted against the Applicant, and the Applicant is thereafter adjudicated bankrupt, a receiver for the Applicant's assets is appointed, or any assignment of all or substantially all of the assets of the Applicant for the benefit of creditors of the Applicant.
- D. **Property Taxes.** If the Applicant allows its personal or real property taxes owed to the City to become delinquent, and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure or post a satisfactory bond within 30 days after written notice thereof from the City and/or El Paso Central Appraisal District.
- E. **Notice and Opportunity to Cure.** If an Event of Default occurs, the City will provide the Applicant with written notice of the default, and the Applicant shall have 30 days from the receipt of said notice to cure the default (the "Cure Period"). If the default cannot be remedied within the Cure Period, but the Applicant has made a diligent effort to effect a cure, the Cure Period may be extended at the City's sole discretion for a reasonable time. The City, in its sole discretion, shall determine what constitutes "a reasonable time" and what constitutes "a diligent effort" for purposes of this provision. If the City agrees to extend the Cure Period past the 30 days, the City shall notify the Applicant, in writing, of the expiration date of the extended cure period.
- F. **Failure to Cure.** If an Event of Default occurs and, after receipt of written notice and opportunity to cure as provided herein, the Applicant fails to cure the default in accordance with the provisions herein, then this Agreement may be terminated by the City by written notice to the Applicant at which time the City's obligations hereunder will end, and the City may exercise any other right or remedy available at law or in equity.

## **SECTION 6. RECAPTURE.**

Should the Applicant default under **Section 5** of this Agreement and provided that the cure period for such default has expired, all Grants previously provided by the City pursuant to this Agreement shall be recaptured and repaid by Applicant within 60 days from the date of such termination.

## SECTION 7. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT.

- A. The City may terminate this Agreement without an event of default and effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual, impractical or illegal.

## SECTION 8. GENERAL PROVISIONS.

- A. **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by both parties.
- B. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of El Paso County, Texas.
- C. **Applicant's Sale or Transfer of the Development.** Prior to any sale or other transfer of ownership rights in the Development, the Applicant shall notify the City in writing of such sale or transfer 30 business days before the effective date of such sale or transfer.
- D. **Assignment.** Applicant understands and agrees that the City expressly prohibits the Applicant from selling, transferring, assigning or conveying in any way any rights to receive the Grant or Grants that are the subject of this Agreement without the City's consent to assignment. Any such attempt to sell, transfer, assign or convey without the City's prior written consent is void and may result in the immediate termination of this Agreement and recapture of the taxes rebated prior to the attempted transfer.
- E. **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. The Applicant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind the Applicant to the same.
- F. **Confidentiality Obligations.** The confidentiality of records related to the City's economic development considerations and incentives provided herein will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code. To the extent permitted by state or federal law, the City shall maintain the confidentiality of any proprietary information and shall not copy any such information except as necessary for dissemination to the City's agents or employees and agrees that, as required by the Public Information Act, it will notify Applicant if a request relating to such proprietary information is received. The Applicant represents that it understands that the Public Information Act excepts disclosure of trade secret and confidential commercial information and that it will need to assert the proprietary interest of the Applicant as a basis for nondisclosure.

- G. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute the same document.
- H. **Employment of Undocumented Workers.** During the term of this Agreement, the Applicant agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001. If convicted of a violation under 8 U.S.C. Section 1324a(f), Applicant shall repay the amount of the Grant payments received by the Applicant from the City as of the date of such violation not later than one hundred twenty (120) days after the date the Applicant is notified by City of a violation of this section, plus interest from the date the Grant payment(s) was paid to the Applicant, at the rate of seven percent (7%) per annum. The interest will accrue from the date the Grant payment(s) were paid to the Applicant until the date the reimbursement payments are repaid to City. The City may also recover court costs and reasonable attorney's fees incurred in an action to recover the Grant payment(s) subject to repayment under this section. Applicant is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom the Applicant contracts.
- I. **Force Majeure.** The parties agree that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.
- J. **Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- K. **No Joint Venture.** The parties acknowledge and agree that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture between the parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the Development or the design, construction, or operation of the Development, or any portion thereof.
- L. **Notices.** All notices required by this Agreement shall be given in writing and shall be deemed to have been properly served if a) delivered by hand and receipted for by the party to whom said notice is directed (or his/her agent); or b) mailed by certified or first class mail with postage prepared, on the third business day after the date on which it is so mailed; c) mailed by overnight courier and receipted for by the party to whom said notice is directed (or his/her agent); or d) sent by facsimile transmission or by email, if a facsimile or email number is provided below. A party may change its contact information for notices by sending written notice to the other party of the change to the party's contact information. Applicant shall provide all required invoices and other required documentation to City electronically at the following address: EDcompliance@elpasotexas.gov

To the Applicant: SCENIC VIEW TOWNHOMES LLC  
Attn: Fred Marcus  
Address: 3518 Durazno Ave  
El Paso, TX 79905

To the City: 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: Economic & International Development  
P. O. Box 1890  
El Paso, Texas 79950-1890

Applicant shall provide all required invoices and other required documentation to City electronically at the following address: "EDcompliance@elpasotexas.gov"

- M. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising.
- N. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- O. **Governmental Functions.** The parties agree that the City is entering this Agreement in the exercise of its governmental functions under the Texas Tort Claims Act. The parties also agree that the City is entering into this Agreement as a governmental entity performing a governmental function.
- P. **Compliance with the Law.** The parties will comply with all applicable laws, administrative orders, and any rules or regulations relating to the obligations under this Agreement. If applicable, then the Applicant will procure all licenses and pay all fees or other charges as required to complete the Work under this agreement.
- Q. **Third-Party Beneficiaries.** There are no third-party beneficiaries for this Agreement.

*[Signatures begin on the following page.]*

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Frances M. Maldonado Engelbaum  
Assistant City Attorney

  
\_\_\_\_\_  
Elizabeth Triggs –Director  
Economic & International Development

**ACKNOWLEDGMENT**

**STATE OF TEXAS**       §  
  §  
**COUNTY OF EL PASO**   §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

*[Signatures continue on the following page]*

**APPLICANT:  
SCENIC VIEW TOWNHOMES, LLC**

*Fred Marcus*

Fred Marcus  
Manager

**ACKNOWLEDGMENT**

STATE OF

§  
§  
§

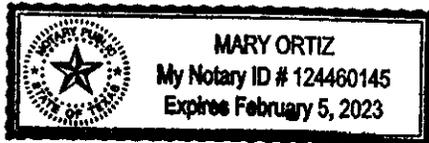
COUNTY OF

This instrument was acknowledged before me on the 16 day of March, 2022, by **Fred Marcus as the Manager for SCENIC VIEW TOWNHOMES, LLC.**

*Mary Ortiz*  
Notary Public, State of TEXAS

My Commission Expires:

2-05-2023



**EXHIBIT A**

**Legal Description of the Real Property**

*47 HIGHLAND PARK 9 TO 16 (24000 SQ FT)*

## EXHIBIT B

### Description of Development

SCENIC VIEW TOWNHOMES, LLC. will develop the property located at 1360 N Cotton Street, in El Paso, Texas. The company will invest a minimum of \$950,000.00 to construct the development. The development will include the elements listed below and will be substantially similar, in design, to the rendering shown below.

#### Development Description:

- Construction of two multifamily buildings on currently vacant land
- Total of 16 residential units
- Approximately 21,000 square feet of residential space
- 28 parking spaces

#### Rendering:

**Building 1**



**Building 2**



**EXHIBIT C**  
**Grant Submittal Package Form**

\_\_\_\_\_(the Applicant) believes that it has substantially met its obligations under the Chapter 380 Agreement executed on \_\_\_\_\_ (date). Pursuant to the Agreement, the Applicant submits this Grant Submittal Package Form in compliance with said Agreement and in anticipation of receiving the Grant in consideration for his obligations met under the Agreement.

As required by the Agreement, the following information is submitted.

1. **[DUE WITHIN 6 MONTHS OF AGREEMENT EXECUTION]** Copies of all applicable approvals and permits.
2. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence the amount of development fees paid as a result of the Development.
3. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence minimum expenditures amounting to **\$900,000** including but not limited to
  - a. Stamped **PAID** invoices
  - b. Copies of checks proving payment – corresponding to paid invoices
  - c. Receipts for purchase of construction materials (must show amount of taxes paid)
  - d. Bank statements (in the event a transaction was paid with a credit or debit card)
  - e. Contractor pay applications, notarized with lien releases
4. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation evidencing the materials and labor of Taxable Items used in the construction of the Development eligible for rebate to Applicant under the Construction Materials Sales Tax Rebate.
5. **[INITIAL GRANT SUBMITTAL ONLY]** Copy of Certificate of Occupancy in accordance with the requirements provided in Section **3(A)(4)(b)**.
6. Property tax payment receipts showing proof of payment for tax year \_\_\_\_\_.

It is understood by the Applicant that the City of El Paso has up to **90 days** to process this request and reserves the right to deny the Grant claim if the Applicant has failed to comply with the terms of the Agreement.

By the signature of the Applicant below, the Applicant hereby certifies that: (1) the copies of the receipts attached to this Grant Submittal Package Form represent Qualified Expenditures incurred in the improvements and new construction to the Development; (2) the Applicant has paid or caused to be paid the City’s local sales and use taxes associated with the Qualified Expenditures; and (3) that the copies of the receipts and copies of the permits attached herein are true and correct.

*Signature:* \_\_\_\_\_

**EXHIBIT D**

**Property Tax Rebate Table**

<b>Year</b>	<b>Rebate Percentage</b>
Year 1	100%
Year 2	100%
Year 3	100%
Year 4	75%
Year 5	75%



Legislation Text

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File #: 22-332, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**District 1**

Economic and International Development, Mirella Craigo, (915) 212-1617

**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 Chapter 380 Economic Development Program Agreement ("Agreement") by and between CITY OF EL PASO ("City") and HELUE PROPERTIES, LLC ("Applicant") in support of an infill development project located at 1255 N Cotton Street, El Paso, Texas 79902. The Agreement requires the Applicant to make a minimum investment of \$900,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$46,854.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

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

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Mirella Craigo, 915-212-1617

**DISTRICT(S) AFFECTED:** 1

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

**SUBGOAL:** Goal 1.1 Stabilize and Expand El Paso's Tax Base

**SUBJECT:**

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement ("Agreement") by and between CITY OF EL PASO ("City") and HELUE PROPERTIES, LLC ("Applicant") in support of an infill development project located at 1255 N Cotton Street, El Paso, Texas 79902. The Agreement requires the Applicant to make a minimum investment of \$900,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$46,854.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

**BACKGROUND / DISCUSSION:**

HELUE PROPERTIES, LLC applied and qualified for a 5-year Infill redevelopment incentive grant. The Applicant is proposing to invest a minimum of \$900,000 to construct a multifamily residential building on currently vacant land. The project will increase the tax value of the property and result in additional rental housing units. Upon satisfying all contract metrics, the Applicant is eligible to receive the following incentive:

- Property Tax Rebate (City's Portion): The City's portion of ad valorem incremental property taxes. 5-year grant period. Capped at \$32,354
- Construction Materials Sales Tax Rebate: A one-time rebate of the City's Portion (1%) of Sales Taxes levied on project-related construction materials. Capped at \$4,500
- Building Construction Fee Rebate: A one-time rebate of certain building construction fees and planning fees as identified in Ordinance No. 018581 paid for the project. Capped at \$10,000

The total proposed incentive is not to exceed \$46,854.

**PRIOR COUNCIL ACTION:**

None

**AMOUNT AND SOURCE OF FUNDING:**

General Fund

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Economic and International Development

**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



---

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

Revised 04/09/2021

**RESOLUTION**

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

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) by and between **CITY OF EL PASO** (“City”) and **HELUE PROPERTIES, LLC** (“Applicant”) in support of an infill development project located at 1255 N. Cotton Street, El Paso, Texas 79902. The Agreement requires the Applicant to make a minimum investment of \$900,000.00. Over the term of the Agreement, the City shall provide economic incentives not to exceed \$46,854.00 in the form of a Property Tax Rebate, a Construction Materials Sales Tax Rebate, and a Building Construction Fee Rebate.

**APPROVED THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_ **2022.**

**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leaser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Frances M. Maldonado Engelbaum  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Elizabeth Triggs, Director  
Economic & International Development

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO ) CHAPTER 380 ECONOMIC DEVELOPMENT  
PROGRAM AGREEMENT  
(Infill Development)

This Chapter 380 Economic Development Program Agreement (the "**Agreement**") is made on this \_\_\_\_ day of \_\_\_\_\_, 2022 ("**Effective Date**") between the City of El Paso, Texas, a Texas home rule municipal corporation, (the "**City**"), and **HELUE PROPERTIES, LLC** (the "**Applicant**"), for the purposes and considerations stated below:

**RECITALS**

**WHEREAS**, the City has the authority under Chapter 380 of the Texas Local Government Code ("Chapter 380") to make loans or grants of public funds for the purpose of promoting local economic development and stimulating business and commercial activity within the City; and

**WHEREAS**, on May 11, 2021 the El Paso City Council adopted an Infill Development Incentive Policy (the "Infill Policy") to promote infill development by providing economic incentives for eligible projects meeting Infill Policy criteria; and

**WHEREAS**, the Applicant's real property, located at 1255 N **Cotton Street El Paso, Texas 79902**, is within the Policy's designated incentive area and the Applicant's proposed development meets the Policy's eligibility requirements; and

**WHEREAS**, the City desires to provide incentives to the Applicant, pursuant to Chapter 380 and the Infill Policy, for the construction of a development located on the Applicant's real property, and the Applicant wishes to receive the incentives in exchange for compliance with the obligations set forth herein; and

**WHEREAS**, the City concludes and hereby finds that this Agreement promotes economic development in the City and meets the requirements of Chapter 380.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- A. "**Agreement**" means this Chapter 380 Economic Development Program Agreement, together with all exhibits and schedules attached and incorporated herein by reference.
- B. "**Base Year Value**" means valuation of the real and personal property by the El Paso Central Appraisal District on the rolls as of January 1<sup>st</sup> of the year of the Effective Date of this Agreement. The Base Year Value shall not be interpreted to be equivalent or determinative

for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **\$30,000.00**.

- C. **“Construction Materials Sales Tax Rebate”** means a one-time 100% rebate of the City’s 1% Sales and Use Tax from receipts for materials and labor of taxable items used in the construction of the Development. The Construction Materials Sales Rebate shall not exceed **\$4,500.00**.
- D. **“Development”** means new construction on a vacant lot or renovation of an existing vacant or blighted building(s) to be used for any of the following land uses: office, retail, restaurant, multifamily residential facilities, commercial and industrial within the City of El Paso, as authorized by the existing local law. The Development is described in Exhibit B, which is attached and incorporated for all purposes.
- E. **“Building Construction Fee Rebate”** means the one-time rebate of certain building construction fees and planning fees as identified in Ordinance No. 018581 paid for the Project and payable from the City’s general revenue fund. The Building Construction Fee Rebate shall not exceed **\$10,000.00** and will be rebated upon the Applicant’s provision of the Grant Submittal Package to the City to demonstrate that the total construction cost for the Project is greater than the Base Year Value.
- F. **“Effective Date”** means the date the El Paso City Council approves the Agreement.
- G. **“Grant”** means each rebate payment made by the City to the Applicant pursuant to the terms of this Agreement. The aggregate amount that the City will provide in Grants shall not exceed **\$46,854.00**. This aggregate amount reflects the sum total of all applicable rebates.
- H. **“Grant Submittal Package”** means the documentation required to be supplied to City as a condition of receipt of any Grant, with such documentation more fully described in the Grant Submittal Package, which is attached as Exhibit C to this Agreement.
- I. **“Minimum Appraisal Value”** means the valuation of the Real Property appraised by El Paso Central Appraisal District during and after the construction or renovation of the Development. For the purposes of this Agreement, the Minimum Appraisal Value is **\$780,000**. Under no circumstances shall the Minimum Appraisal Value be interpreted to be equivalent of or determinative for appraisal purposes or to be used in any way to determine market value.
- J. **“Minimum Investment”** means those costs incurred, self-performed or contracted to third parties by the Applicant over the course of the renovation or construction project or furnishing of the improvements for the Development. For purposes of this Agreement, the Minimum Investment to qualify for the Grant is **\$900,000.00**.
- K. **“Property Tax Rebate”** means a rebate, according to the Incremental Property Tax Rebate Table found in Exhibit D of this Agreement, of the City’s portion of the incremental ad valorem property tax revenue generated by the subject property above the Base Year Value

for the Grant Period (as defined herein). For the purposes of this Agreement, the total Property Tax Rebate amount shall not exceed **\$32,354.00**.

- L. **“Qualified Expenditures”** means the monetary expenditures paid or caused to be paid by the Applicant after the Effective Date for material used in constructing or renovating the Development; and labor required for the construction or renovation of the Development.
- M. **“Real Property”** means the real property owned by the Applicant located at **1255 N Cotton Street, El Paso, Texas, 79902**, and described on Exhibit A, which is attached and incorporated by reference. The Real Property is the location for the Applicant’s proposed Development.
- N. **“Vacant Building”** means a building that is 60% or more unoccupied and is registered as a vacant building with the City, pursuant to Title 18, Chapter 18.40, El Paso City Code.

## **SECTION 2. TERM AND GRANT PERIOD.**

- A. This Agreement shall commence on the Effective Date and shall terminate on the first to occur of: (i) the date when the aggregate amount of Grants is paid; (ii) **8** years from the Effective Date; (iii) the proper termination of this Agreement in accordance with the applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing (“Term”).
- B. The Applicant’s eligibility for Grant payments shall be limited to **5** consecutive years within the Term of this Agreement (the “Grant Period”). The first year of the Grant Period shall be the first tax year after the issuance of the certificate of occupancy for the Development. A temporary certificate of occupancy does not qualify as a certificate of occupancy.

## **SECTION 3. OBLIGATIONS OF APPLICANT.**

### **A. DEVELOPMENT.**

- (1) The Applicant represents that the Development complies with, and adheres to, the provisions and requirements of the City’s Infill Policy and is located within the eligible incentive areas identified within the Infill Policy.
- (2) The Applicant shall renovate or construct, at its sole cost and expense, the Development, and shall expend a minimum of **\$900,000.00** in Qualified Expenditures to construct the Development.
- (3) The Applicant shall obtain all building permits for the Project within **6** months from the Effective Date of this Agreement.
- (4) Within **24** months after the Effective Date, the Applicant shall submit documentation to the City to verify the following:

- (a) The expenditure of a minimum of **\$900,000.00** in Qualified Expenditures; and
  - (b) That the Applicant has received a **Certificate of Occupancy** for the Development.
- (5) The Applicant agrees that the Development shall not include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by El Paso City Council.
- (6) The Applicant agrees that Development shall be in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City municipal code, where applicable.
- (7) The Applicant shall diligently and faithfully in a good and workmanlike manner pursue the completion of the Development and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations.
- (8) The Applicant agrees that during the Term of this Agreement, the Real Property shall be limited to those uses consistent with the Development.
- (9) The Applicant shall demonstrate, before the receipts of any Grant payments, that the Applicant has incurred no delinquency taxes by providing certified city tax certificates for any parcel of property owned in the City of El Paso.
- (10) The Applicant agrees that during the Term of this Agreement it shall not challenge nor permit anyone else to take actions on its behalf to challenge any assessments by the El Paso Central Appraisal District of **\$780,000.00** or less. It is the intent of the parties that the assessed value of the Property on the tax rolls have a minimum appraisal value of **\$780,000.00** during the Term of this Agreement. This property value should in no way be interpreted to affect the values set by the Central Appraisal District for tax purposes. Upon the termination of this Agreement, the Applicant agrees that neither this Agreement, nor the values contained herein, will be utilized to contest appraisal values or in the determination of the market value of the Development.
- (11) The Applicant, during normal business hours, at its principal place of business in the city of El Paso, Texas, shall allow the City or its agents reasonable access to operating records, accounting books, and any other records related to the economic development considerations and incentives described herein, which are in Applicant's possession, custody, or control, for purposes of verifying the Qualified Expenditures and for audit purposes, if so requested by the City. The confidentiality of such records will be maintained in accordance with all applicable laws.
- (12) Applicant shall provide all required invoices and other required documentation to City electronically at the following address: [EDcompliance@elpasotexas.gov](mailto:EDcompliance@elpasotexas.gov)

**B. GRANT SUBMITTAL PACKAGE.**

In order to receive the disbursement of the Grant, the Applicant must submit a Grant Submittal Package, as specified below.

- (1) The Applicant shall annually submit one Grant Submittal Package which shall be in the form provided in Exhibit C, together with the requisite documentation. The Applicant shall submit to the City the initial Grant Submittal Package on **March 29, 2025**, or within 30 business days after this date. Thereafter, the Applicant's annual Grant Submittal Package must be submitted on or within 30 business days after the 29<sup>th</sup> **day of March** of each year. A failure by the Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant year.
- (2) Concurrent with the submittal of a Grant Submittal Package, the Applicant will submit to the City documentation as may be reasonably necessary to verify the expenditure to date of the Minimum Investment, which has not otherwise been verified as part of a prior submittal. The City will provide to the Applicant a written explanation for any Minimum Investment that the City determines cannot be verified. The Applicant may submit additional documentation to the City in order to obtain verification.
- (3) The City's determination of the amount of the Grant payment due to the Applicant is final.

**SECTION 4. OBLIGATIONS OF THE CITY.**

During the Term of this Agreement, and so long as an Event of Default has not occurred and the Applicant is in compliance with the Agreement, the City agrees as follows:

- A. The City agrees to provide a Construction Materials Sales Tax Rebate not to exceed **\$4,500.00** in accordance with the terms and provisions of this Agreement.
- B. The City agrees to provide a Building Construction Fee Rebate not to exceed **\$10,000** in accordance with the terms and provisions of this Agreement.
- C. The City agrees to provide a Property Tax Rebate not to exceed **\$32,354.00** in accordance with the terms and provisions of this Agreement.
- D. The City will process any eligible Grant payment within **90 days** after receipt of the Applicant's annual Grant Submittal Package.

**SECTION 5. EVENTS OF DEFAULT.**

Each of the following Paragraphs A through D shall constitute an Event of Default:

- A. **Failure to Comply.** The Applicant's failure to comply with, or to perform any obligation or condition of this Agreement or in any related documents, or the Applicant's failure to comply

with or to perform any obligation or condition of any other agreement between the City and the Applicant.

- B. **False Statements.** Any representation or statement made or furnished to the City by the Applicant pursuant to this Agreement or any document(s) related hereto, that is/are false or misleading in any material respect; or if the Applicant obtains actual knowledge that any such representation or statement has become false or misleading after the time that it was made, and the Applicant fails to provide written notice to the City of the false or misleading nature of such representation or statement within 10 days after the Applicant learns of its false or misleading nature.
- C. **Insolvency.** The Applicant files a voluntary petition in bankruptcy, or a proceeding in bankruptcy is instituted against the Applicant, and the Applicant is thereafter adjudicated bankrupt, a receiver for the Applicant's assets is appointed, or any assignment of all or substantially all of the assets of the Applicant for the benefit of creditors of the Applicant.
- D. **Property Taxes.** If the Applicant allows its personal or real property taxes owed to the City to become delinquent, and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure or post a satisfactory bond within 30 days after written notice thereof from the City and/or El Paso Central Appraisal District.
- E. **Notice and Opportunity to Cure.** If an Event of Default occurs, the City will provide the Applicant with written notice of the default, and the Applicant shall have 30 days from the receipt of said notice to cure the default (the "Cure Period"). If the default cannot be remedied within the Cure Period, but the Applicant has made a diligent effort to effect a cure, the Cure Period may be extended at the City's sole discretion for a reasonable time. The City, in its sole discretion, shall determine what constitutes "a reasonable time" and what constitutes "a diligent effort" for purposes of this provision. If the City agrees to extend the Cure Period past the 30 days, the City shall notify the Applicant, in writing, of the expiration date of the extended cure period.
- F. **Failure to Cure.** If an Event of Default occurs and, after receipt of written notice and opportunity to cure as provided herein, the Applicant fails to cure the default in accordance with the provisions herein, then this Agreement may be terminated by the City by written notice to the Applicant at which time the City's obligations hereunder will end, and the City may exercise any other right or remedy available at law or in equity.

## **SECTION 6. RECAPTURE.**

Should the Applicant default under **Section 5** of this Agreement and provided that the cure period for such default has expired, all Grants previously provided by the City pursuant to this Agreement shall be recaptured and repaid by Applicant within 60 days from the date of such termination.

## SECTION 7. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT.

- A. The City may terminate this Agreement without an event of default and effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement ineffectual, impractical or illegal.

## SECTION 8. GENERAL PROVISIONS.

- A. **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by both parties.
- B. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of El Paso County, Texas.
- C. **Applicant's Sale or Transfer of the Development.** Prior to any sale or other transfer of ownership rights in the Development, the Applicant shall notify the City in writing of such sale or transfer 30 business days before the effective date of such sale or transfer.
- D. **Assignment.** Applicant understands and agrees that the City expressly prohibits the Applicant from selling, transferring, assigning or conveying in any way any rights to receive the Grant or Grants that are the subject of this Agreement without the City's consent to assignment. Any such attempt to sell, transfer, assign or convey without the City's prior written consent is void and may result in the immediate termination of this Agreement and recapture of the taxes rebated prior to the attempted transfer.
- E. **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. The Applicant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind the Applicant to the same.
- F. **Confidentiality Obligations.** The confidentiality of records related to the City's economic development considerations and incentives provided herein will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code. To the extent permitted by state or federal law, the City shall maintain the confidentiality of any proprietary information and shall not copy any such information except as necessary for dissemination to the City's agents or employees and agrees that, as required by the Public Information Act, it will notify Applicant if a request relating to such proprietary information is received. The Applicant represents that it understands that the Public Information Act excepts disclosure of trade secret and confidential commercial information and that it will need to assert the proprietary interest of the Applicant as a basis for nondisclosure.

- G. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute the same document.
- H. **Employment of Undocumented Workers.** During the term of this Agreement, the Applicant agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001. If convicted of a violation under 8 U.S.C. Section 1324a(f), Applicant shall repay the amount of the Grant payments received by the Applicant from the City as of the date of such violation not later than one hundred twenty (120) days after the date the Applicant is notified by City of a violation of this section, plus interest from the date the Grant payment(s) was paid to the Applicant, at the rate of seven percent (7%) per annum. The interest will accrue from the date the Grant payment(s) were paid to the Applicant until the date the reimbursement payments are repaid to City. The City may also recover court costs and reasonable attorney's fees incurred in an action to recover the Grant payment(s) subject to repayment under this section. Applicant is not liable for a violation by its subsidiary, affiliate, or franchisee, or by a person which whom the Applicant contracts.
- I. **Force Majeure.** The parties agree that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.
- J. **Headings.** The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- K. **No Joint Venture.** The parties acknowledge and agree that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture between the parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the Development or the design, construction, or operation of the Development, or any portion thereof.
- L. **Notices.** All notices required by this Agreement shall be given in writing and shall be deemed to have been properly served if a) delivered by hand and receipted for by the party to whom said notice is directed (or his/her agent); or b) mailed by certified or first class mail with postage prepared, on the third business day after the date on which it is so mailed; c) mailed by overnight courier and receipted for by the party to whom said notice is directed (or his/her agent); or d) sent by facsimile transmission or by email, if a facsimile or email number is provided below. A party may change its contact information for notices by sending written notice to the other party of the change to the party's contact information. Applicant shall provide all required invoices and other required documentation to City electronically at the following address: EDcompliance@elpasotexas.gov

To the Applicant: HELUE PROPERTIES LLC  
Attn: Fred Marcus  
Address: 3518 Durazno Ave.  
El Paso, TX 79905

To the City: 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: Economic & International Development  
P. O. Box 1890  
El Paso, Texas 79950-1890

Applicant shall provide all required invoices and other required documentation to City electronically at the following address: "EDcompliance@elpasotexas.gov"

- M. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising.
- N. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- O. **Governmental Functions.** The parties agree that the City is entering this Agreement in the exercise of its governmental functions under the Texas Tort Claims Act. The parties also agree that the City is entering into this Agreement as a governmental entity performing a governmental function.
- P. **Compliance with the Law.** The parties will comply with all applicable laws, administrative orders, and any rules or regulations relating to the obligations under this Agreement. If applicable, then the Applicant will procure all licenses and pay all fees or other charges as required to complete the Work under this agreement.
- Q. **Third-Party Beneficiaries.** There are no third-party beneficiaries for this Agreement.

*[Signatures begin on the following page.]*

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Frances M. Maldonado Engelbaum  
Assistant City Attorney

  
\_\_\_\_\_  
Elizabeth Triggs –Director  
Economic & International Development

**ACKNOWLEDGMENT**

**STATE OF TEXAS**       §  
  §  
**COUNTY OF EL PASO**   §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by Tomás González as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas.

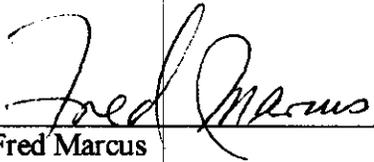
\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

*[Signatures continue on the following page]*

**APPLICANT:  
HELUE PROPERTIES, LLC**

  
\_\_\_\_\_  
Fred Marcus  
Manager

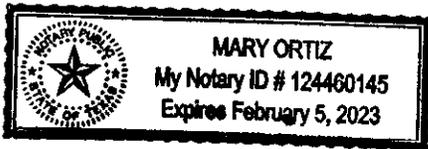
**ACKNOWLEDGMENT**

STATE OF                   §  
                                  §  
COUNTY OF               §

This instrument was acknowledged before me on the 16 day of March, 2022, by Fred Marcus as the **Manager** for **HELUE PROPERTIES, LLC**.

  
\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:  
2-05-2023



**EXHIBIT A**

**Legal Description of the Real Property**

*29 HIGHLAND PARK 17 TO 20 (12000 SQ FT)*

## EXHIBIT B

### Description of Development

HELUE PROPERTIES, LLC. will develop the property located at 1255 N Cotton Street, in El Paso, Texas. The company will invest a minimum of \$900,000.00 to construct the development. The development will include the elements listed below and will be substantially similar, in design, to the rendering shown below.

#### Development Description:

- Construction of one multifamily building on currently vacant land
- Total of 12 residential units
- Approximately 11,000 square feet of residential space

#### Rendering:



**EXHIBIT C**  
**Grant Submittal Package Form**

\_\_\_\_\_(the Applicant) believes that it has substantially met its obligations under the Chapter 380 Agreement executed on \_\_\_\_\_ (date). Pursuant to the Agreement, the Applicant submits this Grant Submittal Package Form in compliance with said Agreement and in anticipation of receiving the Grant in consideration for his obligations met under the Agreement.

As required by the Agreement, the following information is submitted.

1. **[DUE WITHIN 6 MONTHS OF AGREEMENT EXECUTION]** Copies of all applicable approvals and permits.
2. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence the amount of development fees paid as a result of the Development.
3. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation to evidence minimum expenditures amounting to **\$900,000** including but not limited to
  - a. Stamped **PAID** invoices
  - b. Copies of checks proving payment – corresponding to paid invoices
  - c. Receipts for purchase of construction materials (must show amount of taxes paid)
  - d. Bank statements (in the event a transaction was paid with a credit or debit card)
  - e. Contractor pay applications, notarized with lien releases
4. **[INITIAL GRANT SUBMITTAL ONLY]** Documentation evidencing the materials and labor of Taxable Items used in the construction of the Development eligible for rebate to Applicant under the Construction Materials Sales Tax Rebate.
5. **[INITIAL GRANT SUBMITTAL ONLY]** Copy of Certificate of Occupancy in accordance with the requirements provided in Section **3(A)(4)(b)**.
6. Property tax payment receipts showing proof of payment for tax year \_\_\_\_\_.

It is understood by the Applicant that the City of El Paso has up to **90 days** to process this request and reserves the right to deny the Grant claim if the Applicant has failed to comply with the terms of the Agreement.

By the signature of the Applicant below, the Applicant hereby certifies that: (1) the copies of the receipts attached to this Grant Submittal Package Form represent Qualified Expenditures incurred in the improvements and new construction to the Development; (2) the Applicant has paid or caused to be paid the City’s local sales and use taxes associated with the Qualified Expenditures; and (3) that the copies of the receipts and copies of the permits attached herein are true and correct.

*Signature:* \_\_\_\_\_

**EXHIBIT D**

**Property Tax Rebate Table**

<b>Year</b>	<b>Rebate Percentage</b>
Year 1	100%
Year 2	100%
Year 3	100%
Year 4	75%
Year 5	75%



Legislation Text

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File #: 22-354, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Economic and International Development, Mirella Craigo, (915) 212-1617

**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 to sign a Chapter 380 Economic Development Program Agreement ("Agreement") between the City of El Paso (the "City") and Pioneers 21 (the "Applicant"). The City will provide Applicant with grant payments for costs incurred in operating a business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant's eligibility for the grant payments shall be limited to two years. The City shall review the Applicant's eligibility for Grant Payments on a monthly and annual basis.

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

**AGENDA DATE:** 03/29/2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Mirella Craigo, (915) 212-1617  
Elizabeth Triggs (915) 212-1619

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:** 1. Cultivate an environment conducive to strong, sustainable economic development

**SUBGOAL:** 1.1 Stabilize and expand El Paso's tax base, 1.7 Identify and develop plans for areas of reinvestment and local partnership

**SUBJECT:**

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

A Resolution authorizing the City Manager to sign a Chapter 380 Economic Development Program Agreement ("Agreement") between the City of El Paso (the "City") and Pioneers 21 (the "Applicant"). The City will provide Applicant with grant payments for costs incurred in operating a business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant's eligibility for the grant payments shall be limited to two years. The City shall review the Applicant's eligibility for Grant Payments on a monthly and annual basis.

**BACKGROUND / DISCUSSION:**

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

Pioneers 21, previously known as the Hub of Human Innovation, is a non-profit organization and business incubator based in Downtown El Paso that nurtures the development of startup and early stage companies. The purpose of the recommended two-year Chapter 380 Agreement is to provide Pioneers 21 with capitalization funds for actual and reasonable costs incurred in operating a business incubator designed to support local entrepreneurship, innovation development, and accelerate economic development efforts in El Paso.

**PRIOR COUNCIL ACTION:**

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

On November 12, 2019, City Council adopted a two-year Chapter 380 Agreement with Pioneers 21 in the amount not to exceed \$500,000 that expired on November 12, 2021.

**AMOUNT AND SOURCE OF FUNDING:**

*How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?*

This two-year agreement will be funded in the amount not to exceed \$500,000 from the Impact Fund

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**        X   YES                      \_\_\_ NO

**PRIMARY DEPARTMENT:** Economic & International Development

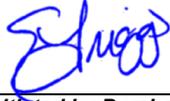
**SECONDARY DEPARTMENT:** N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

**Elizabeth Triggs, Director**



---

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

**RESOLUTION**

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

That the City Manager be authorized to sign a Chapter 380 Economic Development Program Agreement (“Agreement”) between the City of El Paso (the “City”) and Pioneers 21 (the “Applicant”). The City will provide Applicant with grant payments for costs incurred in operating a business incubator in downtown El Paso that will support local entrepreneurship and innovation development and accelerate economic development efforts in the City. The total amount of grant payments paid to the Applicant shall not exceed \$500,000.00 over the term of the Agreement. The Applicant’s eligibility for the grant payments shall be limited to two years. The City shall review the Applicant’s eligibility for Grant Payments on a monthly and annual basis.

**APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

CITY OF EL PASO:

\_\_\_\_\_  
Oscar Leeser  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Elizabeth Triggs, Director  
Economic & International Development

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO    )     **CHAPTER 380 ECONOMIC DEVELOPMENT  
PROGRAM AGREEMENT**

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between the **CITY OF EL PASO, TEXAS** (“City”), a Texas home rule municipal corporation, and **PIONEERS 21, INC.**, (“Applicant”), a 501 (c) (3) tax-exempt, non-profit corporation authorized to do business in Texas, for the purposes and considerations stated below:

**WHEREAS**, the Applicant desires to enter into this Agreement pursuant to Chapter 380 of the Texas Local Government Code (“Chapter 380”) and the Texas Constitution Article VIII, Section 52-a; and

**WHEREAS**, on June 14, 2011, the City adopted a Chapter 380 economic development program by creating the City of El Paso Economic Development Incentive Policy Impact Fund ("Impact Fund") for the purpose of achieving economic growth, expanding and diversifying the tax base and creating new quality jobs within the City of El Paso; and

**WHEREAS**, the City desires to provide, pursuant to Chapter 380, an incentive to Applicant to expand Applicant’s Business Incubator services within the City of El Paso; and

**WHEREAS**, the City has the authority under Chapter 380 to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City of El Paso; and

**WHEREAS**, the City determines that a grant of funds to Applicant will serve the public purpose of promoting local economic development and enhancing business and commercial activity within the City; and

**WHEREAS**, the City and Applicant desire that Applicant’s Business Incubator be located in and serve the City of El Paso; and

**WHEREAS**, the Applicant’s Business Incubator services being located in El Paso, Texas will likely encourage increased economic development in the City, provide increases in the City’s property tax revenues, and improve the City’s ability to provide for the health, safety and welfare of the citizens of El Paso; and

**WHEREAS**, the City has concluded and hereby finds that this Agreement embodies an eligible “program” and promotes economic development in the City of El Paso and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and further, is in the best interests of the City and Applicant.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## SECTION 1. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- A. **Agreement.** The word “Agreement” means this Chapter 380 Economic Development Program Agreement, together with all attached exhibits.
- B. **Annual Report.** The words “Annual Report” mean a yearly account provided to the El Paso City Council that includes descriptions reporting on the outcome metric items more fully described in **EXHIBIT D**, which is attached hereto and incorporated herein for all purposes.
- C. **Applicant.** The word “Applicant” means Pioneers 21, Inc., a 501 (c) (3) non-profit corporation authorized to do business in Texas.
- D. **City.** The word “City” means the City of El Paso, Texas.
- E. **Client Company.** The words "Client Company" mean: (i) an entity which has contracted with the Applicant to receive business incubation services, which are consistent with the operation of the Project or (ii) an entity which has its operation in the El Paso region, is a viable business concern, and has received services from Applicant during the term of this Agreement
- F. **Project.** The word “Project” means Applicant’s Business Incubator services being located in El Paso, Texas as more fully described on **EXHIBIT A**, which is attached hereto and incorporated herein for all purposes.
- G. **Effective Date.** The date upon which both parties have fully executed this Agreement as set forth on the signature pages hereof.
- H. **Event of Default.** This phrase shall have the meaning set forth in Section 5 hereof.
- I. **Event of Nonappropriation.** The phrase means the failure of the City to appropriate for any Fiscal Year, sufficient funds to pay the Grant payment, or the reduction of any previously appropriated money below the amount necessary to permit the City to pay the Grant payments from lawfully available funds.
- J. **Full-Time Employment.** The words “Full-Time Employment” mean an employment position requiring a minimum of 1820 hours of work averaged over a twelve (12) month period, including allowance for vacation and sick leave, with full company benefits, including company paid contributions to health insurance, for those employees that participate in the health insurance program. Principal place of employment or location of services rendered shall be within the geographic limits of the City of El Paso, Texas.
- K. **Graduate Company.** The words “Graduate Company” mean a company that had previously been identified as a Client Company and has begun operations as a viable business concern.

- L. **Grant.** The word “Grant” means a payment on an annual basis to Applicant under the terms of this Agreement and payable from the City’s Impact Fund. Under no circumstances shall the aggregated, annual Grant payment exceed \$250,000 per year. The maximum payment amounts shall not exceed \$500,000 during the two-year term of this Agreement.
  
- M. **Grant Submittal Package.** The words “Grant Submittal Package” mean the documentation required to be supplied to City on a yearly basis as a condition of receipt of the Grant, with such documentation more fully described in **EXHIBIT E**, which is attached hereto and incorporated herein for all purposes.
  
- N. **New Client Company.** The words “New Client Company” mean: (i) an entity which has contracted with the Applicant to receive business incubation services, which are consistent with the operation of the Project and (ii) an entity which can be a startup or has its operation in the El Paso region, is a viable business concern, and has received services from Applicant during the term of this Agreement
  
- O. **Project.** The word “Project” means the project more particularly described in **EXHIBIT A**.
  
- P. **Property.** The word “Property” means the location of Applicant’s operations, place of business and address for Notice purposes located at 500 W. Overland Ave. Suite 230, 79901, in El Paso, TX, as described in **EXHIBIT A**.

## **SECTION 2. TERM AND GRANT PERIOD.**

The Term of this Agreement shall commence on the Effective Date and shall terminate on the first to occur: (i) Two years from the Effective Date, plus such additional time thereafter as may be necessary to process the final Grant payment or (ii) the proper termination of this Agreement in accordance with the applicable provisions contained herein, or (iii) termination by mutual consent of the parties in writing.

The Grant Period shall begin when the Applicant submits their initial Grant Submittal Package to the City.

## **SECTION 3. AGREEMENT PURPOSE**

The purpose of the Grant is to provide Applicant with capitalization funds for actual and reasonable costs incurred in operating a business incubator in downtown El Paso, which will support local entrepreneurship and innovation development and accelerate economic development efforts in El Paso, including, but not limited to, accelerating the creation of firms operating in the El Paso region, as described in Exhibit A. Applicant’s services and activities are anticipated to promote local economic development and stimulate business and commercial activity in the City of El Paso.

The Applicant's eligibility for Grant payments shall be limited to Two years (the "Grant Period") within the term of this Agreement. The City shall review Applicant's eligibility for Grant Payments on a monthly basis in accordance with **EXHIBITS C and E** and on an annual basis in accordance with **EXHIBIT D**, during the Grant Period.

#### **SECTION 4. OBLIGATIONS OF APPLICANT.**

During the term of this Agreement, Applicant shall comply with the following terms and conditions:

- A. **Project Requirements.** Applicant agrees to maintain and operate the business incubator, at its sole cost and expense, located at 500 W. Overland Avenue, El Paso, Texas and specifically, to perform the following obligations with respect to operation of the business incubator:
1. Applicant will provide high-quality business incubation services on behalf of each Client Company and each Graduate Company, as applicable, to include, as appropriate:
    - a. Infrastructure services (e.g., use of facilities, furniture, high-speed internet access, mail delivery, conference rooms, telephone service, shared services, and other facility-related benefits);
    - b. Access to operational support services (e.g., in-kind professional support, accounting/financial management, human resources, and legal); and
    - c. Access to strategic support services (e.g., strategic partner networks, entrepreneurial education and training, access to investor financing and capitalization, product development, commercialization, and marketing, intellectual property strategy, business strategy and planning, links to higher education, specific-sector expertise, and linkages to mentors, advisory teams, and potential board of directors' candidates).
  2. During the term of this Agreement, Applicant will establish contractual obligations in its service contracts with each Client Company for the provision of data and information necessary for Applicant to complete the documentation required for each, annual Grant Submittal Package and the Annual Report.
  3. Applicant will develop a workable selection process for each Client Company, which is well-communicated and appropriate to the mission and the context of the business incubator and correlated to specific product and business criteria for each prospective Client Company.
  4. Applicant agrees to use its best good faith efforts to obtain funding from other non-governmental funding sources as those funding opportunities become available. Applicant is also required to submit a Strategic Plan (**EXHIBIT F**) for 2022-2024. Upon the one-year anniversary of this executed agreement an updated Strategic Plan

will be submitted by Grantee to address economic changes in the market, programming schedules and any and all other changes the Grantee plans to amend.

5. Applicant agrees to seek out opportunities for collaboration and partnership with entities involved entrepreneurial activity in El Paso, Texas, including, but not exclusively, with LiftFund Inc. to assist businesses secure access to capital.
- B. Applicant expressly agrees that the transfer of dollar amounts among existing allowable categories described in **EXHIBIT B** (the "Project Budget"), shall not change the scope or objective of the Project funded under this Agreement.
  - C. Applicant expressly agrees to submit a written request for the revision of the Project Budget, which must contain a complete explanation and justification of changes made, and is subject to the approval of the City Manager, Director of Economic and International Development, or other of City Manager's designee. The revised Project Budget will substitute the original Project Budget (or any prior revised Project Budget) upon the City Manager Director of Economic and International Development, or other of City Manager's designee's approval and acceptance thereof, without the need for a written amendment to this Agreement.
  - D. Applicant agrees that it shall create, staff, and maintain all positions described in **EXHIBIT B** for the Project as of December 31 of the applicable year, and shall maintain the Full-Time Employment positions staffed through the entire Grant Period of this Agreement. In order for Applicant to be eligible to receive grant payments, the individual positions in Exhibit B must each meet or exceed the "Full Time Employment" definition as shown above in Section 1. J.
  - E. Applicant, during normal business hours, at its principal place of business in El Paso, and with one weeks written notice, shall allow the City, or its agents, reasonable access to Applicant's employment records and books, and other records that are related to Applicant's compliance with this Agreement. City and Applicant must mutually agree to employment records and books to be accessed prior to allowing the City or its agents access to Applicant data. If the City is unable to verify Full-Time Employment, the Applicant agrees to waive their Grant Payment for that year. In order to protect these records, the City shall maintain the confidentiality of such records in accordance with and subject to commercially reasonable practices and all applicable laws to the extent allowed by the Texas Public Information Act.
  - F. Each month, starting immediately after the Effective Date of this Agreement, Applicant will complete and submit a Grant Submittal Package in the form attached here to as **EXHIBIT E**, together with the requisite verifiable documentation, in order to request disbursement of Grant funds on a reimbursement basis for the costs of services provided pursuant to this Agreement during the prior month. Applicant shall submit to the City their initial Grant Submittal Package to commence the Grant Period within thirty (30) business days of the Effective Date. The Grant Submittal Package cannot be submitted earlier than April 29, 2022. A failure by Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant

month. The City's determination of the amount of the Grant payment due to Applicant is final. Nothing herein shall limit (or be construed to limit) Applicant's rights and remedies under this Agreement.

- G. On an annual basis, Applicant will produce and present an Annual Report to the El Paso City Council to include descriptions reporting on the outcome metric items more fully described in **EXHIBIT D**. In accordance with Attachment D-1 to Exhibit D, the Applicant must provide the Benchmarking Survey results within 60 days of administering the survey to all Client Companies before and after participating in Applicant's programming. The City reserves the right to audit the raw data results upon request. Failure of the Applicant to produce and present the Annual Report shall result in a stop on future disbursements of Grant funds.
- H. Applicant shall pay by January 31 of each year all of the real and business personal ad valorem taxes due for the previous tax year on the Project. The Applicant shall pay by January 31 of each year all of the real and business personal ad valorem taxes due for the previous tax year on any other property owned by the Applicant with the City of El Paso.

## **SECTION 5. OBLIGATIONS OF CITY.**

During the term of this Agreement and so long as an event of default has not occurred and is not continuing as set forth herein (provided, however, an event of default hereunder shall not be deemed to have occurred until after the expiration of the applicable notice and cure period), City shall comply with the following terms and conditions:

- A. On an annual basis, the City shall evaluate Applicant's performance based on the Performance Metrics described in **EXHIBIT C** and shall score each metric as either "Favorable" (meaning Applicant has met or exceeded the Performance Metric) or "Unsatisfactory" (meaning Applicant has failed to meet the Performance Metric by twenty-five percent (25%) or more). If Applicant fails to meet the above "Favorable" scoring threshold in any category for the reporting period, the Monthly Grant payment shall be withheld.

For scoring purposes, the Performance Metrics described in **EXHIBIT C** shall be divided by twelve and rounded to the nearest whole number to reflect the monthly metric goals. Monthly Grant payments shall not be withheld if Applicant fails to meet the monthly metric goals described in **EXHIBIT C** in any specific category where the Applicant has already exceeded the total annual metric requirement, noted as the "Annual Metric Target" in **EXHIBIT C**. If the Applicant fails to meet or exceeded the Annual Metric target for each category described in **EXHIBIT C** by the end of the Grant year, all future Grant payments shall be withheld.

The City agrees to approve or reject any Grant Submittal Package within ninety (90) days after its receipt. The City agrees to process any Grant Payments to Applicant within ninety (90) days after its approval of the Applicant's Grant Submittal Package. The City shall determine the total amount of Grant payments due to the Applicant, if any, on an annual basis as provided in **EXHIBITS B** and **C**. The maximum, annual grant payments shall not

exceed \$200,000 per year. Under no circumstances shall the total, aggregated payments disbursed by the City exceed \$500,000.00 over the two-year period this agreement is in effect.

B. **Grant Match:** Applicant is eligible to receive an additional \$50,000 per year provided that the Applicant meets all other conditions, metrics and requirements enumerated in this Agreement and its Exhibits in addition to the following conditions:

1. Applicant provides written documentation that Applicant has secured external funding in the amount of \$50,000 during each year of this Agreement. Applicant must provide documentation evidencing that the matching funds came from a donor(s) that did not provide funds in the year prior to the date of this Grant Agreement; or, alternatively, if matching funds came from a donor who donated in the year prior to the date of this Grant Agreement, only that portion of the donation that exceeds the amount previously contributed to Applicant in the year prior to the date of this Grant Agreement shall be used to calculate the amount of matching funds. Matching funds can also be obtained from other grants, government agencies, State, Federal, universities and other new sources of new revenue or funding. Pledges, loans or other unactualized funding or promises of same shall not be included nor eligible for consideration under the provisions of this section. The City's grant match amount of up to \$50,000 will have a restricted use on 20% of the grant funds raised. At least 20% of the grant match funds will be used to assist Applicant's Graduate Companies with business operating expenses. For illustrative purposes, if the Applicant raises \$50,000 and receives the \$50,000 grant match from the City; then \$10,000 of the amount received from the City will be reserved for use to assist Applicant's Graduate Companies with business operating expenses. The grant match funds can be distributed among one or more businesses. The remaining grant match funds are limited for use by Applicant for only the following uses: Applicant's operating expenses, retained earnings, or used to hire additional personnel on either a Full-Time or Part-Time basis.

## SECTION 6. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

A. **Failure to Operate and Maintain Project and Job Requirements.** Applicant's failure or refusal to operate the Project and maintain Full Time Employment requirements pursuant to this Agreement through the Grant Period, and Applicant's failure or refusal to cure within ninety (90) days after written notice from the City describing such failure, shall be deemed an event of default.

B. **False Statements.** In the event the Applicant provides any written warranty, representation or statement under this Agreement or any document(s) related hereto that is/are false or misleading in any material respect, either now or at the time made or furnished, and Applicant fails to cure same within thirty (30) days after written notice from the City shall be deemed an event of default. If such violation cannot be cured within such thirty (30) day period in the exercise of all due diligence, but the Applicant commences such cure within such thirty (30) day period and continuously thereafter diligently prosecutes the cure of

such violation, such actions or omissions shall not be deemed an event of default. Further, if Applicant obtains actual knowledge that any previously provided warranty, representation or statement has become materially false or misleading after the time that it was made, and Applicant fails to provide written notice to the City of the false or misleading nature of such warranty, representation or statement within thirty (30) days after Applicant learns of its false or misleading nature, such action or omission shall be deemed an event of default.

- C. **Insolvency.** The dissolution or termination of Applicant's existence as a going business or concern, Applicant's insolvency, appointment of receiver for any part of Applicant's portion of the Property, any assignment of all or substantially all of the assets of Applicant for the benefit of creditors of Applicant or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Applicant shall all be deemed events of default. However, in the case of involuntary proceedings, if such proceedings are discharged within sixty (60) days after filing, no event of default shall be deemed to have occurred.
- D. **Property Taxes.** In the event Applicant allows any property taxes owed to the City to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure or post a satisfactory bond within thirty (30) days after written notice thereof from the City and/or El Paso Central Appraisal District, such actions or omissions shall be deemed an event of default. Subject to the restrictions noted herein, Applicant shall have the right to contest the appraised value of the Project.
- E. **Other Defaults.** Failure of Applicant or City to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any related documents, and Applicant's or City's failure to cure such failure within sixty (60) days after written notice from the other party describing such failure, shall be deemed an event of default. If such failure cannot be cured within such sixty (60) day period in the exercise of all due diligence, and Applicant or City commences such cure within such sixty (60) day period and continuously thereafter diligently prosecute the cure of such failure, such act or omission shall not be deemed an event of default.
- F. **Failure to Cure.** If any event of default by Applicant or City shall occur, and after Applicant or City fails to cure same in accordance herewith, then this Agreement may be terminated without any further action required of the Applicant or City and the Applicant's or City's obligations end at that time. If a default has not been cured within the time stated herein, the non-defaulting party shall have all rights and remedies under the law or in equity.
- G. **Liability.** In no event will either party be liable to the other party for any indirect, special, punitive, exemplary, incidental or consequential damages. In no event shall the liability of either party exceed the value of Grant Payments issued hereunder. This limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages.

## SECTION 7. RECAPTURE OF GRANT PAYMENTS.

Should the Applicant default under Section 4 of this Agreement or any other terms of this Agreement, and provided that the cure period for such default has expired and Applicant failed to timely cure such default, all Grants previously provided by the City pursuant to this Agreement shall be recaptured and repaid by Applicant within sixty (60) days from the date of such termination.

## SECTION 8. TERMINATION OF AGREEMENT BY CITY WITHOUT DEFAULT OF APPLICANT.

The City may terminate this Agreement for its convenience and without the requirement of an event of default by Applicant which shall become effective immediately if any state or federal statute, regulation, case law, or other law renders this Agreement void or illegal, including any case law holding that a Chapter 380 Economic Development Agreement such as this Agreement is an unconstitutional debt.

## SECTION 9. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- A. **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by all parties.
- B. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of El Paso County, Texas.
- C. **Assignment of Applicant's Rights.** Applicant understands and agrees that the City expressly prohibits Applicant from selling, transferring, assigning or conveying in any way any rights to receive the Grant proceeds without the City's prior written consent. Any such attempt to sell, transfer, assign or convey without the City's prior written consent is void and may result in the immediate termination of this Agreement, with no ability for the Applicant to cure.
- D. **Applicant's Sale or Transfer of the Project.** Thirty days prior to any sale or other transfer of ownership rights in the Project, Applicant shall notify the City in writing of such sale or transfer. This provision is a material term of this Agreement and the failure to notify the City of such sale or transfer within the applicable period shall constitute an event of default.
- E. **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. The individual executing this Agreement on Applicant's behalf warrants and represents that he or she has full authority to execute this Agreement and bind Applicant to the same.

- F. **Confidentiality Obligations.** The confidentiality of such records employment records and any other records related to the City’s economic development considerations and incentives provided herein will be maintained in accordance with and subject to all applicable laws, including the Public Information Act, Chapter 552, Texas Government Code. Specifically, the City will maintain the confidentiality of any proprietary information to the extent permitted by law and agrees that, as required by the Public Information Act, it will notify Applicant if a request relating to such proprietary information is received. Applicant represents that it understands that the Public Information Act excepts disclosure of trade secret and confidential commercial information and that it will need to assert the proprietary interest of Applicant as a basis for nondisclosure.
- G. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute the same document.
- H. **Employment of Undocumented Workers.** During the term of this Agreement, Applicant agrees not to knowingly employ any undocumented workers as defined in Texas Government Code Section 2264.001. If convicted of a violation under 8 U.S.C. Section 1324a(f), Applicant shall repay the amount of the Grant payments received by Applicant from the City as of the date of such violation not later than one hundred twenty (120) days after the date Applicant is notified by City of a violation of this section, plus interest from the date the Grant payment(s) was paid to Applicant , at the rate of seven percent (7%) per annum. The interest will accrue from the date the Grant payment(s) were paid to Applicant until the date the reimbursement payments are repaid to City. City may also recover court costs and reasonable attorney’s fees incurred in an action to recover the Grant payment(s) subject to repayment under this section.
- I. **Execution of Agreement.** The City Manager has received authority to execute this Agreement on behalf of the City from the City Council through approval of a resolution.
- J. **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed beyond such party’s reasonable control by reason of war, civil commotion, acts of God, severe weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was reasonably delayed.
- K. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the addresses shown below. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party’s address. For notice purposes, each party agrees to keep the other informed at all times of its current address.

Applicant shall provide all required invoices and other required documentation to City electronically at the following address: EDcompliance@elpasotexas.gov

CITY: City of El Paso  
City Manager  
P.O. Box 1850  
El Paso, Texas 79950-1850

Copy To: City of El Paso  
Economic & Intl. Development - Director  
P.O. Box 1850  
El Paso, Texas 79950-1850

APPLICANT: Laura Butler: Executive Director  
Pioneers 21, Inc.  
500 W. Overland Avenue Suite 230  
El Paso, TX. 79901

- L. **Ordinance Applicability.** The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising; provided, however, no ordinance shall reduce or diminish the contractual obligations contained herein. This Agreement shall confer no vested rights on the Project unless specifically enumerated herein.
  
- M. **Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF EL PASO, TEXAS:**

\_\_\_\_\_  
Tomás González City Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Juan S. Gonzalez  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Elizabeth Triggs, Interim Director  
Economic and International Development

**ACKNOWLEDGMENT**

**STATE OF TEXAS** §  
  §  
**COUNTY OF EL PASO** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]



## **EXHIBIT A**

### **[Project]**

Pioneers 21, Inc. provides incubation and related business development services to appropriate emerging and high growth companies. Currently, Pioneers 21, Inc. is housed at 500 W. Overland Ave. Suite 230, 79901, in El Paso, TX.

**EXHIBIT B**

**PROJECT BUDGET**

In order for the Applicant to be eligible for any Grant Payment, Applicant is required to provide an annual report that demonstrates full-compliance with the budget items described below in “Table 1”.

<b>BUDGET</b>	
<b>Item</b>	<b>2022-2024</b>
<b>Business Support Salaries &amp; Fringes</b>	
Executive Director (Full-Time Employment)	\$125,330
Assistant Director (Full-Time Employment)	\$30,540
Office Assistant	\$16,630
<b>Total</b>	<b>\$172,500</b>
<b>Operating Expenses including but not limited to:</b>	
Marketing / Education Program	
Supplies and Equipment	
Equipment rental	
Software	
Contract Services	
Accounting	
Business Support (Coaching / Mentoring)	
Payroll Processing	
Phone Telecommunications	
Travel	
Workshops, training, rent	
Space (CAM , rent is donated)	
Insurance	
	<b>\$27,500</b>
<b>Grant Total</b>	<b>\$200,000</b>

## EXHIBIT C

### PERFORMANCE METRICS

In order for the Applicant to be eligible for any Grant Payment, Applicant is required to provide a monthly report that demonstrates compliance with the performance metric items described below

Performance Metric	Year 1 (2022-23)	Year 2 (2023-24)
Conduct an annual <b>Benchmarking Survey</b> to assess program effectiveness (No less than 20 responses)	Due within 60 days of contract execution	Due within 60 days of contract execution anniversary date in 2023
Total # of program applicants (new or existing) from newly launched programs: a) <b>Startup Bootcamp Program Business Model Canvas (Attachment C-1)</b> b) <b>Borderland Venture Service (Attachment C-2)</b>	25	25
Access to Capital Referrals Community Development Financial Institution (CDFI) or other banking/financial institutions	12	12
Number of Entrepreneurs Securing Working Capital	4	6
Startup Boot Camp Graduates	15	20
Borderland Venture Service Business Model Canvas Graduates	10	10
Quality Texas Foundation Examiner Training <b>(Attachment C-3)</b>	10	10



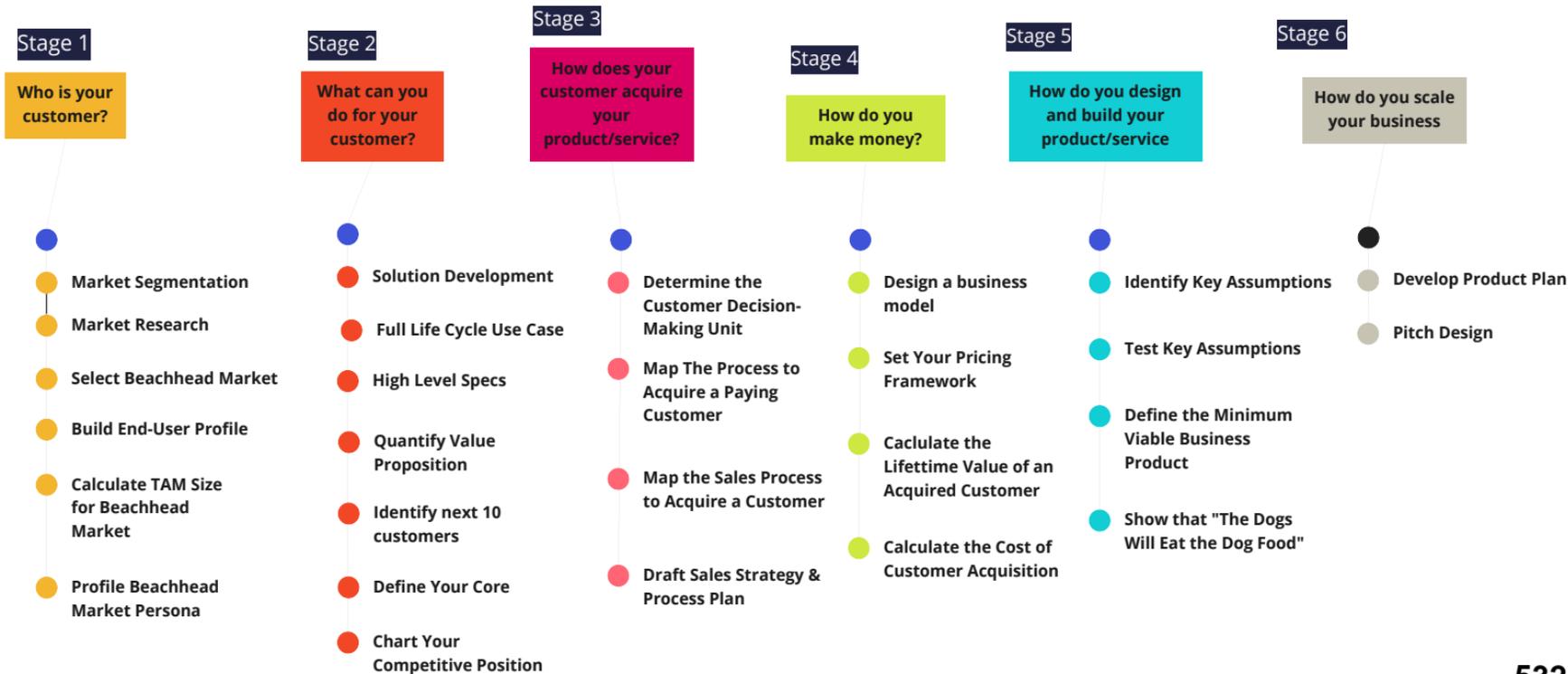
## **Startup Bootcamp Program**

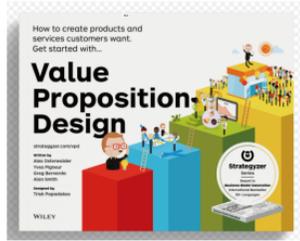
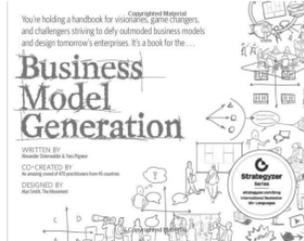
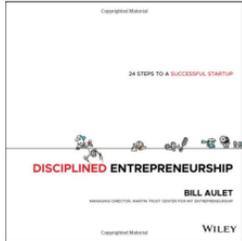
**A startup accelerator designed to help entrepreneurs develop and launch revenue generating prototypes.**

# The Mechanics

- Step-by-step program based on best practices and guided by expert consultant
- Interactive workshops (in-person or virtual)
- Virtual collaboration and workspace
- Self-learning and flexible scheduling
- Access to innovation and design tools

# Startup Incubator Program Milestones & Deliverables





# Borderland Venture Service Business Model Canvas

Presented by:



# The Business Model Canvas

Prepared for: Pioneers 21

Prepared by: Adam

Date: 1/7/2022

## Key partners

MIT VMS

Volunteer Mentors

The City & County of El Paso

Ecosystem Partners

(e.g. UTEP, EPCC, FabLab, T0Hub, Chambers)

Sponsors

(local and national)

Service Providers

(e.g. technology, suppliers, communications)

## Key activities

- Building and managing our mentor pool
- Building and managing our venture pool
- Building mentor teams for ventures
- Organizing mentor team meetings
- Organizing monthly mentor meetings and newsletters
- Managing, monitoring, recording, and reporting and improving the program
- Raising awareness
- Organizing the operations committee

## Key resources

### Physical:

- Meeting space
- workspace
- office equipment

### Intellectual

- MIT VMS license and structure
- Internal organizational knowledge

### Human

- Staff
- Volunteer committee members
- Volunteer mentors
- Entrepreneurs

### Financial

- operating funding

## Key propositions

### Entrepreneurs

Access to high quality advice and mentorship by vetted experts in areas the ventures current needs and goals

- Accessibility
- Cost reduction
- Performance:
- Usability

### Mentors

- Opportunity to give back and be part of a movement to help grow our business community.
- Experience of being part of a special and prestigious program.
- Potential investment opportunities

## Customer relationships

### Personal Assistance

- VMS Community Manager: general info, scheduling, mentor team management, assistance
- Mentor Team Meetings; ongoing arranged meetings with mentor teams.

### Communities

- Monthly Mentor Meetings

## Channels

### Awareness

Our staff (Direct outreach), referrals from partners, email and social media marketing, and Media

**Evaluation:** Staff (in-person, email, and in-person), website, brochure, reviews

**Signup:** : web form and email

**Delivery:** email and team, in-person (or virtual) meetings with mentors

## Customer segments

**Mix: Niche, Segmented & Multi-sided market segmentation**

### Entrepreneurs

1. **Early Stage Startups:**  
Founders with a with an idea or concept for a new product, service or venture that has high growth potential.
2. **Small Businesses:**  
Founders or Executive/Officers of small businesses that has growth potential who want to develop a new product, service, or expand into new markets.

### Sponsors

Corporate or community partners who believe in the mission

### Mentors

Experts from our local corporate and entrepreneur community who are inspired by the program mission. Mentors are a secondary focus, and also considered a partner and resource, but is a volunteer and must receive value from the experience they have in return for their contributions.

## Cost Structure

Cost Driven

### Fixed Costs

- **Facility** (Meeting space
- **Technology** (CRM, Scheduling Tool, Zoom)

### Variable Costs

- **Staff** (Directors & Admin)
- **Professional Fees** (e.g. taxes)
- **Supplies** for the office, meetings, and events
- **Marketing**

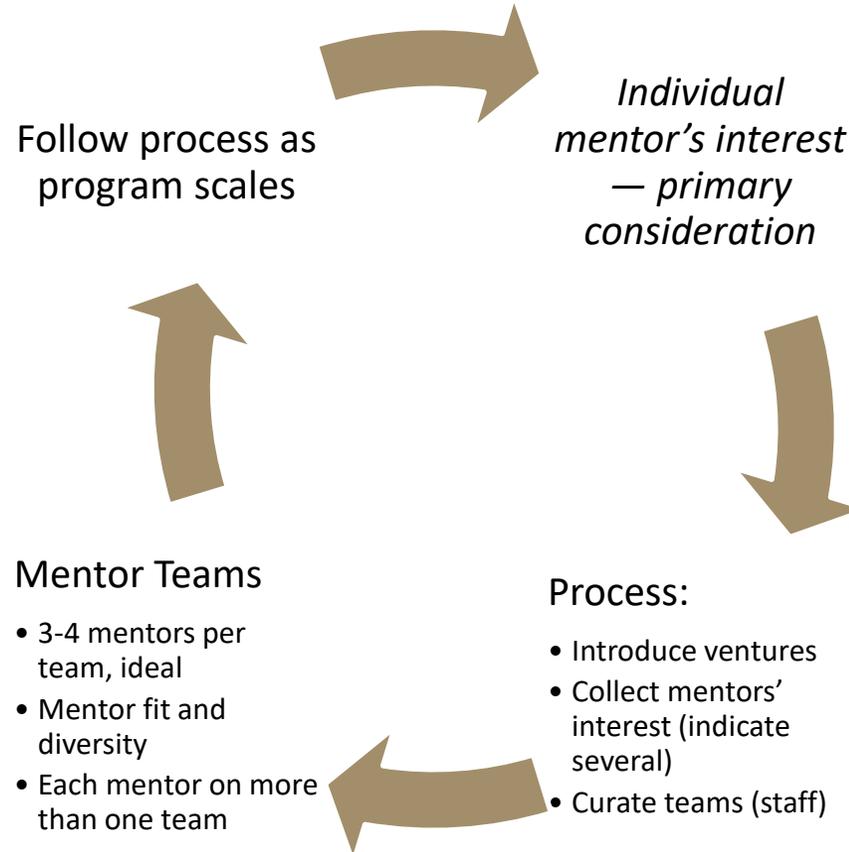
## Revenue Streams

- Sponsors
- Fundraisers
- Grants

# 2022 Venture Mentor Service

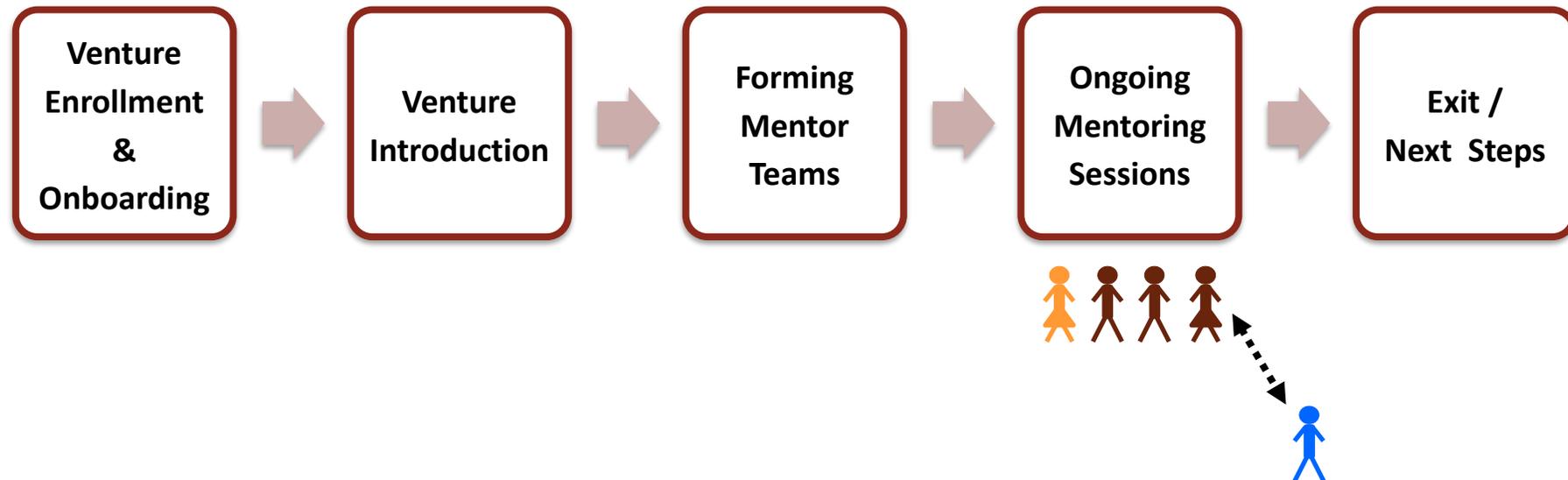
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Minimum 10 ventures in addition to the incubator on going cohorts throughout the year



# Mentoring Process Overview

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## Attachment C-3

### INTERNAL COACH/EXAMINER TRAINING - 3 Days

The Internal Coach/Examiner training is redesigned as an introduction or refresher for participants in how to use the Baldrige Excellence Framework. Topics covered include how to evaluate an organization in the Independent Review (IR), the Consensus Review (CR) and the Physical or Virtual Site Visit (PSV/VSV). The training will teach how to determine a strength and opportunity for improvement in all of the Category/Items. If writing an application, the organization should send around 5 -7 people to this training; WE teach the test! A current award recipient application with a feedback report will be evaluated against the Baldrige Framework during training.



<https://web.cvent.com/event/0d45af17-0392-433d-bf96-42b7bff73483/websitePage:979ff33e-c502-4311-8a01-300eb47e0000>

## QUALITY TEXAS FOUNDATION

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The Quality Texas Foundation helps businesses, hospitals, schools, government agencies and non-profits improve performance. We educate, train, assess, provide feedback and recognize organizations committed to a journey of excellence.

### **Our Vision**

The Quality Texas Foundation (QTF) will continue to be the preeminent state program assisting individuals, organizations, and communities with continuous improvement efforts.

### **Our Mission**

QTF exists to assist individuals, organizations and communities in their continuous improvement efforts thereby positively impacting our communities, state, and nation.

<https://quality-texas.org/about-us/>

## **EXHIBIT D**

### **[Yearly Report]**

#### **OUTCOME METRIC REPORT**

Applicant is required to provide the results of the Benchmarking Survey (Attachment D-1) within ninety days (90) of execution of this agreement. The survey must contain a minimum of 20 responses from existing clients.

An annual report that includes descriptions reporting on the outcome metric items detailed below.

1. Results of the Benchmarking Survey (Attachment D-1)
2. Results of the Performance Metric (EXHIBIT C)

### Exhibit D-1: Survey

Please enter the following information: *Open Ended Response*

1. Name of Business
2. Registered Business Owner Name(s)
3. Respondent's Name and Title within Company (If different from owner)
4. Business Email Address
5. Business Telephone Number
6. Business Physical Address
  - a. Address
  - b. City/Town
  - c. State
  - d. Zip/Postal Code
7. Business Mailing Address (If different from physical address)
8. Which of the following industry categories best describes the primary products or services offered by your company? (Supersectors – U.S. Bureau of Labor Statistics) *Check-Box Response*
  - a. Natural Resources & Mining
  - b. Construction
  - c. Manufacturing
  - d. Trade, Transportation, & Utilities
  - e. Information
  - f. Financial Activities
  - g. Professional & Business Services
  - h. Education & Health Services
  - i. Leisure & Hospitality
  - j. Other Services (Please explain) \_\_\_\_\_
9. When was your company founded or when did your company begin business operation? (*MM/YYYY*)
10. When did your company become a client/participant at Pioneers 21? (*MM/YYYY*)
11. When did your company leave Pioneers 21? Please put "NA" if your company is still an active client/participant.
12. What was your main reason for leaving Pioneers 21? *Check-Box Response*
  - a. Completed incubator graduation goals
  - b. Completed your own business graduation goals and/or was ready to go on my own
  - c. Costs were too high
  - d. My company is still an active client/participant
  - e. Other (Please explain) \_\_\_\_\_
13. Number of full-time & part-time employees at company's inception (counting yourself, if applicable):
  - a. Full time: \_\_\_\_
  - b. Part time: \_\_\_\_

#### **Key Performance Indicators (Pre & Post Program/Incubation Survey)**

14. Number of current full-time & part-time employees (counting yourself, if applicable):
  - a. Full time: \_\_\_\_\_
  - b. Part time: \_\_\_\_\_

**Financial Standing:**

15. Total Revenue (Sales)

- a. Less than \$1000
- b. \$1,001-\$5,000
- c. \$5,001-\$25,000
- d. \$25,001-\$50,000
- e. \$50,001-\$100,000
- f. \$100,000-\$200,000
- g. \$200,000+

16. Total Debt

- a. Less than \$1000
- b. \$1,001-\$5,000
- c. \$5,001-\$25,000
- d. \$25,001-\$50,000
- e. \$50,001-\$100,000
- f. \$100,000-\$200,000
- g. \$200,000+

17. Net Income

- a. Less than \$1000
- b. \$1,001-\$5,000
- c. \$5,001-\$25,000
- d. \$25,001-\$50,000
- e. \$50,001-\$100,000
- f. \$100,000-\$200,000
- g. \$200,000+

18. Number of Loans Acquired

- a. 1
- b. 2
- c. 3
- d. 4
- e. 5+

19. Average Amount of Loan(s) Acquired

- a. \$0-\$10,000
- b. \$10,001-\$20,000
- c. \$20,001-\$30,000
- d. \$30,001-\$40,000
- e. \$40,001-\$50,000
- f. \$50,001+

20. Source/Loan Provider

21. Number of Grants Acquired

- a. 1
- b. 2
- c. 3
- d. 4
- e. 5+

22. Average amount of grant(s)

- a. \$0-\$10,000

- b. \$10,001-\$20,000
  - c. \$20,001-\$30,000
  - d. \$30,001-\$40,000
  - e. \$40,001-\$50,000
  - f. \$50,001+
23. Source/Grant Provider
24. Self-investment
- a. Less than \$1000
  - b. \$1,001-\$5,000
  - c. \$5,001-\$25,000
  - d. \$25,001-\$50,000
  - e. \$50,001-\$100,000
  - f. \$100,000-\$200,000
  - g. \$200,000+
25. Other forms of revenue
- a. Crowd-sourcing
  - b. Venture capital
  - c. Angel investor(s)
  - d. Other (Please explain)\_\_\_\_\_
26. Number of patents acquired
- a. 1
  - b. 2
  - c. 3
  - d. 4
  - e. 5+
- Rate your overall experience and the effectiveness of Pioneers 21's programs in the following areas:
27. Business Assessment
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
28. Access to Capital – Loans, Grants, Crowdfunding, etc
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
29. Business Network Connections
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
30. Linkages to Strategic Partners/Investors
- a. Highly unsatisfied
  - b. Unsatisfied

- c. Neutral
  - d. Satisfied
  - e. Highly satisfied
31. Marketing Assistance
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
32. General Legal Services
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
33. Comprehensive Business Training
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
34. Human Resources
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
35. Product Design & Development
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
36. Office/Incubator Space Resources
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied
37. Personal Development/Training
- a. Highly unsatisfied
  - b. Unsatisfied
  - c. Neutral
  - d. Satisfied
  - e. Highly satisfied

**EXHIBIT E**

**[Grant Submittal Package Form]**

**Pioneers 21, Inc.** believes that it has substantially met its obligations under the Chapter 380 Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. Pursuant to the Agreement, Applicant submits this Grant Submittal Package Form in compliance with the Agreement and in anticipation of receiving the Grant payments referenced in the Agreement in consideration for its obligations met therein.

As required by the Agreement, the following information is submitted.

1. Current Performance Metric Report
2. All appropriate and substantiating documents detailing eligible reimbursement amount requested.
3. All contract information as required per Section 4.

It is understood by **Applicant** that the City of El Paso has up to **ninety (90) days** to process this request and reserves the right to deny the Grant claim if the terms of the Agreement have not been complied with.

**Pioneers 21, Inc.**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



Strategic Plan FY 2022-2024

Access to Capital: Objectives FY 2022-2024	Measurable Outcomes of Success	Timeline
Credit/Financial education workshops 1x per quarter in collaboration with Liftfund.	Attendees assisted with education on credit application process to mirror 5 C's of credit	Quarterly
Identify and prepare applicant deal flow to Liftfund first, then local banks, credit unions, or other CDFIs (such as PeopleFund and Project Vida)	Applicants assisted with follow up on application progress throughout the year	Quarterly
Identify and prepare applicants deal flow to SABA Investments, Sun Cruces Angels, and integrate into investor networks.	Partnerships developed and the outcomes of those partnerships	Annual
Identify and prepare applicants for regional pitch competitions that provide funding opportunities, P21 Board Pitch Night, specifically Mass Challenge Texas, Dia de los Muertos, and UTEP Blackstone Pitch Competitions.	Connections to leading experts and mentors, possible cash prizes, no cost Venture Mentor Service	Annual
Attracting Clients: Objectives FY 2022-2024	Measurable Outcomes of Success	Timeline
Provide incubator service and co-working space, infrastructure, operational support services, customized startup coaching & mentoring for startups and small biz, strategic support and partnerships at a low cost.	# of affiliate clients/# of new clients	Quarterly <ul style="list-style-type: none"> <li>•6 stages, up to 7 modules within each stage</li> <li>•Accelerated process</li> <li>•Global best practices</li> <li>•Innovative methodologies and tools</li> <li>•Custom collaborative workspace &amp; dashboard</li> <li>•24/7 Portal Access</li> <li>•Support mechanism for resilient business practices</li> </ul>
Offer Venture Mentor Service Modeled after the 20-year-old MIT Venture Mentoring Service program, VMS incorporated proven principles and methodologies to develop a mentoring program which delivers business guidance in a trusted environment and help turn ideas into a profitable venture.	# of qualified ventures/mentees	Annual
Ecosystem referrals to help stimulate access to support	# client referrals from partner organizations such as TechHub, Borderplex, FabLab, SBDC, Chambers, UTEP Blackstone Launchpad, AI Latinos in Society partners	Quarterly
Increase awareness of programs and services (social media and email marketing campaigns, public speaking engagements, strategic PR campaigns, word of mouth, search engines, current clients, Board of Directors) depending on budget and human capital	# of inquiries	Annual
Civic/Community Engagement: Objectives FY 2022-2024	Measurable Outcomes of Success	Timeline
Educate the general public (client and non-client) to use innovation methodologies, disciplines and tools such as design thinking, lean start up, and business model design across all industries and phases of the innovation process.	# of general public educated (i.e. attendance rates of events and workshops)	Quarterly
Educate/Incubate women and minority founders	# of women/minorities trained/educated	Quarterly
Educate the general public (client and non-client) with basic legal information for startups and entrepreneurs	#of general public educated (i.e. attendance rates of events and workshops)	Quarterly
Offer Venture Mentor Service Modeled after the 20-year-old MIT Venture Mentoring Service program, VMS incorporated proven principles and methodologies to develop a mentoring program which delivers business guidance in a trusted environment and help turn ideas into a profitable venture	# of mentees	Annual
Joint marketing efforts *partners available upon request	# of events with peer ecosystem organizations	Quarterly
Other focus areas not typically in our agreement: Objectives FY 2022-2024	Measurable Outcomes of Success	Timeline
Prepare UTEP Blackstone Launchpad for Grand Pitch Competition through workshops on market research, minimal viable product, validation, customer discovery, and pitch practice.	#of enrollees and innovators trained	Per semester
Increase performance for women and minorities	# of women/minorities trained/educated/startup launched	Annual
The Bridge Accelerator	# of ventures	Annual
Provide UTEP and EPCC students with internship opportunity volunteer hours	Volunteer hours accrued and #of paid and non-paid internships	Annual
Community/Regional/Global speaking engagements	# of speaking engagements	Annual
Funding source/Grant/Sponsor (we will continue to build relationships that create opportunities for new funding sources)	Timeline	
The Bridge Accelerator	Jan-22	
Sotoak Realty and Miguel Fernandez, SABA	Jan-22	
UTEP Blackstone Launchpad	Fall/Spring Semester	
SBA EDA: ARPA Economic Adjustment	Jan-22	
Rockefeller Foundation	Spring 2022	
Aspen Institute Latinos in Society	As opportunities arise	
El Paso group		
Google	Jan-22	
Bank of America	Summer 2022	
El Paso County ED	Summer/Fall 2022	
First Light FCU, United Bank, Wells Fargo	Pending	
Innovation Awards	Pending	
EP Giving Day	Fall 2022	



Legislation Text

File #: 22-314, 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, Isaura Valdez, (915) 212-4311

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

The linkage to the Strategic Plan is subsection: 2.1 - Maintain standing as one of the nation's top safest cities

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Morpho USA, Inc., dba Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

**Contract Variance:**

No contract variance

Department:	El Paso Police Department
Award to:	Morpho USA Inc., dba Idemia Identity & Security USA LLC Anaheim, CA
Initial Term:	7 years
Year 1:	\$186,299.00
Year 2:	\$195,613.95
Year 3:	\$205,394.65
Year 4:	\$215,664.38
Year 5:	\$226,447.60
Year 6:	\$237,769.98
Year 7:	\$249,658.48
Total Estimated Award:	\$1,516,848.03 (7 years)
Account No.:	239-1000-15240-P1506-522020
Funding Source:	General Fund - IT - Citywide Contracts Division
Districts(s):	All
Sole Source No.:	2022-0487

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**File #: 22-314, Version: 1**

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This is a Sole source, service contract.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Gregory K. Allen, Chief of Police, El Paso Police Department (915) 212-4305  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**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:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

**BACKGROUND / DISCUSSION:**

This contract will allow for the maintenance and support for Multi-Biometric Identification System. This service will support the Police Department in solving crime and identifying offenders based on fingerprint identifications.

**SELECTION SUMMARY:**

NA

**CONTRACT VARIANCE:**

No contract variance

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

On March 17, 2020 City Council approved the award of contract 2020-617 to Morpho USA, Inc. dba Idemia Identity & Security USA LLC for the automated fingerprint identification system (AFIS) for at total amount of \$1,300,000.00.

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$1,516,848.03

Funding Source: General Fund - IT - Citywide Contracts Division

Account: 239-1000-15240-P1506-522020

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

PRIMARY DEPARTMENT: El Paso Police Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

*for A/C Victor Zarur #1515* 

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Gregory K. Allen, Chief of Police, El Paso Police Department

**COUNCIL PROJECT FORM  
(SOLE SOURCE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

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

The linkage to the Strategic Plan is subsection: 2.1 – Maintain standing as one of the nation’s top safest cities

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Morpho USA, Inc., dba Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

**Contract Variance:**

No contract variance

Department:	El Paso Police Department
Award to:	Morpho USA Inc., dba Idemia Identity & Security USA LLC Anaheim, CA
Initial Term:	7 years
Year 1:	\$186,299.00
Year 2:	\$195,613.95
Year 3:	\$205,394.65
Year 4:	\$215,664.38
Year 5:	\$226,447.60
Year 6:	\$237,769.98
Year 7:	\$249,658.48
Total Estimated Award:	\$1,516,848.03 (7 years)
Account No.:	239-1000-15240-P1506-522020
Funding Source:	General Fund - IT - Citywide Contracts Division
Districts(s):	All
Sole Source No.:	2022-0487

This is a Sole source, service contract.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



5515 E. La Palma Ave., Suite 100  
Anaheim, CA 92807  
Tel: (714) 238-2000  
Fax: (714) 238-2049

February 8, 2022

Bruce Orndorf  
City of El Paso  
911 N. Raynor  
El Paso, TX 79903  
OrndorfBW@elpasotexas.gov  
(915) 564-7224

RE: Sole Source

Dear Bruce Orndorf,

Idemia Identity & Security USA LLC is the leader in Automated Fingerprint Identification Systems Worldwide. Our equipment is manufactured and integrated at 5515 E. La Palma Ave. Suite 100, Anaheim, CA 92807.

By nature of the proprietary hardware and software components and the overall system design, there are currently no other companies authorized to perform maintenance services on our systems.

Thank you for your continued support of IDEMIA. We look forward to a long partnership with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Mayfield".

Casey Mayfield  
Vice President  
Idemia Identity & Security USA LLC



# PURCHASING & STRATEGIC SOURCING DEPARTMENT

## SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared \_\_\_\_\_ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Casey Mayfield. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Idemia Identity & Security USA LLC
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
Maintenance and Support of AFIS Backend, Livescan, Workstation, and MorphoIDent equipment
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Casey Mayfield  
Signature

SUBSCRIBED AND SWORN to before me on this 8th day of February, 2022



Margy J. Spivey  
NOTARY PUBLIC  
Margy J. Spivey  
PRINTED NAME  
8-7-2023  
MY COMMISSION EXPIRES

COMPANY NAME: Idemia Identity & Security USA LLC

ADDRESS, CITY, STATE & ZIP CODE: 5515 E. La Palma Ave, Suite 100, Anaheim, CA 92807

PHONE: 714-238-2000 FAX NUMBER: \_\_\_\_\_

CONTACT NAME AND TITLE: Matthew Hunter - Program Manager, Casey Mayfield - Vice President, Kimberly Dullinger - Maintenance Contract Rep

WEB ADDRESS: www.idemia.com EMAIL: matthew.hunter@us.idemia.com or kimberly.dullinger@us.idemia.com

FEDERAL TAX ID NUMBER: 04-3320515 TEXAS SALES TAX NUMBER: \_\_\_\_\_



5515 East La Palma Ave., Suite 100  
Anaheim, CA 92807  
Tel: (714) 238-2000  
Fax: (714) 238-2049

March 4, 2022

City of El Paso  
Claudia A. Garcia  
300 N. Campbell St.  
El Paso, Texas 79901

**RE: Maintenance and Support Agreement # 004500-006**

By means of this letter, Idemia Identity & Security USA LLC ("IDEMIA" or "Seller") hereby extends **City of El Paso** Maintenance and Support Agreement for the period **April 1, 2022** through **March 31, 2029** per the Terms and Conditions below.

Please indicate acceptance of this extension by signing in the acceptance block below and returning it to my attention via Email at kimberly.dullinger@us.idemia.com at your soonest convenience.

If you have any questions or need further clarification, please contact me at (714) 632-2180 or e-mail kimberly.dullinger@idemia.com. Thank you in advance.

Thank you,

Kimberly J. Dullinger  
Maintenance Agreement Specialist  
Idemia Identity & Security USA LLC

**Accepted by:**

**IDEMIA IDENTITY & SECURITY USA LLC**

**CITY OF EL PASO**

Signed by: \_\_\_\_\_

Signed by: \_\_\_\_\_

Printed Name: Casey Mayfield

Printed Name: \_\_\_\_\_

Title: Vice President

Title: \_\_\_\_\_

Date: March 4, 2022

Date: \_\_\_\_\_

**Please note this is not an invoice. An invoice will be provided after receipt of the signed document or purchase order.**

## Description of Covered Products

**MAINTENANCE AND SUPPORT AGREEMENT NO. SA # 004500-006**

**CUSTOMER: City of El Paso**

The following table lists the Products under maintenance coverage:

Product	Description	Node	Qty
<b>AFIS Backend</b>			
WAS	<i>Workflow Administration Services (WAS) &amp; MBIS Archive Server (MAS)</i>	EPPD-WAS-P-101	1
DES	<i>Data Exchange Services (DES) includes the following interfaces:</i> <ul style="list-style-type: none"> <li>• <i>LSS – Livescan to MBISS also handles 2FID</i></li> <li>• <i>Mobile – To/From mobile devices</i></li> <li>• <i>TXDPS – Submission to TXDPS/FBI RISC</i></li> <li>• <i>MAS – Submission from MBIS to MAS</i></li> </ul>	EPPD-DES-P-101	1
WDC	<i>Windows Domain Controller</i>	EPPD-WDC-P-101	1
ADS	<i>Advanced Data Server (ADS) w/ Oracle SQL Server</i>	EPPD-DBO-P-101	1
BUS	<i>Backup Server (including Jukebox tape drives)</i>	EPPD-BUS-P-101	1
DC	<i>MBSS Data Controller</i>	EPPD-DC-P-101	1
MBSS	<i>MBSS Matcher 01</i>	EPPD-MAT-P-101	1
MBSS	<i>MBSS Matcher 02</i>	EPPD-MAT-P-102	1
Test	<i>On Prem Test System</i>	EPPD-DBO-T-101 EPPD-WAS-T-101	2
LOG	<i>MBIS Centralized Log Server/Repository</i>	EPPD-LOG-P-101	1
VMC	<i>VMWare VM Center (Centralized VM Controller)</i>	EPPD-VMC-P-101	1
VMH	<i>Physical VM Host Servers - HP DL360 (VMWare ESXi VM Hosts)</i>	EPPDESXiSrv01 EPPDESXiSrv02 EPPDESXiSrv03	3
SAN	<i>Storage Area Network Device - HPE MSA SAN 2050 - Oracle Database &amp; VM Disks (VMDKs) Physical Storage</i>	EPPD-SAN-P-101	1
FSW	<i>Fiber Switch – Provided backend MBIS interconnectivity – HPE ES – 12F</i>	EPPD-FSW-P-101	1
<b>Other</b>			
Workstations	<i>MorphoBIS Multimodal Expert Workstation</i>	EPPDLEW001 EPPDLEW002 EPPDLEW003 EPPDLEW004 EPPDLEW005 EPPDLEW006 EPPDLEW007 EPPDLEW008	8

LiveScans	<i>MBIS connected TPE Livescans</i>	EPPDLSCRA01 EPPDLSHQ01 EPPDLSJPD01 EPPDLSMVA01 EPPDLSMVJ01 EPPDLSNEA01 EPPDLSNEJ01 EPPDLSNEWI EPPDLSPHA01 EPPDLSWSJ01 EPPDLSPHJ01 EPPDLSWSA01 EPPDLSHQ02 (Under Warranty) EPPDLSHQ03 (Under Warranty)	14
S&F	<i>Store &amp; Forward</i>	EPPDAWSJPD	1
Printer	<i>Color Printer</i>	EPPDPRT01	1
Printer	<i>Printer MS810 w/ 2 extra trays</i>	EPPDPRT02	1
Mobile ID System	<i>MorphoDent Solution*</i>	N/A	N/A

*\*All MorphoDent units purchased solely by the El Paso Police Department will automatically fall under any maintenance support agreement in place between the two parties, and shall cause no change to the Annual Support Fee.*

## Support Plan Options and Pricing Worksheet

Maintenance and Support Agreement # 004500-006

Date March 4, 2022

New Term Effective Start April 1, 2022

End March 31, 2029

### STANDARD SUPPORT

**Advantage – Software Support**

- ◆ Telephone Response: 2 Hour                      ◆ Standard Releases & Updates                      ◆ Supplemental Releases & Updates
- ◆ Remote Dial-In Analysis                              ◆ Software Customer Alert Bulletins                      ◆ 8 a.m. – 5 p.m. Monday to Friday PPM
- ◆ Unlimited Telephone Support                      ◆ Automatic Call Escalation

**On-Site Hardware Support**

- ◆ 8 a.m. – 5 p.m. Monday to Friday PPM                      ◆ Defective Parts Replacement                      ◆ Hardware Service Reporting
- ◆ Next Day PPM On-site Response                      ◆ Escalation Support                      ◆ Product Repair
- ◆ Hardware Vendor Liaison                      ◆ Hardware Customer Alert Bulletins                      ◆ Equipment Inventory Detail Management

**Parts Support**

- ◆ Parts Ordered & Shipped Next Business Day                      ◆ Parts Customer Alert Bulletins
- \* If customer is providing their own on-site hardware support, the following applies:*
- Customer Orders & Replaces Parts                      ➢ Telephone Technical Support for Parts Replacement Available

### ADDITIONAL OPTIONS

**Users Conference Attendance (\$3,950 per Attendee)**    Year: 2022-2028    Number Attendees Requested 2 Per Year

**Included in Registration Fee:**

- Conference Registration
- Attendee package upon arrival
- All sessions and training listed on the agenda
- Social events listed on the agenda
- Meals and breaks listed on the agenda
- Hotel room from Monday arrival through Friday morning checkout
- Round trip air travel
- Ground transportation between the conference airport and the conference hotel

**Not included in Registration Fee:**

- Transportation fee to/from your home town airport
- Airport parking fees in your home town
- Meals during your travel
- Meals outside those included in the conference
- Airline baggage fees
- In-room expenses such as pay-per-view, mini-bar, room service, and any other hotel incidentals
- Extra days before or after the conference

**Included**

	Year 1: 22-23 Term	\$186,299.00
	Option Year 2: 23-24 Term	\$195,613.95
	Option Year 3: 24-25 Term	\$205,394.65
	Option Year 4: 25-26 Term	\$215,664.38
	Option Year 5: 26-27 Term	\$226,447.60
	Option Year 6: 27-28 Term	\$237,769.98
	Option Year 7: 28-29 Term	\$249,658.48
	<b>GRAND TOTAL</b>	<b>\$1,516,848.03</b>
	<small>*Exclusive of taxes if applicable</small>	

## Maintenance and Support Agreement - Number SA # 004500-006

This Support Plan is a Statement of Work that provides a description of the support to be performed.

1. **Services Provided.** The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time, Target Resolution Time, and Resolution Procedure for reported errors. Because of the urgency involved, Response Times for Severity Levels 1 and 2 are based upon voice contact by Customer, as opposed to written contact by facsimile or letter. Resolution Procedures are based upon Seller's procedures for Service as described below.

Severity Level	Definition	Response Time	Target Resolution Time
1	Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning.	Telephone conference within 1 hour of initial voice notification	Resolve within 24 hours of initial notification
2	Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems.	Telephone conference within 3 Standard Business Hours of initial voice notification	Resolve within 7 Standard Business Days of initial notification
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.	Telephone conference within 6 Standard Business Hours of initial notification	Resolve within 180 days in a Seller-determined Patch or Release.
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.	Telephone conference within 2 Standard Business Days of initial notification	At Seller's discretion, may be in a future Release.
5	Customer request for an enhancement to System functionality is the responsibility of Seller's Product Management.	Determined by Seller's Product Management.	If accepted by Seller's Product Management, a release date will be provided with a fee schedule, when appropriate.

1.1 **Reporting a Problem.** Customer shall assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call intake center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.

1.2 **Seller Response.** Seller will use best efforts to provide Customer with a resolution within the appropriate Target Resolution Time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Target Resolution Times may not apply if an error cannot be reproduced on a regular basis on either Seller's or Customer's Systems. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within the specified Target Resolution Time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software. The Target Resolution Time shall not commence until such time as the verification procedures are completed.

1.3 **Error Correction Status Report.** Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.

2. **Customer Responsibility.**

2.1 Customer is responsible for running any installed anti-virus software.

2.2 **Operating System ("OS") Upgrades.** Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer should contact Seller to verify that a given OS upgrade is appropriate.

3. **Seller Responsibility.**

3.1 **Anti-virus software.** At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.

3.2 **Customer Notifications.** Seller shall provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.

3.3 **Account Reviews.** Seller shall provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.

3.4 **Remote Installation.** At Customer's request, Seller will provide remote installation advice or assistance for Updates.

- 3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases
- 3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller shall decide whether on-site correction of any Residual Error is required and will take appropriate action.
4. Compliance to Local, County, State and/or Federal Mandated Changes. *(Applies to Software and interfaces to those Products)* Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, ECARS, NCIC and state interfaces are not part of the covered Services.  
*(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance.)*
5. On-site Product Technical Support Services. Seller shall furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.
- 5.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.
- 5.2 At Customer's request, Seller shall provide continuous effort to repair a reported problem beyond the PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller shall extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support shall be invoiced on a time and material basis at Seller's then current rates for professional services.

## Terms & Conditions

Idemia Identity & Security USA LLC, ("IDEMIA" or "Seller") having a principal place of business at 5515 East La Palma Avenue, Suite 100, Anaheim, CA 92807, and City of El Paso ("Customer"), having a place of business at 300 N. Campbell St., El Paso, TX 79903, enter into this Maintenance and Support Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the maintenance and support services as described below and in the attached exhibits. Seller and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

### Section 1. EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit-A "Description of Covered Products"

Exhibit-B "Support Plan"

Exhibit-C "Support Plan Options and Pricing Worksheet"

### Section 2. DEFINITIONS

"Equipment" means the physical hardware purchased by Customer from Seller pursuant to a separate System Agreement, Products Agreement, or other form of agreement.

"IDEMIA" means Idemia Identity & Security USA LLC.

"IDEMIA Software" means Software that IDEMIA or Seller owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-IDEMIA Software" means Software that a party other than IDEMIA or Seller owns.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Technical Support Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days, and times during the days, that maintenance and support services will be provided under this Agreement. The PPM selected by Customer is indicated in the Support Plan Options and Pricing Worksheet.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by Seller.

"Releases" means an Update or Upgrade to the IDEMIA Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of IDEMIA Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the IDEMIA Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of IDEMIA Software that contains product enhancements and improvements, such as new databases, modifications to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as underlined: "1.2.3". A "Product Release" is defined as a major

release of IDEMIA Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, IDEMIA's opinion will prevail, provided that IDEMIA treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those maintenance and support services described in the Support Plan and provided under this Agreement.

"Software" means the IDEMIA Software and Non-IDEMIA Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Standard Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, excluding established IDEMIA holidays.

"Standard Business Hour" means a sixty (60) minute period of time within a Standard Business Day(s).

"Start Date" means the date upon which this Agreement begins. The Start Date is specified in the Support Plan Options and Pricing Worksheet.

"System" means the Products and services provided by Seller as a system as more fully described in the Technical and Implementation Documents attached as exhibits to a System Agreement between Customer and Seller (or IDEMIA).

"Technical Support Services" means the remote telephonic support provided by Seller on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up, client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

### Section 3. SCOPE AND TERM OF SERVICES

3.1. In accordance with the provisions of this Agreement and in consideration of the payment by Customer of the price for the Services, Seller will provide to Customer the Services in accordance with Customer's selections as indicated in the Support Plan Options and Pricing Worksheet, and such Services will apply only to the Products described in the Description of Covered Products.

3.2. Unless the Support Plan Options and Pricing Worksheet expressly provides to the contrary, the term of this Agreement is one (1) year, beginning on the Start Date. This annual maintenance and support period will automatically renew upon the anniversary date for successive one (1) year periods unless either party notifies the other of its intention to not renew the Agreement (in whole or part) not less than thirty (30) days before the anniversary date or this Agreement is terminated for default by a party.

3.3. This Agreement covers all copies of the specified Software listed in the Description of Covered Products that are

licensed by Seller to Customer. If the price for Services is based upon a per unit fee, such price will be calculated on the total number of units of the Software that are licensed to Customer as of the beginning of the annual maintenance and support period. If, during an annual maintenance and support period, Customer acquires additional units of the Software that is covered by this Agreement, the price for maintenance and support services for those additional units will be calculated and added to the total price either (1) if and when the annual maintenance and support period is renewed or (2) immediately when Customer acquires the additional units, as IDEMIA determines. Seller may adjust the price of the maintenance and support services effective as of a renewal if it provides to Customer notice of the price adjustment at least forty-five (45) days before the expiration of the annual maintenance and support period. If Customer notifies Seller of its intention not to renew this Agreement as permitted by Section 3.2 and later wishes to reinstate this Agreement, it may do so with Seller's consent provided (a) Customer pays to Seller the amount that it would have paid if Customer had kept this Agreement current, (b) Customer ensures that all applicable Equipment is in good operating conditions at the time of reinstatement, and (c) all copies of the specified Software listed in the Description of Covered Products are covered.

3.4. When Seller performs Services at the location of installed Products, Customer agrees to provide to Seller, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. Customer will provide all information pertaining to the hardware and software with which the Products are interfacing to enable Seller to perform its obligations under this Agreement.

3.5. All Customer requests for covered Services will be made initially with the call intake center identified in the Support Plan Options and Pricing Worksheet.

3.6. Seller will provide to Customer Technical Support Services and Releases as follows:

3.6.1. Seller will provide unlimited Technical Support Services and correction of Residual Errors during the PPM in accordance with the exhibits. The level of Technical Support depends upon the Customer's selection as indicated in the Support Plan Options and Pricing Worksheet. Any Technical Support Services that are performed by Seller outside the contracted PPM and any Residual Error corrections that are outside the scope shall be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.6.2. Unless otherwise stated in paragraph 3.6.3 or if the Support Plan Options and Pricing Worksheet expressly provides to the contrary, Seller will provide to Customer without additional license fees an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or third party software provided by Seller in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.3 Seller will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by Seller in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.4. Seller does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and functions to the updated or upgraded version of the Software may be purchased at Customer's request on a time and materials basis at Seller's then current rates for professional services.

3.6.5. Seller's responsibilities under this Agreement to provide Technical Support Services shall be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, Seller will provide Technical Support Services for a Severity Level 1 or 2 error concerning a Standard Release that precedes the Covered Standard Releases unless such error has been corrected by a Covered Standard Release (in which case Customer shall install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.7. The maintenance and support Services described in this Agreement are the only covered services. Unless Optional Technical Support Services are purchased, these Services specifically exclude and Seller shall not be responsible for:

3.7.1. Any service work required due to incorrect or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.7.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by Seller's representatives.

3.7.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.7.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.7.5. Accessories, custom or Special Products; modified units; or modified Software.

3.7.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by Seller or the failure of the System due to extraordinary uses.

3.7.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by Seller.

3.7.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.7.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.7.10 Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.7.11 Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.7.12. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.7.13. Third-party software unless specifically listed on the Description of Covered Products.

3.7.14. Support of any interface(s) beyond Seller-provided port or cable, or any services that are necessary because third party hardware, software or supplies fail to conform to the specifications concerning the Products.

3.7.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

3.7.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.8. The Customer hereby agrees to:

3.8.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.8.2. Provide standard industry precautions (e.g. back-up files) ensuring database security, per Seller's recommended backup procedures.

3.8.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.8.4. Appoint one or more qualified employees to perform System Administration duties, including acting as a primary point of contact to Seller's Customer Support organization for reporting and verifying problems, and performing System backup. At least one member of the System Administrators group should have completed Seller's End-User training and System Administrator training (if available). The combined skills of this System Administrators group should include proficiency with: the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and stand alone personal computer hardware. The System Administrator shall follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level according to definitions provided herein. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the System Administrator before reporting them to Seller. Customer shall assist Seller in determining that errors are not the product of the operation of an external system, data links between system, or network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact Seller's Customer Support Center by telephone, but the System Administrator must follow up with Seller's Customer Support as soon as practical thereafter.

3.9. In performing repairs under this Agreement, Seller may use parts that are not newly manufactured but which are warranted to be equivalent to new in performance. Parts replaced by Seller shall become Seller's property.

3.10 Customer shall permit and cooperate with Seller so that Seller may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. If the results of any such audit indicate that price has been understated, Seller may correct the price and immediately invoice Customer for the difference (as well as any unpaid but owing license fees). Seller will limit the number of audits to no more than one (1) per year except Seller may conduct quarterly audits if a prior audit indicated the price had been understated.

3.11. If Customer replaces, upgrades, or modifies equipment, or replaces, upgrades, or modifies hardware or software that interfaces with the covered Products, Seller will have the right to adjust the price for the Services to the appropriate current price for the new configuration.

3.12 Customer shall agree not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the Seller.

#### **Section 4. RIGHT TO SUBCONTRACT AND ASSIGN**

Seller may assign its rights and obligations under this Agreement and may subcontract any portion of Seller's performance called for by this Agreement.

#### **Section 5. PRICING, PAYMENT AND TERMS**

5.1 Prices in United States dollars are shown in the Support Plan Options and Pricing Worksheet and are subject to a 5% escalation fee for each subsequent support year. Unless this exhibit expressly provides to the contrary, the price is payable annually in advance. Seller will provide to Customer an invoice, and Customer will make payments to Seller within twenty (20) days after the date of each invoice. During the term

of this Agreement, Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a United States financial institution.

5.2. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate.

5.3 If Customer requests, Seller may provide services outside the scope of this Agreement or after the termination or expiration of this Agreement and Customer agrees to pay for those services. These terms and conditions and the prices in effect at the time such services are rendered will apply to those services.

5.4 Price(s) are exclusive of any taxes, duties, export or customs fees, including Value Added Tax or any other similar assessments imposed upon Seller. If such charges are imposed upon Seller, Customer shall reimburse Seller upon receipt of proper documentation of such assessments.

#### **Section 6. LIMITATION OF LIABILITY**

**This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's (including any of its affiliated companies) total liability arising from this Agreement will be limited to the direct damages recoverable under law, but not to exceed the price of the maintenance and support services being provided for one (1) year under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER (INCLUDING ANY OF ITS AFFILIATED COMPANIES) WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE SYSTEM, EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.**

#### **Section 7. DEFAULT/TERMINATION**

7.1. If IDEMIA breaches a material obligation under this Agreement (unless Customer or a Force Majeure causes such failure of performance), Customer may consider IDEMIA to be in default. If Customer asserts a default, it will give IDEMIA written and detailed notice of the default. IDEMIA will have thirty (30) days thereafter either to dispute the assertion or provide a written plan to cure the default that is acceptable to Customer. If IDEMIA provides a cure plan, it will begin implementing the cure plan immediately after receipt of Customer's approval of the plan.

7.2. If Customer breaches a material obligation under this Agreement (unless IDEMIA or a Force Majeure causes such failure of performance); if Customer breaches a material obligation under the Software License Agreement that governs the Software covered by this Agreement; or if Customer fails to pay any amount when due under this Agreement, indicates that it is unable to pay any amount when due, indicates it is unable to pay its debts generally as they become due, files a voluntary petition under bankruptcy law, or fails to have dismissed within ninety (90) days any involuntary petition under bankruptcy law, IDEMIA may consider Customer to be in default. If IDEMIA asserts a default, it will give Customer written and detailed notice of the default and Customer will have thirty (30) days thereafter to (i) dispute the assertion, (ii) cure any monetary default (including interest), or (iii) provide a written plan to cure the default that is acceptable to IDEMIA. If Customer provides a cure plan, it will begin implementing the cure plan immediately after receipt of IDEMIA's approval of the plan.

7.3. If a defaulting party fails to cure the default as provided above in Sections 7.1 or 7.2, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement and may pursue any legal or equitable remedies available to it subject to the provisions of Section 6 above.

7.4. Upon the expiration or earlier termination of this Agreement, Customer and Seller shall immediately deliver to the other Party, as the disclosing Party, all Confidential Information of the other, including all copies thereof, which the other Party previously provided to it in furtherance of this Agreement. Confidential Information shall include: (a) proprietary materials and information regarding technical plans; (b) any and all other information, of whatever type and in whatever medium including data, developments, trade secrets and improvements, that is disclosed by Seller to Customer in connection with this Agreement; (c) all geographic information system, address, telephone, or like records and data provided by Customer to Seller in connection with this Agreement that is required by law to be held confidential.

**Section 8. GENERAL TERMS AND CONDITIONS**

8.1. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service), or by facsimile with correct answerback received, and shall be effective upon receipt

**Customer:** \_\_\_\_\_ City of El Paso  
Attn: \_\_\_\_\_ Claudia A. Garcia  
\_\_\_\_\_ 300 N. Campbell St.  
\_\_\_\_\_ El Paso, TX 79903  
\_\_\_\_\_

**Seller:** \_\_\_\_\_ Idemia Identity & Security USA LLC  
Attn: \_\_\_\_\_ Maintenance Agreements  
\_\_\_\_\_ 5515 East La Palma Avenue, Suite 100  
\_\_\_\_\_ Anaheim, CA 92807  
\_\_\_\_\_ Phone: (714)238-2000 Fax: (714)632-2158

8.2. Neither party will be liable for its non-performance or delayed performance if caused by an event, circumstance, or act of a third party that is beyond such party's reasonable control.

8.3. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

8.4. Customer may not assign any of its rights under this Agreement without IDEMIA's prior written consent.

8.5. This Agreement, including the exhibits, constitutes the entire agreement of the parties regarding the covered maintenance and support services and supersedes all prior and concurrent agreements and understandings, whether written or oral, related to the services performed. Neither this Agreement nor the Exhibits may not be altered, amended, or modified except by a written agreement signed by authorized representatives of both parties. Customer agrees to reference this Agreement on all purchase orders issued in furtherance of this Agreement. Neither party will be bound by any terms contained in Customer's purchase orders, acknowledgements, or other writings (even if attached to this Agreement).

8.6. This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Products are shipped if Licensee is a sovereign government entity or the laws of the State of Delaware if Licensee is not a sovereign government entity.

**Section 9. CERTIFICATION DISCLAIMER**

Seller specifically disclaims all certifications regarding the manner in which Seller conducts its business or performs its obligations under this Agreement, unless such certifications have been expressly accepted and signed by an authorized signatory of Seller.

**Section 10. COMPLIANCE WITH APPLICABLE LAWS**

The Parties shall at all times comply with all applicable regulations, licenses and orders of their respective countries relating to or in any way affecting this Agreement and the performance by the Parties of this Agreement. Each Party, at its own expense, shall obtain any approval or permit required in the performance of its obligations. Neither Seller nor any of its employees is an agent or representative of Customer.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed as of the day and year first written above.



Legislation Text

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File #: 22-319, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Police, Chief Gregory K. Allen, (915) 212-4302  
Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1181

**AGENDA LANGUAGE:**

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

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

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Crime Gun Intelligence Technologies, LLC, the sole distributor for the 2022-0505 Gunshot Detection for a term of one (1) year for an estimated amount of \$57,608.40. The award of the contract for the gunshot detection system is an asset to the El Paso Police Department as it provides real time information, which will assist the department in better addressing crime.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: A decrease of \$5,391.58 for the initial term, which represents an 8.56% decrease due to a reduction in cost for training which is no longer necessary.

Department:	Police Department
Award to:	Crime Gun Intelligence Technologies, LLC Tupelo, MS
Total Estimated Award:	\$ 57,608.40
Account No.:	321-2680-21210-580090-P2104-GT2121SNP
Funding Source:	Grant Funded
District(s):	All
Sole Source No.:	2022-0505

This is a sole source contract.

The Purchasing and Strategic Sourcing and Police Departments recommend award as indicated to Crime Gun Intelligence Technologies, LLC, the sole distributor for Gunshot Detection Sensors.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Chief Gregory K. Allen, El Paso Police Department (915) 212-4300  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915)  
212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency

**SUBJECT:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Crime Gun Intelligence Technologies, LLC, the sole distributor for the 2022-0505 Gunshot Detection for a term of one (1) year for an estimated amount of \$57,608.40. The award of the contract for the gunshot detection system is an asset to the El Paso Police Department as it provides real time information, which will assist the department in better addressing crime.

**BACKGROUND / DISCUSSION:**

The El Paso Police Department would like to purchase additional gunshot detection sensors to support the existing deployed sensors that are currently within our community. The current Gun Shot Detection system has proven early on to be an asset and has shown immediate success. Within the first sixteen days of going "live" our Gun Shot Detection system was proven successful. The FUSION/WATCH received an alert tone from the system. Officers were immediately dispatched to the area and officers were able to detain four suspect(s) who were found to be in possession of firearms. By further enhancing our current Gunshot technology, it will further improve the El Paso Police Departments response capabilities.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: A decrease of \$5,391.58 for the initial term, which represents an 8.56% decrease due to a reduction in cost for training which is no longer necessary.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$57,608.40  
Funding Source: Grant Funded GT2122SNP  
Account: 321-2680-21210-580090-P2104

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? \_\_\_ YES \_\_\_ NO

PRIMARY DEPARTMENT: Police Department  
SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

*[Signature]*  
*A/C Victor Zuruc #1515* *March 11, 2022*  
for Chief Gregory K. Allen -- El Paso Police Department

**COUNCIL PROJECT FORM  
(SOLE SOURCE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

**STRATEGIC GOAL NO.:** 2 - Set the Standard for a Safe and Secure City

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

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Crime Gun Intelligence Technologies, LLC, the sole distributor for the 2022-0505 Gunshot Detection for a term of one (1) year for an estimated amount of \$57,608.40. The award of the contract for the gunshot detection system is an asset to the El Paso Police Department as it provides real time information, which will assist the department in better addressing crime.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: A decrease of \$5,391.58 for the initial term, which represents an 8.56% decrease due to a reduction in cost for training which is no longer necessary.

Department:	Police Department
Award to:	Crime Gun Intelligence Technologies, LLC Tupelo, MS
Total Estimated Award:	\$ 57,608.40
Account No.:	321-2680-21210-580090-P2104-GT2121SNP
Funding Source:	Grant Funded
District(s):	All
Sole Source No.:	2022-0505

This is a sole source contract.

The Purchasing & Strategic Sourcing and Police Departments recommend award as indicated to Crime Gun Intelligence Technologies, LLC, the sole distributor for Gunshot Detection Sensors.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



**PURCHASING & STRATEGIC SOURCING DEPARTMENT**

**SOLE SOURCE AFFIDAVIT**

THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

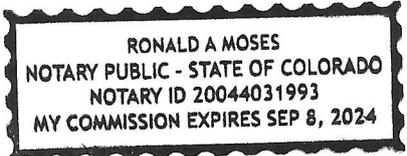
Before me, the undersigned official, on this day, personally appeared \_\_\_\_\_ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

- 1. My name is Timothy Kelly. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
- 2. I am an authorized representative of the following company or firm: Crime Gun Intelligence Tech
- 3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
CGIT LEZ SENSORS

- 4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
- 5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
- 6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Tim Kelly  
Signature

SUBSCRIBED AND SWORN to before me on this 20th day of FEBRUARY 2022



Ronald A. Moses  
NOTARY PUBLIC  
RONALD A. MOSES  
PRINTED NAME  
9/8/2024  
MY COMMISSION EXPIRES

COMPANY NAME: Crime Gun Intelligence Technologies "CGIT"  
 ADDRESS, CITY, STATE & ZIP CODE: 545 Commerce Street, Tupelo, Ms 38804  
 PHONE: 662-641-2066 FAX NUMBER: \_\_\_\_\_  
 CONTACT NAME AND TITLE: Tim Kelly, President  
 WEB ADDRESS: www.crimeguntech.com EMAIL: TKelly@crimeguntech.com  
 FEDERAL TAX ID NUMBER: 83-3323720 TEXAS SALES TAX NUMBER: \_\_\_\_\_



February 1, 2022

To: Jennifer McCloud  
Procurement Analyst  
City of El Paso, Purchasing & Strategic Sourcing Department

FireFLY LE2 Sensors are developed by Invariant Corporation and Hyperion Technology Group, Inc. Crime Gun Intelligence Technologies, LLC is a sole source distributor for FireFLY sensors to law enforcement.

Sincerely,

A handwritten signature in black ink that reads "David R. Anderson".

David R. Anderson  
President  
Invariant Corporation



Legislation Text

File #: 22-320, 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 Mario D'Agostino, (915) 485-5605

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

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

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing and Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Siddons-Martin Emergency Group, LLC., the sole distributor provider for Pierce Proprietary Parts Repair and Maintenance Training Service for a term of three (3) years for an estimated amount of \$864,000.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the purchase of Pierce Proprietary Parts Repair and Maintenance Training Service for fire apparatus.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$144,000.00 for the three (3) year term, which represents a 20.00% increase due to an increase in Fire Department equipment requiring maintenance.

Department:	Fire
Vendor:	Siddons-Martin Emergency Group, LLC. Houston, TX
Item(s):	All
Initial Term:	3 years
Annual Estimated Award:	\$288,000.00
Initial Term Estimated Award:	\$864,000.00 (3 years)
Account No.:	531180 - 322 - 1000 - 22090 - P2216
Funding Source:	General Fund
District(s):	All

This is a Sole Source contract.

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

**AGENDA DATE:** March 29, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**  
Chief Mario D'Agostino, Fire Department, (915) 485-5605  
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 2 – Set the Standard for a Safe and Secure City

**SUBGOAL:** 2.3 – Increase public safety operational efficiency

**SUBJECT:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Siddons-Martin Emergency Group, LLC., the sole distributor provider for Pierce Proprietary Parts Repair and Maintenance Training Service for a term of three (3) years for an estimated amount of \$864,000.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the purchase of Pierce proprietary parts repair and maintenance training service for fire apparatus.

**BACKGROUND / DISCUSSION:**

Siddons-Martin Emergency Group, LLC has been granted exclusive sales and service representation for Pierce Manufacturing, Inc., for the territory of the following; Louisiana, New Mexico, and Texas. The exclusive representative for Pierce, Siddons-Martin is afforded all rights and privilege, and held to the contractual obligation contained in the current Dealership Agreement executed under Siddons-Martin Emergency Group LLC.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

The difference based in comparison to the previous contract is as follows: An increase of \$144,000.00 for the three (3) year term, which represents a 20.00% increase due to an increase in Fire Department equipment requiring Maintenance.

**PROTEST**

No protest received for this requirement.

**PRIOR COUNCIL ACTION:**

Not Applicable

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$864,000.00

Funding Source: General Fund

Account: 531180 - 322 - 1000 - 22090 - P2216

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES \_\_\_ NO**

2022-0242 Pierce Proprietary Parts and Maintenance Training

Revised 2/23/2022-V2 – Previous Versions Obsolete

**PRIMARY DEPARTMENT:** Fire  
**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

---

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



---

Chief Mario D'Agostino, Fire Department

**COUNCIL PROJECT FORM  
(SOLE SOURCE)**

\*\*\*\*\***POSTING LANGUAGE BELOW**\*\*\*\*\*

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

**STRATEGIC GOAL: No. 2 – Set the Standard for a Safe and Secure City**

The linkage to the Strategic Plan is subsection 2.3 – Increase public safety operational efficiency

**Award Summary:**

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order(s) to Siddons-Martin Emergency Group, LLC., the sole distributor provider for Pierce Proprietary Parts Repair and Maintenance Training Service for a term of three (3) years for an estimated amount of \$864,000.00, with the stipulation that the vendor provides an updated sole source letter and affidavit each year. The award of this contract will allow the purchase of Pierce proprietary parts repair and maintenance training service for fire apparatus.

**Contract Variance:**

The difference based in comparison to the previous contract is as follows: An increase of \$144,000.00 for the three (3) year term, which represents a 20.00% increase due to an increase in Fire Department equipment requiring Maintenance.

Department:	Fire
Vendor:	Siddons-Martin Emergency Group, LLC. Houston, TX
Item(s):	All
Initial Term:	3 years
Annual Estimated Award:	\$288,000.00
Initial Term Estimated Award:	\$864,000.00 (3 years)
Account No.:	531180 – 322 – 1000 – 22090 – P2216
Funding Source:	General Fund
District(s):	All

This is a Sole Source contract.

\*\*\*\*\***ADDITIONAL INFO BELOW**\*\*\*\*\*



## PURCHASING & STRATEGIC SOURCING DEPARTMENT

### SOLE SOURCE AFFIDAVIT

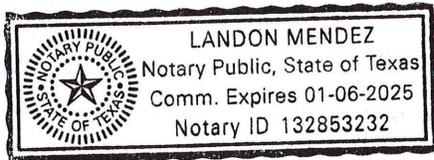
THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared \_\_\_\_\_ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Kathryn Williams. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Siddons Martin Emergency Group, LLC
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
sale, service, parts, and warranty of custom and commercial fire apparatus manufactured by Pierce
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Signature

SUBSCRIBED AND SWORN to before me on this 2 day of March



NOTARY PUBLIC

PRINTED NAME

MY COMMISSION EXPIRES

COMPANY NAME: Siddons Martin Emergency Group, LLC

ADDRESS, CITY, STATE & ZIP CODE: 1362 E. Richey Road, Houston, TX 77073

PHONE: 281-606-4933 FAX NUMBER: 281-858-2378

CONTACT NAME AND TITLE: Kathryn Williams, Vice President

WEB ADDRESS: www.siddons-martin.com EMAIL: legal@siddons-martin.com

FEDERAL TAX ID NUMBER: 27-4333590 TEXAS SALES TAX NUMBER: 12743335908

Pierce Manufacturing Inc.

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AN OSHKOSH CORPORATION COMPANY • ISO 9001 CERTIFIED

2600 AMERICAN DRIVE  
POST OFFICE BOX 2017  
APPLETON, WISCONSIN 54912-2017  
920-832-3000  
www.piercemfg.com



September 10, 2021

To whom it may concern:

Since 1917, Pierce Manufacturing Inc. ("Pierce") has provided the finest fire apparatus in the industry. The Oshkosh Airport products follows in those footsteps. The quality of our products and services are our number one priority. We demonstrate this through the personalized level of sales, service, and warranty our established dealer network provides throughout the country.

Siddons-Martin Emergency Group is the exclusive dealer for the sale, service, parts, and warranty of custom and commercial fire apparatus manufactured by Pierce in the states of Louisiana, New Mexico and Texas and recently acquired Utah and Nevada. They also are the exclusive dealer for the sale and service of Oshkosh Airport Products in the states of Texas, New Mexico, Louisiana, Oklahoma, Arizona, and southern Nevada. They are extremely qualified to provide you with the support you have come to expect from Pierce and Oshkosh family with several service & warranty facilities located throughout their territory.

***Siddons-Martin***  
***Emergency Group***  
***Protecting the Southwest***

Please consider this effective for the year September 1, 2021 thru December 31, 2022. Any additional questions can be directed to Siddons-Martin Emergency directly at toll free 800-784-6806.

Sincerely,

A handwritten signature in blue ink that reads "Kristina Spang".

Kristina Spang  
Vice President, Aftermarket Product and Support  
Pierce Manufacturing Inc.  
An Oshkosh Corporation Company \* ISO Certified



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File #: 22-344, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Purchasing and Strategic Sourcing, Claudia A. Garcia, (915) 212-1218

**AGENDA LANGUAGE:**

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

The linkage to the Strategic Plan is subsection 6.7 - Deliver effective and efficient processes to maximize value in obtaining goods and services.

Discussion and action on a Resolution approving authority to the City of El Paso's Department of Purchasing and Strategic Sourcing to accept electronic submission and receipt of bids and proposals, in accordance with the City's procurement policies and procedures, and adopting rules in accordance with Chapter 252 of the Texas Local Government Code to ensure identification, security, and confidentiality in the electronic bidding and proposal process.

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

**AGENDA DATE:** March 29, 2022

**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 6 – Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** 6.7 Deliver effective and efficient processes to maximize value in obtaining goods and services

**SUBJECT:**

Discussion and action on a resolution approving authority to the City of El Paso's Department of Purchasing & Strategic Sourcing to accept electronic submission and receipt of bids and proposals, in accordance with the City's procurement policies and procedures, and adopting rules in accordance with Chapter 252 of the Texas Local Government Code to ensure identification, security, and confidentiality in the electronic bidding and proposal process.

**BACKGROUND / DISCUSSION:**

Local Government Code 252.0415 allows municipalities to receive electronic bids and proposals; provided that the governing body approves rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time. The City will use Ion Wave Technologies, Inc. to post solicitations for bids and proposals. Suppliers will be able to receive immediate bidding opportunity notifications, review, download and respond electronically to all City bidding opportunities. Upon approval of this resolution with attached rules for electronic receipt of bids or proposals, the City would still continue to receive hard copies. Letter of certification is attached as part of the backup.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO

PRIMARY DEPARTMENT: Purchasing & Strategic Sourcing

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*Claudia A. Garcia*

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Claudia A. Garcia – Interim Director of Purchasing and Strategic Sourcing

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO, STATE OF TEXAS, APPROVING RULES FOR THE ELECTRONIC RECEIPT OF BIDS OR PROPOSALS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 252, Section 252.0415(a) of the Texas Local Government Code provides authority for a municipality to receive bids or proposal through electronic transmission; and

**WHEREAS**, prior to receiving bids or proposals through electronic transmission, the Local Government Code requires the governing body of the municipality to adopt rules ensuring the identification, security, and confidentiality of electronic bids or proposal; and

**WHEREAS**, said rules must further ensure that the electronic bids or proposal remain effectively unopened until the proper time.

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

**SECTION ONE:** The facts and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

**SECTION TWO:** The City Council of the City of El Paso, Texas, in accordance with the Texas Local Government Code 252.0415 hereby approves the rules attached hereto as Exhibit "A" for ensuring the identification, security, and confidentiality of electronic bids or proposals and further ensuring that the electronic bids or proposal remain effectively unopened until the proper time.

**SECTION THREE:** If any provision of this Resolution or application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are hereby declared to be severable.

**SECTION FOUR:** The Mayor is hereby authorized to sign this Resolution and the City Clerk to attest. This Resolution shall become effective upon its adoption.

PASSED AND APPROVED on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

CITY OF EL PASO, TEXAS

\_\_\_\_\_  
Laura Prine,  
City Clerk

By: \_\_\_\_\_  
Oscar Leaser,  
Mayor

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

*Russell Abeln*  
\_\_\_\_\_  
Russell T. Abeln  
Assistant City Attorney

*Claudia A. Garcia*  
\_\_\_\_\_  
Claudia A. Garcia, Interim Director  
Purchasing and Strategic Sourcing

## **EXHIBIT A**

### **CITY OF EL PASO RULES FOR THE ELECTRONIC RECEIPT OF BIDS OR PROPOSALS**

Pursuant to the Texas Local Government Code, Section 252.0415 “Procedures for Electronic Bids or Proposals”, the City of El Paso adopts the following rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

1. All users of the system shall be assigned a unique user name and password.
2. Access to the system by authorized users shall be logged and tracked for audit purposes in order to record when any user has accessed the system and what data the user accessed.
3. Transmittal of data through the internet shall be encrypted. All sensitive data (sealed bid responses, passwords, etc.) within the system shall be encrypted at the database level.
4. All bids or proposals submitted shall be protected using a time-sensitive mechanism that allows the data to be decrypted only after the due date and time.
5. The system shall be synchronized to an atomic clock (U.S. Nuclear Time) to ensure exact recording of the due date and time, and the receipt of date and time, of each submission.
6. The contents of supplier response submissions are not available during the bidding process.
7. Only Purchasing staff, with an authorized user account and password, and only on or after the established due date and time, can open the electronic bids or proposals. The system shall provide an audit trail of who unsealed the proposals and a corresponding time stamp.
8. The City of El Paso will determine when and what information is released to the public pursuant to Texas law.

The Purchasing & Strategic Sourcing Director is responsible for ensuring that any system used for the electronic receipt of bids or proposals with an estimated value of more than \$50,000, or as defined by current State law, complies with the aforementioned rules and all other statutory requirements for competitive bids or proposals.



3653 South Avenue • Springfield, MO 65807

April 21, 2020

City of El Paso  
300 North Campbell  
El Paso, TX 79901

Dear Mr. Bruce Collins, Purchasing Director,

Ion Wave Technologies Inc. certifies that our electronic bidding application, IWT Sourcing, complies with Section 252.0415 of the Local Government Code by providing the following security steps and/or features:

- All electronic sealed bid data is stored in encrypted database fields while the solicitation is still available for supplier responses.
- Identity authentication: Each buyer and supplier user is required to use a unique user account and password. Further, the City may request additional identity information within an electronic bid event.
- The system provides options for dictating password requirements/complexity for City staff. The system also requires complex passwords for all supplier users.
- All data transmitted between end users and the system is encrypted using standard Secure Sockets Layer technology.
- Passwords are stored in an encrypted format using a one-way hash. This ensures that passwords cannot be recovered by system administrators or by the system itself.
- User sessions are validated to prevent hijacking and expire after a period of inactivity.
- Key buyer and supplier activities are audited, such as supplier response submission or unsealing of solicitation data.
- The application will not allow for late bid submissions by suppliers after the closing date and time. System time is synchronized with U.S. Nuclear Time.

Two primary levels of security exist to ensure bidders can only access their own electronic bid data:

First, all electronic sealed bid data is encrypted at the database level utilizing a security key uniquely generated for each bidding event.

Second, the application includes security checks on every page that displays bid data to ensure that only the vendor who entered the electronic sealed bid data can view their own electronic sealed bid data. All other users are denied access to electronic sealed bid data by these security checks.

As a result of the above mentioned security measures, electronic sealed bid information is sealed in an electronic "lockbox" and unavailable to all City users until after a bid's due date and time passes. Electronic bid responses are time-stamped upon submission by the supplier. Time-stamps are reported in the audit logs available to both suppliers and City staff. Authorized City users, as established by system roles, may "Unseal" a bid at the appropriate time to begin bid evaluation and review.

IWT's systems are configured to perform multiple backups throughout the day, both within our hosting center as well as to a secure offsite location. These offsite backups are encrypted prior to transfer. IWT performs full transaction logging and backup, allowing for recovery to a specific point in time as needed.

Currently, IWT does not enforce any data retention limits on our customers. For customers with an active license agreement, all system generated procurement data is retained and available on demand. Customers also have the ability to download copies of documents loaded into or generated by the application. Clients have the right to retain a copy of all downloaded documents in perpetuity.

Sincerely,

A handwritten signature in black ink that reads "Darren C. Henderson".

Darren C. Henderson  
Chief Executive Officer



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File #: 22-324, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Capital Improvement Department, Sam Rodriguez, (915) 212-1845

**AGENDA LANGUAGE:**

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

Discussion action that the City Council approves a change order in the amount of \$3,310,893.80 to ZTEX Construction, Inc. for Contract Number 2019-882 Street Resurfacing 2019. This secures 2019 prices.

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

**AGENDA DATE:** March 15, 2022  
**PUBLIC HEARING DATE:** Not Applicable

**CONTACT PERSON(S) NAME AND PHONE NUMBER:**

Sam Rodriguez, Chief Operations and Transportation Officer, Aviation Director  
and City Engineer, (915) 212-1845  
Richard Bristol, Director, Streets and Maintenance (915) 212-7015

**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:**

That the City Council approves a change order in the amount of \$3,310,893.80 to ZTEX Construction, Inc. for Contract 2019-882 Street Resurfacing 2019.

**BACKGROUND / DISCUSSION:**

In accordance with Texas statute, any increase or decrease to the contract value exceeding \$50,000 requires approval by the governing body. This change order is to increase this contract amount by \$3,310,893.80 to provide additional capacity and increase the contract units for the execution of the Capital Street Resurfacing Program. This secures 2019 prices.

**SELECTION SUMMARY:**

N/A

**CONTRACT VARIANCE:**

N/A

**PROTEST**

N/A

**PRIOR COUNCIL ACTION:**

On July 23, 2019, City Council approved the award of contract 2019-882 Street Resurfacing 2019 to ZTEX Construction, Inc. for an estimated total amount of \$6,670,706.00 with an offer to extend the term of the contract 100% of the original contract quantities for one term of five hundred and forty-five (545) consecutive calendar days for an estimated total contact amount of \$13,341,412.00.

**AMOUNT AND SOURCE OF FUNDING:**

Amount: \$3,310,893.80

Funding Source: Street Maintenance Fund – Public Access Maintenance Contracts

Account: 532 – 2560 – 522270 – 32120

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO**

**PRIMARY DEPARTMENT:** Streets and Maintenance Department

**SECONDARY DEPARTMENT:** Purchasing & Strategic Sourcing

2019-882 Street Resurfacing 2019

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



RB

---

Sam Rodriguez, Chief Operations and Transportation Officer, Aviation Director and City Engineer

## CITY OF EL PASO CONSTRUCTION QUANTITY NOTICE

QUANTITY NOTICE NUMBER 1      DATE: February 11, 2022       SCOPE CHANGE  
 PROJECT: Street Resurfacing 2019      SOLICITATION NO. 2019-882       CONSTRUCTION CHANGE

Original Contract Amount: \$ 13,341,412.00  
 Net Change by previous Change Orders: \$ -  
 Net Change by previous Construction Quantity Notices: \$ -  
 Amount of this Construction Quantity Adjustment: \$3,310,893.80  
 New Amended Contract Amount: \$16,652,305.80  
 Change Order Percentage: 24.82%

Contract Time to Substantial Completion: 1090  
 Total days added due to Change Orders and CGN's: 0  
 Total days added for this CGN: 0  
 New Contract Time to Substantial Completion: 1090  
 Current Substantial Completion Due Date: 10/29/2022

**JUSTIFICATION FOR THE QUANTITY ADJUSTMENT:**

To provide additional contract capacity and to take advantage of contract unit rates for execution of the Capital Street Resurfacing Program,

Description	Unit	Unit Price	Quantity	Total
PROJECT MOBILIZATION	Each (EA)	\$0.00	X 0	= \$0.00
MILLING MOBILIZATION	Each (EA)	\$789.48	X 10	= \$7,894.80
MILLING	Square Foot per Inch (SF/IN)	\$0.11	X 2800000	= \$308,000.00
MILLINGS to be RETAINED BY CONTRACTOR	Cubic Yard (CY)	-\$3.25	X 10000	= -\$32,500.00
H.A.T.P. REFLECTIVE PAVEMENT EXTRUDED RIBBON	Square Foot (SF)	\$2.37	X 10000	= \$23,700.00
H.A.T.P. REFLECTIVE PAVEMENT Pre-Formed Stop bar/Crosswalk	Square Foot (SF)	\$12.43	X -1500	= -\$18,645.00
H.A.T.P. REFLECTIVE PAVEMENT Pre-Formed SYMBOL	Square Foot (SF)	\$400.00	X 60	= \$24,000.00
PAVING MOBILIZATION	Each (EA)	\$1,554.82	X 50	= \$77,741.00
HMA	Ton	\$84.10	X 32500	= \$2,733,250.00
CONCRETE MOBILIZATION	Each (EA)	\$517.78	X 50	= \$25,889.00
RELOCATION AND INSTALLATION OF STREET NAME / STOP SIGNS	Each (EA)	\$368.43	X -200	= -\$73,686.00
STEM WALL	Cubic Foot (CF)	\$16.67	X 2000	= \$33,340.00
STANDARD CURB	Linear Foot (LF)	\$17.28	X 700	= \$12,096.00
TxDOT PINNED CURB	Linear Foot (LF)	\$6.58	X -500	= -\$3,290.00
CURB AND GUTTER	Linear Foot (LF)	\$20.13	X 12000	= \$241,560.00
6" ROLLED CURB	Linear Foot (LF)	\$11.12	X -500	= -\$5,560.00

**TOTAL CONSTRUCTION QUANTITY NOTICE AMOUNT (including second page): \$3,310,893.80**

Consecutive calendar days added to completion time: 0

CONTRACTOR Ztex Construction Inc.

I, Sebastian Dago of ZTEX Construction Inc agree and accept the terms and conditions of this construction quantity notice.  
 Signature: \_\_\_\_\_ Date: 02/17/2022

CITY OF EL PASO (OWNER)

I, Sam Rodriguez, P.E. of the City of El Paso hereby authorize and direct the Contractor to proceed with additional work as described in this form.  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## CITY OF EL PASO CONSTRUCTION QUANTITY NOTICE - Pg. 2

QUANTITY NOTICE NUMBER: 1      DATE: February 11, 2022

X
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 SCOPE CHANGE  
 PROJECT: Street Resurfacing 2019      SOLICITATION NO. 2019-882      CONSTRUCTION CHANGE

Project Number 0      PURCHASE ORDER # 2200000071  
 Class 0  
 Department 532  
 Fund 2560  
 Account 522270

Description	Unit	Unit Price	Quantity	Total
4" ROLLED CURB	Linear Foot (LF)	\$17.92	X -500	= -\$8,960.00
DRIVEWAY CURB	Linear Foot (LF)	\$17.15	X 1000	= \$17,150.00
4" SIDEWALK	Square Foot (SF)	\$3.87	X 130000	= \$503,100.00
6" SIDEWALK	Square Foot (SF)	\$4.49	X -1000	= -\$4,490.00
CONCRETE TINT	Square Foot (SF)	\$1.12	X 5000	= \$5,600.00
STAMPED COLORED CONCRETE	Square Foot (SF)	\$8.20	X -5000	= -\$41,000.00
RESIDENTIAL DRIVEWAY	Square Foot (SF)	\$5.54	X -10000	= -\$55,400.00
COMMERCIAL DRIVEWAY	Square Foot (SF)	\$6.17	X -2000	= -\$12,340.00
ADA CURB CUT	Square Foot (SF)	\$6.50	X -30000	= -\$195,000.00
PREFORMED TACTILE WARNING TILE	Each (EA)	\$200.00	X 100	= \$20,000.00
FLOWABLE FILL	Cubic Yard (CY)	\$92.23	X -2000	= -\$184,460.00
APRONS FOR UTILITY VALVES	Each (EA)	\$122.23	X -1000	= -\$122,230.00
SPECIAL TRAFFIC CONTROL	Hour (HR)	\$83.34	X 1000	= \$83,340.00
APRONS FOR UTILITY MANHOLES	Each (EA)	\$222.30	X 20	= \$4,446.00
MAN HOLE RING RISER	Each (EA)	\$96.70	X -300	= -\$29,010.00
ADJUST TO GRADE UTILITY BOX	Each (EA)	\$211.20	X -50	= -\$10,560.00
ADJUST TO GRADE MANHOLE	Each (EA)	\$93.40	X -50	= -\$4,670.00
ADJUST TO GRADE MONUMENT	Each (EA)	\$52.30	X 0	= \$0.00
ADJUST TO GRADE WATER VALVE	Each (EA)	\$87.30	X -300	= -\$26,190.00
MOBILIZATION FOR BASE OPERATIONS	Each (EA)	\$517.80	X 10	= \$5,178.00
BASE REPAIR	Cubic Foot (CF)	\$1.26	X 10000	= \$12,600.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00
			X	= \$0.00

**TOTAL CONSTRUCTION QUANTITY NOTICE AMOUNT: \$3,310,893.80**

Consecutive calendar days added to completion time: 0

Project Manager recommends approval: *Antonius Benth*

Engineering Division Manager recommends approval: *Harold K...*

Financing Department approval: \_\_\_\_\_  
(If Required)





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File #: 22-283, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Environmental Services, Ellen Smyth, (915) 212-6000

**AGENDA LANGUAGE:**

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

Discussion and action that the City consents to the assignment of the rights, duties and obligations under the contract 2006-015 to Assignee, who agrees to perform all duties under the contract as the Friedman contract is transferred to Waste Connections of El Paso, LB d/b/a BARCO. The termination clause will be amended such that the contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities including its investment in real estate in the amount of \$160,000 (Termination/Transfer fee) 1) if the City exercises its right to terminate for convenience 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the project or 3) if the Contractor terminates the Contract because of default by the City.  
[POSTPONED FROM 03-15-2022]

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

**DEPARTMENT:** Environmental Services

**AGENDA DATE:** March 15, 2022

**CONTACT PERSON NAME AND PHONE NUMBER:** Ellen A. Smyth, P.E., Managing Director (915) 212-6000

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL8:** Nurture and Promote a Healthy, Sustainable Community

**SUBJECT:**

The City consents to the assignment of the rights, duties and obligations under the contract 2006-015 to Assignee, who agrees to perform all duties under the contract as the Friedman contract is transferred to Waste Connections of El Paso, LB d/b/a BARCO. The termination clause will be amended such that the contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities including its investment in real estate in the amount of \$160,000 (Termination/Transfer fee) 1) if the City exercises its right to terminate for convenience 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the project or 3) if the Contractor terminates the Contract because of default by the City.

**BACKGROUND / DISCUSSION:**

Friedman Recycling has operated the curbside recycling program for the City of El Paso since 2006, and is seeking the sale of its El Paso recycling facility and operations to Waste Connections of El Paso, LP d/b/a BARCO. Prior to the completion of the sale, the contract requires the City to consider its consent to assign the contract to BARCO.

**PRIOR COUNCIL ACTION:**

Friedman was awarded contractor bid No. 2006-015 February 14, 2006. Parties entered into the addendum for single stream curbside recycling collection and processing services June 26, 2006. Parties agreed to the first amendment to addendum February 22, 2011. A second amendment was approved on December 15, 2015.

**AMOUNT AND SOURCE OF FUNDING:**

ESD Operational Funds

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** Ellen A. Smyth P.E



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

**RESOLUTION**

**THAT** the City Manager be authorized to sign the Consent to Assignment of Contract No. 2006-015 between Friedman Recycling of El Paso, LP and the City of El Paso, therein consenting to the assignment of Friedman Recycling (“Assignor”) to Waste Connections of El Paso, LP dba BARCO El Paso (“Assignee”).

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_ 2022.

**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

*Wendi Vineyard*  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Ellen A. Smyth*  
\_\_\_\_\_  
Ellen A. Smyth, P.E. Director  
Department of Environmental Services

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

**CONSENT TO ASSIGNMENT OF  
CONTRACT/BID NO. 2006-015**

This Consent to Assignment is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of El Paso (the “City”), Friedman Recycling of El Paso, LP (“Assignor”) and Waste Connections of El Paso, LP dba BARCO El Paso (“Assignee”).

**WHEREAS**, in February of 2006 the City of El Paso (City) awarded Bid No. 2006-015 (“Contract”) with Assignor to provide recycling services to the citizens of El Paso through 2022;

**WHEREAS**, the Contract between Assignor and the City of El Paso was amended in 2008 to establish a revenue sharing, include plastics (#3-#7) to recyclables, and address other financial issues; and

**WHEREAS**, the contract between Assignor and the City of El Paso was further amended 2015 addressing revenue sharing, tipping fees and extending the contract through 2030;

**WHEREAS**, Assignor has entered into an agreement to sell its El Paso recycling business to Assignee;

**WHEREAS**, the provisions of Contract 2006-015 specific that the Contract is not assignable without the consent of the City;

**WHEREAS**, Assignor has requested that the City approve a Consent to Assignment of the Contract to Assignee;

**WHEREAS**, at the time of the sale of the El Paso recycling portion of its business, Assignor owed the City of El Paso \$532,556.56; and

**WHEREAS**, at the time of the finalization of the sale from Assignor to Assignee, the above-stated amounts owed to the City by Assignor have been paid in full; and

**WHEREAS**, it is in the best interest of the City to continue the contract entered into by the City and Assignor by assigning and transferring the Contract rights, duties and obligations to Assignee; and

**WHEREAS**, Assignee agrees to continuing the contract, as amended, with the City; and

**WHEREAS**, In addition, the parties wish to amend the contract termination provisions of the Contract;

**WHEREAS**, Assignee has agreed to be responsible for all duties and obligations under the Contract; and

**WHEREAS**, the City agrees to the assignment of all rights, duties and obligations encompassed in the Contract to Assignee with the amendments;

**NOW, THEREFORE, IT IS HEREBY AGREED as follows:**

1. The City consents to the assignment of the rights, duties and obligations under the contract to Assignee.
2. Assignee agrees to assume and perform all duties, obligations and responsibilities under the contract including the amendment of IFB Revised Section F, Subsection 9 entitled "ADDITIONAL REMEDIES" as amended by Article V, Section 5.4 of the Addendum, in particular the 2<sup>nd</sup> paragraph is restated as follows:

The Contractor shall have the option to require the City to reimburse it for any fees due and its unrecoverable investments in plant and facilities, including its investment in real estate, in the amount of \$160,000 ("Termination/Transfer fee"): 1) if the City exercises its right to terminate for convenience, which includes and is not limited to termination for material reduction in the scope of this Contract due to unavailability of funds (as provided in IFB subsection 17), 2) if the Contractor suffers a material financial hardship from the contract as a result of significant changes in the scope or nature of the recycling project by the City, or 3) if the Contractor terminates the Contract because of default by the City.

The above stated Termination/Transfer fee amount shall be reduced by \$20,000.00 per remaining year through the expiration of the existing contract term, not to include any extensions that the City and Contractor may agree to. At the expiration of the contract, the Termination/Transfer fee will be \$0.

3. All remaining terms and conditions of the contract shall remain in full force and effect.

*(Signatures begin on following page)*

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**CONSENT TO ASSIGNMENT OF  
CONTRACT/BID NO. 2006-015**

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2022

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Tomás González  
City Manager

**APPROVED AS TO FORM:**

*Wendi N. Vineyard*

\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Ellen A. Smyth*  
\_\_\_\_\_  
Ellen Smyth P.E., Managing Director  
Environmental Services

**ASSIGNOR:  
Friedman Recycling El Paso, LP**

By: \_\_\_\_\_  
Name: *Maria Friedman*  
Title: *President*

**ASSIGNEE:  
Waste Connections of El Paso, LP  
dba BARCO El Paso**

By: \_\_\_\_\_  
Name: *Ph. T. Bivard*  
Title: *Regional V.P.*



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File #: 22-288, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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

**All Districts**

Community and Human Development, Nicole Ferrini, (915) 212-1659

**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 approve an amendment to the City's 46th Year Annual Action Plan for the Community Development Block Grant Entitlement (CDBG-EN) to:

- a. Delete the Community Kitchen and Teaching Kitchen project (\$1,557,540); and
- b. Add \$1,557,540 back to available 46th Year CDBG funds.

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

**AGENDA DATE:** March 15, 2022

**PUBLIC HEARING DATE:** N/A

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Nicole Ferrini, Chief Resilience Officer, 915-212-1659

**DISTRICT(S) AFFECTED:** All Districts

**STRATEGIC GOAL:** Goal 8 – Nurture and promote a healthy, sustainable community

**SUBGOAL:** Goal 8.2 – Stabilize neighborhoods through community, housing and ADA improvements

**SUBJECT:**

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

Discussion and action on a resolution to approve an amendment to the City's 2020-2021 (46th Year) Annual Action Plan for the Community Development Block Grant Entitlement (CDBG-EN) to:

- a. Delete the Community Kitchen and Teaching Kitchen project (\$1,557,540); and
- b. Add \$1,557,540 back to available 46th Year CDBG funds.

**BACKGROUND / DISCUSSION:**

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

The item is an amendment to the Annual Action Plan for projects submitted in 2019. The amendment proposes to reallocate funds from the one remaining project awarded prior to COVID back into CDBG funds that will be made available in a formal application process this fall. An evaluation of appropriate recovery oriented entitlement policies and procedures will be conducted in partnership with the Department of Housing and Urban Development this spring, followed by a Community Needs Assessment informed by service provider stakeholders and the community as a whole to better understand the needs of the most vulnerable El Pasoans as they stand today following 2 years of crisis response. By reintroducing these dollars into the process, we are allowing all community providers to evaluate their needs as our community moves towards recovery.

**PRIOR COUNCIL ACTION:**

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

On July 7, 2020, the City Council adopted the 2020-2021, 46<sup>th</sup> Year Annual Action Plan.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

N/A

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO**

**PRIMARY DEPARTMENT:** Department of Community + Human Development (DCHD)

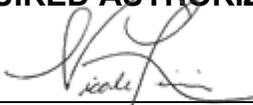
**SECONDARY DEPARTMENT:** N/A

Revised 04/09/2021

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

A handwritten signature in black ink, appearing to be 'Viale', written over a horizontal line.

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

## RESOLUTION

**WHEREAS**, on July 7, 2020, the City Council for the City of El Paso adopted the Final Action Plan for 2020-2021 and on that date Authorized the City Manager to sign and submit to the United States Department of Housing and Urban Development (HUD) the 2020-2021 Annual Action Plan to include all certifications contained therein; and

**WHEREAS**, on September 15, 2020, the City amended the Annual Action Plan to delete the CDBG Parks and Recreation Senior and Disabled Exercise Program (\$30,000) and add \$30,000 in CDBG for a Veterans Permanent Supportive Housing - Support Services and Subrecipient Administration project ("First Amendment"); and

**WHEREAS**, on April 27, 2021, the City amended the Annual Action Plan to delete the CDBG Playa Drain Trail Improvement from Whittier Dr. to Prado Dr. (\$295,800); and add \$295,800 in CDBG for a JP Shawver Park 3-Wall Handball Court project ("Second Amendment"); and

**WHEREAS**, the City Council, based on the recommendation of the Director of the Community and Human Development Department, now desires to amend the 2020-2021 Annual Action Plan to delete existing projects and add new projects; and

**WHEREAS**, on January 14, 2022, the City of El Paso posted on its website public notice and allowed a 5-day public comment period regarding the proposed amendment to the 2020-2021 Annual Action Plan and 46<sup>th</sup> Year CDBG Program Budget, and City Council has duly considered public comment if any.

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

1. That the 2020-2021 Annual Action Plan and 46<sup>th</sup> Year CDBG Program Budget is hereby amended as follows:
  - a. Delete the El Pasoans Fighting Hunger Food Bank Community Kitchen and Teaching Kitchen project (\$1,557,540);
  - b. Add \$1,557,540 in 46<sup>th</sup> Year CDBG funds for a Placeholder Project.
2. That the Department of Community and Human Development, through the Director, be authorized to make the above changes to the 2020-2021 Annual Action Plan in the United States Department of Housing and Urban Development's program system.
3. That the City Manager, or designee, be authorized to take any actions necessary to accomplish the intent of this resolution upon approval by the City Attorney's Office and Director of Community and Human Development Department.
4. Except as herein amended in the First Amendment, Second Amendment, and this Third Amendment, the 2020-2021 Annual Action Plan, 46<sup>th</sup> Year CDBG Program Budget and 46<sup>th</sup> Year ESG Program Budget remain in full force and effect.

(Signatures on the following page)

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

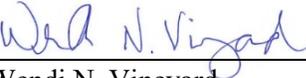
**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Wendi N. Vineyard  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Nicole Ferrini, Director  
Community and Human Development



El Paso, TX

300 N. Campbell  
El Paso, TX

Legislation Text

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**File #: 22-383, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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City Attorney's Office, Nicole Anchondo, (915) 212-0033

**AGENDA LANGUAGE:**

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Celia Sanchez, et al v. City of El Paso, Texas et al. Matter No. 17-1026-8443 (551.071)



El Paso, TX

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El Paso, TX

Legislation Text

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**File #: 22-384, Version: 1**

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

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

**AGENDA LANGUAGE:**

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Max Grossman Lawsuit v. City of El Paso; Texas Supreme Court, Case No. 21-1105 Matter No. 17-1001-171.001 (551.071)



El Paso, TX

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Legislation Text

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**File #: 22-385, Version: 1**

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

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City Attorney's Office, Frances Engelbaum, (915) 212-0033

**AGENDA LANGUAGE:**

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Application of El Paso Electric Company to Change Rates, Public Utility Commission of Texas Docket No. 52195. Matter No. 21-1008-174 (551.071)



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**File #: 22-386, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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City Attorney's Office, Frances Engelbaum, (915) 212-0033

**AGENDA LANGUAGE:**

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Avoided Costs Exception | Petition of the PUC Staff for a Good Cause Exception to §25.181(D)(3)(A) and to set the Avoided Cost of Energy Under §25.181(D)(3)(A) for 2022 Electric Utility Energy Efficiency Programs; Public Utility Commission of Texas Docket No. 52871. Matter No. 21-1008-184 (551.071)



El Paso, TX

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Legislation Text

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**File #: 22-387, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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Economic and International Development, Elizabeth Triggs, (915) 212-0095

**AGENDA LANGUAGE:**

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

Economic Incentives for a Transit-Oriented Development located in the City of El Paso. Matter No. 21-1007-2869 (551.087)



El Paso, TX

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El Paso, TX

Legislation Text

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**File #: 22-388, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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Economic and International Development, Elizabeth Triggs, (915) 212-0095

**AGENDA LANGUAGE:**

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

Economic Incentives for a Transit-Oriented Development located in the City of El Paso. Matter No. 21-1007-2870 (551.087)



El Paso, TX

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El Paso, TX

Legislation Text

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**File #: 22-389, Version: 1**

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

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Economic and International Development, Elizabeth Triggs, (915) 212-0095

**AGENDA LANGUAGE:**

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Economic Development Incentives for a Convention Center Hotel to be located in the City of El Paso. Matter No. 22-1007-2853 (551.087)



El Paso, TX

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El Paso, TX

Legislation Text

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**File #: 22-390, Version: 1**

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

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Economic and International Development, Elizabeth Triggs, (915) 212-0095

**AGENDA LANGUAGE:**

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Economic Incentives for a Mixed-Use Development located in the City of El Paso. Matter No. 22-1007-2878  
(551.087)



El Paso, TX

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El Paso, TX

Legislation Text

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**File #: 22-391, Version: 1**

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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City Attorney's Office, Evan Reed, (915) 212-0033

**AGENDA LANGUAGE:**

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City of El Paso v. Joseph C. Pickett; 8th Court of Appeals, Case No. 08-21-00147-CV. Matter No. 21-1007-268.001 (551.071)



El Paso, TX

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El Paso, TX

Legislation Text

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File #: 22-392, Version: 1

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

**DISTRICT, DEPARTMENT, CONTACT INFORMATION:**

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City Attorney's Office, Donald Davie (915) 212-0033

**AGENDA LANGUAGE:**

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Comptroller Sales and Use Tax Audit. Matter No. 21-1063-175 (551.071)