

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, AUTHORIZING AND APPROVING THE CREATION OF THE CITY OF EL PASO PROPERTY FINANCE AUTHORITY, INC.; APPROVING THE ARTICLES OF INCORPORATION AND APPOINTING THE INITIAL DIRECTORS THEREOF; APPROVING THE INITIAL BYLAWS FOR THE AUTHORITY; AUTHORIZING THE IMPLEMENTATION OF THE INITIAL GOVERNMENTAL PROGRAM TO BE FUNDED WITH PROCEEDS OF NOTES ISSUED BY THE AUTHORITY; AND CONTAINING OTHER PROVISIONS AND MAKING CERTAIN FINDINGS RELATING TO THE SUBJECT.

WHEREAS, this City Council (the "City Council") of the City of El Paso, Texas (the "City"), as a home rule city acting pursuant to its home rule charter and the general laws of the State of Texas, has determined and hereby determines that the public interest of its citizens requires that it, from time to time, define and implement governmental programs necessary to provide needed property and funds for public uses and purposes, and to provide the same at the lowest possible cost, including joint action, if appropriate, with other political subdivisions having a common interest and where advantageous to the City; and,

WHEREAS, the City Council has determined to authorize and approve the creation of a nonprofit corporation as its duly constituted and authorized authority and instrumentality to act on its behalf and for its benefit in financing, implementing, and administering the governmental programs prescribed by this and future resolutions of the City that are beneficial to the welfare of the citizens of the City; and,

WHEREAS, the City Council also desires by this Resolution to authorize the development of its initial program, to be known as its "Permanent Public Improvements Program," which will be financed with money provided for the City's use by the El Paso Housing Finance Corporation pursuant to the Texas Housing Finance Corporations Act, Article 1269<sup>1</sup>-7, Vernon's Annotated Texas Civil Statutes, as amended; and,

WHEREAS, this meeting is open to the public as required by law, and public notice of the time, place and purpose of this meeting was given as required by Article 6252-17, Vernon's Annotated Texas Civil Statutes, as amended;

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

Section 1. Findings. The City Council hereby finds and determines that it is advisable and in the public interest that the City, acting under the authority of its home rule charter and the general laws of the State of Texas, from time to time, to define, adopt and implement governmental programs necessary to provide needed property and funds for public use, and to enable

such programs to be implemented and administered at the least possible cost to the City.

Section 2. Authorization To Create Authority. In order to aid the City in the implementation of such programs, the City Council hereby authorizes the creation of a nonprofit corporation, to be named the "City of El Paso Property Finance Authority, Inc." (the "Authority"), the same to be created under the Texas Non-Profit Corporation Act, Article 1396-1.01 et seq., as amended, Vernon's Annotated Texas Civil Statutes (the "Act"), and in connection therewith, the City Council hereby:

(a) approves the Articles of Incorporation (the "Articles") for the Authority in substantially the form and substance attached hereto as Exhibit "A" and authorizes the named incorporators therein to file the Articles with the Secretary of State of the State of Texas in accordance with law; provided that, in the event the name chosen for the Authority is not available, the incorporators are authorized to select a different name without further action of the City;

(b) appoints those persons named in the Articles, each of whom on the date of this appointment is duly qualified under the Act, to serve as the initial members of the Board of Directors of the Authority, with the right hereby reserved in the City Council to remove and replace such persons as directors at any time and with or without cause;

(c) approves the initial ByLaws for the Authority in substantially the form and substance attached hereto as Exhibit "B";

(d) directs that no bonds, notes or other evidences of indebtedness shall be authorized or approved by the Authority without the consent of the City Council;

(e) declares and orders that the Authority shall not implement or administer any program that has not been specifically authorized by City Council and that the Authority shall not engage in any business or other activity except in connection with the one or more programs that have been approved and ordered implemented by the City Council;

(f) declares and orders that the Authority shall make available to the City its books and records at all times and submit, at least annually, financial statements for its review;

(g) declares and orders that no bond, note or other evidence of indebtedness issued by the Authority shall be or represent an obligation of the City, except only to the extent the same, with the consent of the City Council, is

made expressly payable from funds to be paid by the City pursuant to a contract or other agreement executed by the Authority and the City for the purpose of accomplishing the public purposes of the City; and,

(h) states its intention that the Authority be a duly constituted and authorized authority and instrumentality of the City acting on its behalf within all applicable regulations and revenue rulings of the Treasury Department and the Internal Revenue Service of the United States promulgated under Sections 103 and 115 of the Internal Revenue Code of 1986, as amended, and under any successor provisions thereto.

Section 3. Implementation of Program. The City Council hereby authorizes the development and implementation of the Permanent Public Improvements Program, and directs and authorizes the City's administrative staff to:

(a) develop and present to the City Council a plan for the City to authorize and implement one or more projects for the development, renovation, construction or improvement of tangible real and personal property of the City;

(b) develop and present to the City Council for consideration and approval a plan for initial funding of the Permanent Public Improvements Program for the City;

(c) to prepare and present to the City Council all documents and instruments necessary to implement the initial funding plan described above; and,

(d) for all purposes of Article IV of the Articles, the Permanent Public Improvements Program shall be deemed to be an "Approved Program" of the City, and all parties dealing with the Authority are entitled to rely upon the acts, contracts, agreements and representations of the Authority that purport to be in furtherance of such program or that are represented to be so by the Authority.

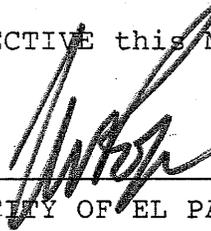
Section 4. Authority To Be a Nonprofit Corporation. As provided in the Act, the Authority shall be a nonprofit corporation, and no part of its earnings remaining after payment of its expenses, bonds, notes or other obligations shall ever inure to the benefit of any individual or private association or corporation. In the event sufficient provision has been made for the full payment of the expenses, bonds, notes and other obligations of the Authority, then any net earnings of the Authority thereafter accruing shall be paid to the City.

Section 5. Control of Authority's Activities. The City expressly reserves the right, exercisable at any time and in its sole discretion, to alter the structure, organization, programs or activities of the Authority or to terminate and dissolve the Authority, subject only to any limitations provided by the respective constitutions and laws of the State of Texas or of the United States of America prohibiting the impairment of contracts entered into by the Authority.

Section 6. Dissolution of Authority. (a) Whenever the Board of Directors of the Authority determines that the purposes for which the Authority was formed have been substantially accomplished and that all bonds, notes and other obligations theretofore issued or incurred by the Authority have been fully paid or payment has been provided therefor, the Board of Directors, upon the approval of the City Council, thereupon shall dissolve the Authority in the manner provided by law, subject to the limitations provided in Section 5 of this Resolution applicable to dissolution directed by the City Council.

(b) Whenever dissolution of the Authority occurs, whether instituted by the City Council or by the Board of Directors of the Authority, the dissolution proceedings shall transfer the title to all funds and other property then owned by the Authority to the City after satisfaction of all claims against the Authority has been made.

FINALLY PASSED, APPROVED, AND EFFECTIVE this March 10, 1987.

  
\_\_\_\_\_  
MAYOR, CITY OF EL PASO, TEXAS

(SEAL)

  
\_\_\_\_\_  
CITY CLERK, CITY OF EL PASO, TEXAS

APPROVED AS TO FORM:

City Attorney's Office

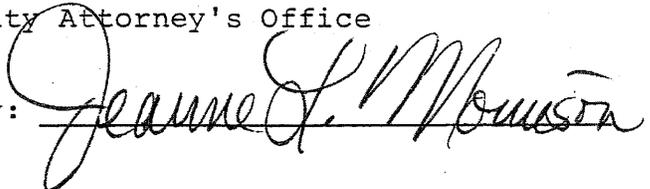
By: 

EXHIBIT "A"

ARTICLES OF INCORPORATION  
OF  
CITY OF EL PASO PROPERTY FINANCE AUTHORITY, INC.

We, the undersigned natural persons, each of whom is qualified as an incorporator of a corporation under the Texas Non-Profit Corporation Act, Article 1396-1.01, et. seq., as amended, Vernon's Annotated Texas Civil Statutes (the "Act"), do hereby adopt the following Articles of Incorporation for such Corporation:

ARTICLE I

The name of the Corporation is "City of El Paso Property Finance Authority, Inc." (the "Authority").

ARTICLE II

The Authority is a non-profit Corporation.

ARTICLE III

The duration of the Corporation shall be perpetual.

ARTICLE IV

(a) The Authority is organized for the purpose of acquiring, owning, holding, leasing and selling real or personal property to or for the benefit of the City of El Paso, Texas (the "City") for and in furtherance of its public purposes, and collecting, receiving, borrowing, lending or otherwise obtaining and lending funds to or for the use of the City or to others for the City's public purposes, to the extent necessary and appropriate in the establishment and administration of lawfully created governmental programs and activities ("Approved Programs") that are from time to time approved by ordinance or resolution duly adopted by the City Council of the City, all to be done and accomplished by the Authority as the duly constituted and authorized authority and instrumentality of the City acting on its behalf and for the benefit of the public.

(b) In the fulfillment of its purposes, the Authority may exercise all powers granted under the Act, subject to such limitations thereon as may be contained herein or in any ordinance or resolution duly adopted by the City Council of the City.

ARTICLE V

The Authority shall have no members and is a non-stock Corporation.

ARTICLE VI

The street address of the initial registered office of the Authority is 725 First City National Bank Building, 300 East Main Drive, El Paso, Texas and the name of the initial registered agent at such address is Alan V. Rash

ARTICLE VII

A. All powers of the Authority shall be vested in a Board of Directors, each of whom shall be appointed by the City Council of the City. Except for the initial number herein specified, the number of Directors and the terms of office shall be fixed by the By-Laws of the Authority consistent with the Act. The Directors shall serve without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties.

B. All other matters pertaining to the internal affairs of the Authority shall be governed by the By-Laws of the Authority so long as such By-Laws are not inconsistent with these Articles of Incorporation, any law of the State of Texas or any ordinance or resolution of the City Council of the City. Such By-Laws and any amendments thereto shall be approved by the City Council of the City.

ARTICLE VIII

The number of Directors constituting the initial Board of Directors is six (6). The names and addresses of the initial Directors are:

<u>NAME</u>	<u>ADDRESS</u>
Patrick B. Haggerty	2 Civic Center Plaza El Paso, Texas 79999
Jimmy Goldman	2 Civic Center Plaza El Paso, Texas 79999
Suzanne Azar	2 Civic Center Plaza El Paso, Texas 79999
Alicia Chacon	2 Civic Center Plaza El Paso, Texas 79999
Ed Elsey	2 Civic Center Plaza El Paso, Texas 79999
Tony Ponce	2 Civic Center Plaza El Paso, Texas 79999

ARTICLE IX

The names and street addresses of the Incorporators, each of whom is a citizen of the State of Texas and is at least eighteen (18) years old, are:

	<u>NAME</u>	<u>ADDRESS</u>
1.	Alan V. Rash	300 E. Main Drive, El Paso, Texas 79901
2.	Thomas M. Diamond	300 E. Main Drive, El Paso, Texas 79901
3.	Larry A. Baskind	300 E. Main Drive, El Paso, Texas 79901

ARTICLE X

These Articles of Incorporation may at any time and from time to time be amended by either of the following methods: (a) the members of the Board of Directors of the Authority may file with the City Council of the City a written application seeking permission to amend these Articles of Incorporation, specifying in such application the amendment proposed to be made, and if the City Council finds and determines that it is advisable that the proposed amendment be made and approves the form and substance of the amendment and authorizes the same to be made, the Board of Directors may amend these Articles of Incorporation by adopting such amendment and delivering Articles of Amendment to the Secretary of State of the State of Texas; or (b) the City Council of the City, in its sole discretion and at any time, may adopt an amendment to these Articles of Incorporation and direct the Board of Directors to amend the same, whereupon the Board of Directors shall amend the same by filing Articles of Amendment with the Secretary of State of the State of Texas.

ARTICLE XI

(a) No dividends shall ever be paid by the Authority and no part of its net earnings (beyond that necessary for retirement of the indebtedness of the Authority or to implement the public purposes of the City for which the Authority has been created) shall be distributed to or inure to the benefit of its Directors or Officers or any private person, firm, corporation, or association except in reasonable amounts for services rendered. In the event the Board of Directors of the Authority determines that sufficient provision has been made for the full payment of the expenses, bonds, notes and other obligations of the Authority

issued to finance the costs of any Approved Program, any net earnings of the Authority thereafter accruing with respect to that Approved Program shall be paid to the City.

(b) No substantial part of the Authority's activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

#### ARTICLE XII

(a) In addition to the power to amend these Articles of Incorporation, as provided elsewhere herein, the City Council of the City, in its sole discretion and at any time, may alter the structure, organization, programs or activities of the Authority or terminate and dissolve the Authority, subject only to any limitations provided by the laws of the State of Texas or of the United States of America, including provisions prohibiting the impairment of contracts entered into by the Authority.

(b) If the Board of Directors determines that the purposes for which the Authority was formed have been substantially accomplished and that all expenses, bonds, notes and other obligations theretofore issued or incurred by the Authority have been fully paid or payment has been provided therefor, the Board of Directors, upon approval by the City Council of the City, thereupon shall dissolve the Authority in the manner provided by law, subject to the same limitations referred to in paragraph (a) of this Article XIII pertaining to a dissolution directed by the City.

(c) If the Authority is ever dissolved, whether instituted by the City Council of the City or by the Board of Directors, all interests in any funds or other property of the Authority shall be transferred to the City, after satisfaction has been made of all debts and claims against the Authority. This provision is included under the express authority of Article 1396-6.02A.(3) of the Act, and the transfers on dissolution herein required are in lieu of the distributions required otherwise by Article 1396.6.02A.(3) of the Act.

(d) The initial By-Laws of the Authority and all amendments thereto shall be subject to the approval of the City Council of the City.

IN WITNESS WHEREOF, we have hereunto set our hands this 10th day of March, 1987.

\_\_\_\_\_  
ALAN V. RASH, Incorporator

\_\_\_\_\_  
THOMAS M. DIAMOND, Incorporator

\_\_\_\_\_  
LARRY A. BASKIND, Incorporator

THE STATE OF TEXAS,       §  
                                  §  
COUNTY OF EL PASO.       §

I, the undersigned, a Notary Public, do hereby certify that on this the 10th day of March, 1987, personally appeared before me ALAN V. RASH, who, being by me first duly sworn, declared that he is the person who signed the foregoing documents as an Incorporator and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

\_\_\_\_\_  
Cynthia Baca Perez,  
Notary Public in and for  
the State of Texas

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

(NOTARY PUBLIC SEAL)

THE STATE OF TEXAS,           §  
                                      §  
COUNTY OF EL PASO.           §

I, the undersigned, a Notary Public, do hereby certify that on this the 10th day of March, 1987, personally appeared before me THOMAS M. DIAMOND, who, being by me first duly sworn, declared that he is the person who signed the foregoing documents as an Incorporator and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

---

Cynthia Baca Perez,  
Notary Public in and for  
the State of Texas

My Commission Expires:

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(NOTARY PUBLIC SEAL)

THE STATE OF TEXAS,           §  
                                      §  
COUNTY OF EL PASO.           §

I, the undersigned, a Notary Public, do hereby certify that on this the 10th day of March, 1987, personally appeared before me LARRY BASKIND, who, being by me first duly sworn, declared that he is the person who signed the foregoing documents as an Incorporator and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

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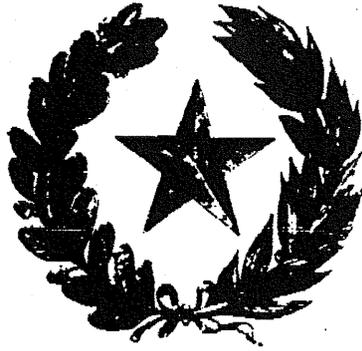
Cynthia Baca Perez,  
Notary Public in and for  
the State of Texas

My Commission Expires:

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(NOTARY PUBLIC SEAL)

EXHIBIT A-1



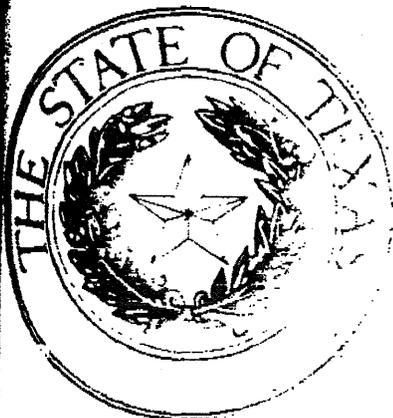
The State of Texas  
SECRETARY OF STATE

The undersigned, Secretary of State of the State of Texas, HEREBY CERTIFIES that the attached is a true and correct copy of the following described instruments on file in this Office:

CITY OF EL PASO PROPERTY FINANCE AUTHORITY, INC.

Articles of Incorporation

March 12, 1987



*IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the City of Austin, this*

15th day of June, A.D. 1992

John Hannah Jr dh  
Secretary of State



THE STATE OF TEXAS, §  
COUNTY OF EL PASO. §

I, the undersigned, a Notary Public, do hereby certify that on this the 10th day of March, 1987, personally appeared before me THOMAS M. DIAMOND, who, being by me first duly sworn, declared that he is the person who signed the foregoing documents as an incorporator and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

Cynthia Baca Perez  
Cynthia Baca Perez,  
Notary Public in and for  
the State of Texas

My Commission Expires:  
4/6/90

CYNTHIA BACA PEREZ, Notary Public  
For the State of Texas  
My commission expires April 6, 1990

(NOTARY PUBLIC SEAL)

THE STATE OF TEXAS, §  
COUNTY OF EL PASO. §

I, the undersigned, a Notary Public, do hereby certify that on this the 10th day of March, 1987, personally appeared before me LARRY BASKIND, who, being by me first duly sworn, declared that he is the person who signed the foregoing documents as an incorporator and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the date and year above written.

Cynthia Baca Perez  
Cynthia Baca Perez,  
Notary Public in and for  
the State of Texas

My Commission Expires:  
4/6/90

CYNTHIA BACA PEREZ, Notary Public  
For the State of Texas  
My commission expires April 6, 1990

(NOTARY PUBLIC SEAL)

A RESOLUTION AUTHORIZING AND DIRECTING THE APPROPRIATE APPOINTED OFFICIALS, FINANCIAL ADVISOR AND CO-BOND COUNSEL OF THE CITY OF EL PASO (THE "CITY") TO PREPARE THE NECESSARY DOCUMENTATION, INCLUDING A PUBLIC NOTICE, A BOND ORDINANCE, AN OFFICIAL STATEMENT AND ALL OTHER MATTERS RELATED THERETO, AS MAY BE REQUIRED TO PROVIDE FOR THE ISSUANCE OF REFUNDING BONDS OF THE CITY OF EL PASO, TEXAS, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY.

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

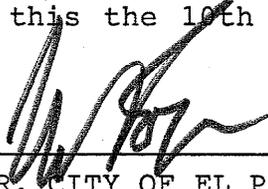
1. The Financial Advisor to the City, The First Southwest Company, and in particular, Mr. Corky Hall; the Co-Bond Counsel to the City, Diamond, Rash, Leslie & Smith, Attorneys at Law, and Hutchison Price Boyle & Brooks, Attorneys at Law; and the appropriate appointed officials of the City in conjunction with appropriate officials of the Public Service Board of the City are hereby authorized and directed to proceed with all due haste to make arrangement for the issuance of "City of El Paso, Texas Water and Sewer Revenue Refunding Bonds, Series 1987," (the "Bonds") to refund certain of the City's outstanding revenue bonds.

2. This action is taken to take advantage of the favorable interest rate environment which could result in substantial savings to the City in its debt service obligations.

3. This action reflects the recommendation of the Public Service Board pursuant to such Board's resolution adopted at its meeting of March 4, 1987.

4. Arrangements for the issuance of the Bonds shall include, but is not limited to, preparation of a public notice, a bond ordinance, an official statement, selection procedures for an underwriter for the Bonds and the appropriate structure of maturity amounts and interest payments on the Bonds.

PASSED, APPROVED AND EFFECTIVE this the 10th day of March, 1987.

  
MAYOR, CITY OF EL PASO, TEXAS

ATTEST:

  
CITY CLERK, CITY OF EL PASO, TEXAS

(SEAL)

  
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