

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER OR CITY ATTORNEY TO TAKE ALL NECESSARY ACTIONS TO INITIATE AND FILE A DECLARATORY JUDGMENT LAWSUIT TO VALIDATE A PROPOSED BOND ISSUANCE, CONTRACTS AND ACTIONS TAKEN OR PLANNED IN SUPPORT OF THE PROJECT BEING FINANCED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to an election held in the City of El Paso, Texas (the “City”) on November 6, 2012, the voters of the City authorized the City to provide for the planning, acquisition, establishment, development, construction and financing of a sports and community venue project within the City of the type described and defined in Section 334.001(4)(A) of and permitted by Chapter 334, Local Government Code, as amended (the “Venue Project Act”), and described in summary form as a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games (the “Ballpark”), and related infrastructure as defined in the Venue Project Act (the “Project”), and to impose a tax on the occupancy of a room in hotels located within the City, at a maximum rate of two percent (2%) of the price paid for such room, as authorized by Subchapter H of the Venue Project Act;

WHEREAS, pursuant to such vote of the citizens of El Paso, the Ballpark is an “approved venue project” under the Venue Project Act and pursuant to Section 334.044 of the Venue Project Act, the State legislature has found that for all constitutional and statutory purposes that an approved venue project is owned, used, and held for public purposes by the municipality whose citizens approved such project;

WHEREAS, the City Council of the City has created a local government corporation known as the “City of El Paso Downtown Development Corporation” (the “LGC”) pursuant to the provisions Section 431.001 of the Transportation Code and the City Council of the City intends to contract with the LGC to finance the Project for and on behalf of the City;

WHEREAS, the City Council of the City, desires to proceed with confidence that its proposed bond issuance, contracts and actions taken or planned in support of the Project are lawful, valid, and enforceable; and

WHEREAS, Chapter 1205 of the Texas Government Code, as amended, permits the City and other issuers of public securities to seek expedited declaratory judgment concerning such matters.

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

SECTION 1: The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct legislative findings and are adopted as part of this Resolution for all purposes.

SECTION 2: The City Council of the City does hereby authorize the City Manager or City Attorney to take all necessary actions to initiate and file a declaratory judgment lawsuit

(including the retention of outside counsel in connection therewith), together with the LGC, pursuant to the provisions of Chapter 1205 of the Texas Government Code, as amended, and to take all actions necessary to validate, to the fullest extent of the law, the bond issuance, contracts, and actions taken or planned to be taken in support of the Project, whether those bonds, contracts, or actions are issued or taken by the City or the LGC.

SECTION 3: It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551 of the Texas Government Code, as amended.

SECTION 4: This Resolution shall take effect immediately upon its passage and it is accordingly so resolved.

APPROVED AND ADOPTED this 8th day of January 2013.

CITY OF EL PASO:

John F. Cook
Mayor, City of El Paso, Texas

ATTEST:

Richarda Duffy Momsen
City Clerk, City of El Paso, Texas

APPROVED AS TO FORM:

Sylvia Borunda Firth
City Attorney
City of El Paso, Texas

(CITY SEAL)