

**CITY OF EL PASO, TEXAS  
REQUEST FOR COUNCIL ACTION (RCA)**

**DEPARTMENT:** Financial and Administrative Services Portfolio  
**AGENDA DATE:** April 12, 2011  
**CONTACT PERSON/PHONE:** William F. Studer, Deputy City Manager, Financial and Administrative Services, 541-4011 and Carmen Arrieta-Candelaria, Chief Financial Officer, 541-4293  
**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

AN ORDINANCE amending Ordinance No. 15558 originally adopted on September 16, 2003 authorizing the issuance of "City of El Paso, Texas, Airport Revenue Refunding Bonds, Series 2003 (El Paso International Airport)"; and resolving other matters related thereto.

**BACKGROUND / DISCUSSION:**

On September 16, 2003, the City adopted Ordinance 15558 relating to the issuance of the City of El Paso Airport Revenue Refunding Bonds, Series 2003. City staff is recommending that this ordinance be amended in order to address certain defects, clarify certain inconsistent provisions and add certain previously excluded revenues to the definition of Gross Revenues, which terms are necessary for the issuance of additional parity bonds. The city has determined that these changes will not adversely affect the interest of the bondholders.

Members of City staff as well as Paul Braden, the City's Bond Counsel, will be on hand to answer questions.

**PRIOR COUNCIL ACTION:**

September 16, 2003 – Ordinance No. 15558 Adopted.

**AMOUNT AND SOURCE OF FUNDING:**

None

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:** \_\_\_\_\_

*Carmen Arrieta-Candelaria*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 15558 ORIGINALLY ADOPTED ON SEPTEMBER 16, 2003 AUTHORIZING THE ISSUANCE OF "CITY OF EL PASO, TEXAS, AIRPORT REVENUE REFUNDING BONDS, SERIES 2003 (EL PASO INTERNATIONAL AIRPORT)"; AND RESOLVING OTHER MATTERS RELATED THERETO.

WHEREAS, the City Council of the City of El Paso, Texas (the "City") previously adopted an ordinance (the "Original Ordinance") authorizing the issuance of "CITY OF EL PASO, TEXAS, AIRPORT REVENUE REFUNDING BONDS, SERIES 2003 (EL PASO INTERNATIONAL AIRPORT)" in the aggregate principal amount of \$18,000,000 (the "Bonds"); and

WHEREAS, pursuant to Section 11.02 of the Original Ordinance, the City may, without the consent of or notice to any of the Owners of the Parity Bonds, amend the Original Ordinance (i) to cure any ambiguity, defect, omission or inconsistent provision in the Original Ordinance; provided that such action will not adversely affect the interests of the Owners of the Parity Bonds and (ii) to subject to the lien and pledge of the Original Ordinance additional Net Revenues which may include revenues, properties or other collateral; and

WHEREAS, the City wishes to amend the Original Ordinance to cure certain defects, clarify certain inconsistent provisions and add certain previously excluded revenues to the definition of Gross Revenues, which terms are necessary for the issuance of public securities by the City and the City has determined in its reasonable judgment that such changes will not adversely affect the interests of the Owners of the Parity Bonds; and

WHEREAS, pursuant to Section 15.03 of the Original Ordinance, the Bond Insurer must approve this amendatory ordinance prior to its effective date and copies of this amendatory ordinance must be sent to Standard & Poor's Credit Market Services and Moody's Investors Service, Inc. at least 10 days prior to the effective date hereof; and

WHEREAS, the City Council hereby finds and determines it is in the best interest of the City to adopt this amendatory ordinance;

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

SECTION 1. All recitals, findings and definitions contained in the preambles hereof are found to be true and correct and are made a part hereof for all purposes. Unless otherwise defined herein, capitalized terms used herein shall have the same meanings assigned thereto in the Original Ordinance.

SECTION 2. The first paragraph of the definition of "Gross Revenues" in Section 1.01 of the Original Ordinance is hereby amended to read as follows:

“Gross Revenues” means all income and revenues derived directly or indirectly by the City from the ownership, operation and use of and otherwise pertaining to the Airport, or any part thereof, whether resulting from extensions, enlargements, repairs, betterments or other improvements to the Airport, or otherwise, and includes, except to the extent hereinafter expressly excluded, all revenues received by the City from the Airport, including, without limitation, all rentals, rates, fees and other charges for the use of the Airport, or for any service rendered by the City in the operation thereof (~~except foreign trade zone transaction charges of the City’s Department of Economic Development~~), and interest and other income realized from the investment or deposit of amounts required to be transferred or credited to the Revenue Fund. Gross Revenues expressly exclude: . . .

*[The remainder of the definition in the Original Ordinance is unchanged.]*

SECTION 3. Sections 6.01(b) and 6.01(d) of the Original Ordinance are hereby amended by deleting the term “City’s Comptroller” from those sections and inserting in its place the term “City’s Chief Financial Officer.”

SECTION 4. The Mayor, the City Clerk, the Alternate City Clerk, the City Manager, the Deputy City Manager for Finance and Management Support Services, the Chief Financial Officer of the City and the City’s Director of Aviation and all other officers, employees and agents of the City, and each of them, shall be and 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. 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.

SECTION 5. It is officially found, determined, and declared that the meeting at which this Ordinance 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 Ordinance, was given, all as required by V.T.C.A., Government Code, Chapter 551, as amended.

SECTION 6. This Ordinance shall be effective as of the later to occur of (i) May 1, 2011 or (ii) the approval of the Bond Insurer as required by Section 15.03 of the Original Ordinance, and shall be in full force and effect after such effective date.

*[Remainder of page left blank intentionally.]*

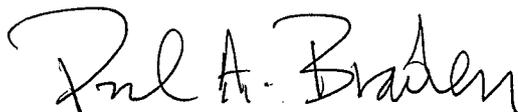
APPROVED AND ADOPTED this \_\_\_\_ day of April, 2011. ...

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

ATTEST:

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

Approved as to Form:

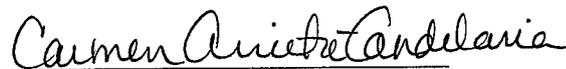


Paul A. Braden  
Bond Counsel



Bertha A. Ontiveros  
Assistant City Attorney

Approved as to Content:



Carmen Arrieta-Candelaria  
Chief Financial Officer

# FULBRIGHT & JAWORSKI L.L.P.

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## MEMORANDUM

**TO:** Joyce Wilson, City Manager  
Carmen Arrieta-Candelaria, Chief Financial Officer  
Richarda Duffy Momsen, City Clerk

**FROM:** Paul A. Braden

**DATE:** March 30, 2011

**RE:** An Ordinance amending Ordinance No. 15558 originally adopted on September 16, 2003 authorizing the issuance of "City of El Paso, Texas, Airport Revenue Refunding Bonds, Series 2003 (El Paso International Airport)"; and resolving other matters related thereto [Public Hearing Date: April 12, 2011]

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### INTRODUCTION AND PUBLIC HEARING OF ORDINANCE – City Council Meeting, Tuesday, April 12, 2011

As requested, please accept the enclosed Ordinance amending Ordinance No. 15558 for introduction and public hearing by the City Council at its regular City Council meeting to be held on April 12, 2011. The City wishes to amend the Original Ordinance to clarify certain inconsistent provisions and add certain previously excluded revenues to the definition of Gross Revenues and the City has determined in its reasonable judgment that such changes will not adversely affect the interests of the Owners of the Parity Bonds.

Pursuant to Section 1201.028 of the Texas Government Code, this Ordinance is scheduled to be approved at a single meeting of the City Council. Notice of this public hearing is being published as required by the City Charter.

I will attend the City Council meeting to answer questions concerning this item. In the meantime, please do not hesitate to call me at 351-6053 if you need additional information.

Thank you for your attention to this matter.

#### Enclosure

cc: Charles McNabb, City Attorney (*via electronic mail*)  
William F. Studer, Jr., Deputy City Manager of Finance and Management Support (*via electronic mail*)  
Bertha A. Ontiveros, Assistant City Attorney (*via electronic mail*)  
Monica Lombraña, El Paso International Airport (*via electronic mail*)  
Jeff Schultes, El Paso International Airport (*via electronic mail*)  
Cecilia Bertolli, El Paso International Airport (*via electronic mail*)  
George Williford, First Southwest Company (*via electronic mail*)  
Maria Urbina, First Southwest Company (*via electronic mail*)