

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

**DEPARTMENT:** Financial and Administrative Services Portfolio  
**AGENDA DATE:** October 16, 2012  
**CONTACT PERSON/PHONE:** Carmen Arrieta-Candelaria, Chief Financial Officer, 541-4293  
**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

An Ordinance authorizing the issuance of "City of El Paso, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012" and resolving matters which are necessary to effectuate said issuance, including a delegation of authority in an amount not to exceed \$63 million.

**[Public Hearing Date: October 16, 2012]**

**BACKGROUND / DISCUSSION:**

On September 11, 2012, City Council approved and authorized publication of a notice of intention to issue certificates of obligation in an amount not to exceed \$63 million. As required by law, such notice was published once a week for two consecutive weeks and no citizens' petition objecting to the issuance of the Certificates has been filed with the City. The proceeds from the sale of the Certificates will be used to fund various capital projects as outlined in the attached *Plan for Fall 2012 Debt Issuance*. In addition, the plan outlines the necessary steps in order to issue these certificates of obligation. Appendix A of the Plan also details the projects that are to be reimbursed as well as the originating documents of the authorizations by date.

Pursuant to Chapter 1371 of the Texas Government Code, the Ordinance authorizes each of the City Manager, the Deputy City Manager for Development and Tourism or the Chief Financial Officer to finalize the terms of the Certificates within certain specified parameters. The parameters are set forth in Section 4 of the Ordinance. 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 and notice of this public hearing is being published as required by City Charter.

Members of the City's Financial Advisors from the firm of First Southwest, Paul Braden, the City's Bond Counsel, and City staff will be on hand to answer questions.

**PRIOR COUNCIL ACTION:**

City Council authorized the projects to be funded from the December 2008, February 2010, November 2010, April 2011 and August 2012 (September 18, 2012) authorizations.

**AMOUNT AND SOURCE OF FUNDING:**

\$63,000,000 in COs to fund various projects.

**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

*Carmen Arrieta-Candelaria*

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

**CITY OF EL PASO, TEXAS  
COMBINATION TAX AND REVENUE  
CERTIFICATES OF OBLIGATION  
SERIES 2012**

Adopted: October 16, 2012

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

AN ORDINANCE authorizing the issuance of "City of El Paso, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of said certificates; and resolving other matters which are necessary to effectuate said issuance, including the delegation of matters relating to the sale and issuance of the Certificates to an authorized City official within certain specified parameters.

WHEREAS, notice of the City Council's intention to issue certificates of obligation in the maximum principal amount not to exceed \$63,000,000 for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (a) constructing, resurfacing and improving various streets, roads, bridges, thoroughfares, sidewalks, pathways and related municipal facilities within the City, including lane markings, ADA accessibility, traffic signals, loop detectors, lighting and landscaping related thereto and the acquisition of necessary rights-of-way and land in connection therewith, (b) design, construction and installation of flood control, storm water, drainage improvements, ponding area improvements and related municipal facilities within the City, including the acquisition of rights-of-way, real property and any related demolition necessary in connection therewith, (c) renovating, improving and equipping existing municipal facilities, including fiber optic connectivity, IT facility improvements, ADA improvements, roofing system rehabilitation and replacement, air circulation, (d) acquisition, construction and improvement of municipally owned public art projects, (e) design, acquisition, construction and improvements to transportation and terminal facilities, including the acquisition of necessary rights of way and land therefor, (f) acquisition, renovation, rehabilitation, improving and equipping municipal facilities for departmental administrative purposes, (h) design and construction of fire stations, (i) design, acquisition, construction, improvement and equipping of parks and recreational facilities, (j) rehabilitating, renovating, improving and equipping existing municipal facilities, including libraries, maintenance service centers, animal control and fire stations, and (k) demolition of dangerous structures, and (ii) the purchase of land, buildings and/or capital equipment, including motor vehicles, for the following City departments: police, fire, transportation, library, street and bridge, parks and recreation, public works, health and service center; and (iii) professional services rendered in connection therewith (collectively, the "Project"), has been duly published in the El Paso Times, a newspaper of general circulation in the City on September 13, 2012 and September 20, 2012; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in the aforesaid notice, signed by at least 5% of the qualified electors of the City, has been presented to or filed with the City Clerk, any member of the City Council or any other official of the City on or prior to the date of the passage of this Ordinance; and

WHEREAS, the City Council hereby finds and determines that the certificates of obligation described in such notice should be authorized for issuance at this time and, in accordance with the provisions of V.T.C.A., Government Code, Chapter 1371, as amended, the authority to determine the principal amount of Certificates to be issued and to negotiate the terms of sale thereof should be delegated to a Pricing Officer (hereinafter designated), such terms of

sale and principal amount to be specified in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer;

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

**SECTION 1: Definitions.**

(a) For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Surplus Revenues therefor, the following words or terms, whenever the same appear herein without qualifying language, are defined to mean as follows:

(1) The term "Additional Certificates" shall mean combination tax and revenue certificates of obligation or other obligations which the City is authorized to issue, whether at the time of the adoption of this Ordinance or thereafter, hereafter issued under and pursuant to the provisions of V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, or any similar law hereafter enacted, and payable from ad valorem taxes and additionally payable from and secured by a lien on and pledge of the Surplus Revenues on a parity with and of equal dignity with the lien and pledge securing the payment of the Certificates.

(2) The term "Attorney General" shall mean the Attorney General of the State of Texas.

(3) The term "Bond Counsel" shall mean Fulbright & Jaworski L.L.P. or such other firm of nationally recognized bond attorneys experienced in the issuance of bonds and acceptable to the City.

(4) The term "Certificates" shall mean the "City of El Paso, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012" and any additional series specified in the Pricing Certificate as authorized by this Ordinance.

(5) The term "Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

(6) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

(7) The term "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(8) The term "Debt Service Requirements" shall mean: (i) the interest on the Certificates; and (ii) a sinking fund for the payment of the principal amounts due in accordance with the schedule appearing in the Pricing Certificate executed pursuant to this Ordinance or 2% of the original amount of the Certificates, whichever is greater.

(9) The term "Deputy City Manager" shall mean the Deputy City Manager for Development and Tourism of the City or any successor City Deputy City Manager who is primarily responsible with overseeing the debt issuance process for the City.

(10) The term "Fiscal Year" shall mean the annual financial accounting period used with respect to the System now ending on February 28<sup>th</sup> of each year; provided, however, the City Council may change, by ordinance duly passed, such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes and to be consistent with the ordinances authorizing the additional obligations of the City.

(11) The term "Government Securities" shall mean: (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 under applicable State law that may be used to defease obligations such as the Bonds.

(12) The term "Interest and Sinking Fund" shall mean the special Fund or Funds created and established under the provisions of Section 11 of this Ordinance.

(13) The term "Maintenance and Operation Expenses" shall mean all reasonable and necessary expenses directly related and attributable to the operation and maintenance of the System, including, but not limited to, salaries, labor, materials, repairs and extensions necessary to operate the System.

(14) The term "Net Revenues" shall mean, with respect to any period, all income, revenues, and receipts received from the operation and ownership of the System less Maintenance and Operation Expenses of the System during such period.

(15) The term "Outstanding" when used in this Ordinance with respect to Certificates shall mean, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(a) those Certificates theretofore cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(b) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 21; and

(c) those Certificates that have been mutilated, destroyed, lost, or stolen and for which: (i) replacement Certificates have been registered and delivered in lieu thereof; or (ii) have been paid, all as provided in Section 20 hereof.

(16) The term "Pricing Certificate" shall mean one or more pricing certificates that set forth the terms of the Certificates in accordance with Section 4 of this Ordinance and are executed by the Pricing Officer, all in accordance with the provisions of V.T.C.A., Government Code, Chapter 1371, as amended.

(17) The term "Pricing Officer" shall mean the City Manager of the City, the Deputy City Manager, or the Chief Financial Officer, each acting in such capacity severally and not jointly.

(18) The term "Prior Lien Obligations" shall mean any and all bonds or other obligations of the City presently outstanding or that may be hereafter issued, payable from and secured by a first lien on and pledge of the Net Revenues or by a lien on and pledge of the Net Revenues subordinate to a first lien and pledge of such Net Revenues but superior to the lien and pledge of the Surplus Revenues made for the Certificates.

(19) The term "Project" shall have the meaning set forth in the recitals to this Ordinance or as provided in the Pricing Certificate.

(20) The term "State" shall mean the State of Texas.

(21) The term "Stated Maturity" shall mean the principal amounts due in accordance with the schedule(s) appearing in the Pricing Certificate.

(22) The term "Surplus Revenues" shall mean the revenues of the System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with the Prior Lien Obligations; provided, however, that for purposes of providing revenues for the payment of the Certificates, Surplus Revenues shall not include any revenues of the System in excess of \$1,000, and no amount of Surplus Revenues above \$1,000 shall be pledged to the payment of the Certificates.

(23) The term "Surplus Revenue Fund" shall mean the surplus revenue fund established by Section 14 of this Ordinance.

(24) The term "System" as used in this Ordinance means the City's combined waterworks and sewer system, including all present and future additions, extensions, replacements and improvements thereto.

(b) Unless the context requires otherwise, words of the masculine gender shall be constructed 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.

All article and section references shall mean references to the respective articles and sections of this Ordinance unless designated otherwise.

**SECTION 2: Authorization – Series Designation – Principal Amount – Purpose – Certificate Date.** Certificates of obligation of the City shall be and are hereby authorized to be issued in, one or more series, the maximum aggregate principal amount hereinafter set forth to be designated and bear the title “CITY OF EL PASO, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2012” and any additional series specified in the Pricing Certificate (herein referred to collectively as the “Certificates”), for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (a) constructing, resurfacing and improving various streets, roads, bridges, thoroughfares, sidewalks, pathways and related municipal facilities within the City, including lane markings, ADA accessibility, traffic signals, loop detectors, lighting and landscaping related thereto and the acquisition of necessary rights-of-way and land in connection therewith, (b) design, construction and installation of flood control, storm water, drainage improvements, ponding area improvements and related municipal facilities within the City, including the acquisition of rights-of-way, real property and any related demolition necessary in connection therewith, (c) renovating, improving and equipping existing municipal facilities, including fiber optic connectivity, IT facility improvements, ADA improvements, roofing system rehabilitation and replacement, air circulation, (d) acquisition, construction and improvement of municipally owned public art projects, (e) design, acquisition, construction and improvements to transportation and terminal facilities, including the acquisition of necessary rights of way and land therefor, (f) acquisition, renovation, rehabilitation, improving and equipping municipal facilities for departmental administrative purposes, (h) design and construction of fire stations, (i) design, acquisition, construction, improvement and equipping of parks and recreational facilities, (j) rehabilitating, renovating, improving and equipping existing municipal facilities, including libraries, maintenance service centers, animal control and fire stations, and (k) demolition of dangerous structures, and (ii) the purchase of land, buildings and/or capital equipment, including motor vehicles, for the following City departments: police, fire, transportation, library, street and bridge, parks and recreation, public works, health and service center; and (iii) professional services rendered in connection therewith (herein referred to collectively as the “Project”), in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, V.T.C.A., Government Code, Chapter 1371, as amended, and V.T.C.A. Government Code, Chapter 1502, as amended. The Certificates shall be dated (the “Certificate Date”) as provided in the Pricing Certificate.

**SECTION 3: Fully Registered Obligations - Terms.** The Certificates shall be issued as fully registered obligations, without coupons, and as either or both “Current Interest Certificates” (obligations paying accrued interest to the holders or owners on and at stated intervals prior to maturity) and “Capital Appreciation Certificates” (obligations paying no accrued interest to the holders or owners prior to maturity).

(a) Current Interest Certificates. Unless otherwise specified in the Pricing Certificate, Current Interest Certificates (other than the Initial Certificates referenced in Section 9 hereof) shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, shall be lettered "R" and numbered consecutively from One (1) upward and principal thereof shall become due and payable on a date certain in each of the years and in amounts (the "Stated Maturities") in accordance with the details of the Current Interest Certificates as set forth in the Pricing Certificate.

The Current Interest Certificates shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Current Interest Certificates shall be payable in each year, on the dates, and commencing on the date, set forth in the Pricing Certificate.

(b) Capital Appreciation Certificates. Capital Appreciation Certificates (other than the Initial Certificates referenced in Section 9 hereof) shall each be issued in Maturity Amounts (the "Accreted Value" [as hereinafter defined] at maturity) of \$5,000, or any integral multiple thereof within a Stated Maturity, shall be lettered "CAB-" and numbered consecutively from One (1) upward, and the original principal amounts of the Capital Appreciation Certificates shall accrete interest at the yield(s) stated in the Pricing Certificate, and shall become due and payable on a date certain in each of the years (the "Stated Maturities") in the Maturity Amounts set forth in the Pricing Certificate.

Interest on the Capital Appreciation Certificates shall accrue from the date of delivery of the Certificates to the initial purchasers, and be compounded semiannually in each year on the dates (the "Compounding Dates"), and commencing on the date, set forth in the Pricing Certificate, until the Stated Maturity or earlier redemption thereof. The accreted interest on Capital Appreciation Certificates shall be payable at maturity or earlier redemption as a portion of the Maturity Amount or Accreted Value thereof.

The term "Accreted Value"; as used herein with respect to Capital Appreciation Certificates, shall mean the original principal amount of a Capital Appreciation Certificate, plus the initial premium, if any, paid therefor, with interest thereon compounded semiannually to the Compounding Date next preceding the date of such calculation (or the date of calculation, if such calculation is made on a Compounding Date), at the respective interest rates stated in the Pricing Certificate therefor and, with respect to each \$5,000 Accreted Value at maturity, as set forth in the Accreted Value table attached to the Pricing Certificate and in the Official Statement referred to in the Pricing Certificate. For any day other than a Compounding Date, the Accreted Value of a Capital Appreciation Certificate shall be determined by a straight line interpolation between the values for the applicable semiannual Compounding Dates (based on 30-day months).

**SECTION 4: Delegation of Authority to Pricing Officer.** (a) As authorized by V.T.C.A., Government Code, Chapter 1371, as amended, each of the City Manager, the Deputy City Manager for Development and Tourism, and the Chief Financial Officer of the City (the "Pricing Officer") is hereby authorized to act on behalf of the City in selling and delivering the Certificates and carrying out the other procedures specified in this Ordinance determining the aggregate principal amount of the Certificates, the date of the Certificates, any additional or

different designation or title by which the Certificates shall be known, determining whether the Certificates shall be issued in one or more taxable or tax exempt series or subseries, the price at which the Certificates will be sold, the years in which the Certificates will mature, the principal amount or Maturity Amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment dates, the record date, the compounding dates, the price and terms upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the terms of any bond insurance applicable to the Certificates, any amendments or modifications to the continuing disclosure undertaking set forth in Section 39 hereof, the designation of one or more funds for the payment of the Certificates, the final forms of the Certificates, and all other matters relating to the issuance, sale, and delivery of the Certificates, all of which shall be specified in a Pricing Certificate, provided that:

- (i) the aggregate original principal amount of all the Certificates issued hereunder shall not exceed \$63,000,000;
- (ii) the aggregate true interest cost for the Certificates shall not exceed 4.25%; and
- (iii) the maximum maturity date for the Certificates shall not exceed December 31, 2038.

The execution of the Pricing Certificate shall evidence the sale date of the Certificates by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with one or more series of the Certificates, then the Pricing Officer is authorized, in connection with effecting the sale of the Certificates, to obtain from a municipal bond insurance company (the "Insurer") a municipal bond insurance policy in support of one or more series of the Certificates. 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 said 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 Deputy City Manager and the Pricing Officer shall have the authority to execute any documents to affect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Certificates, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Certificates are authorized and to pay costs of issuing the Certificates. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date of adoption of this Ordinance. The Certificates shall be sold by negotiated sale to the underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined). The Pricing Officer is hereby delegated the authority to select and designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

**SECTION 5: Terms of Payment - Paying Agent/Registrar.** The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Certificates (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of Wells Fargo Bank, National Association to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of one or more "Paying Agent/Registrar Agreements," substantially in the forms attached to the Pricing Certificate and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Pricing Officer is hereby authorized to execute and deliver such Agreement(s) in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The Certificates shall be payable at their Stated Maturities or upon their earlier redemption, only upon the presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices in Minneapolis, Minnesota (the "Designated Payment/Transfer Office"); provided, however, while a Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount thereof may be accomplished without presentation and surrender of such Certificate. Interest accrued on a Capital Appreciation Certificate shall be payable at its Stated Maturity or redemption as a portion of the Accreted Value or Maturity Amount. Interest on a Current Interest Certificate shall be paid by the Paying Agent/Registrar to the Holders whose names appears in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and such interest payments shall be made (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities of the Current Interest Certificates 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 past due 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 (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of the Current Interest Certificates appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

**SECTION 6: Registration – Transfer – Exchange of Certificates – Predecessor Certificates.** The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Certificates issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Certificate may be transferred or exchanged for Certificates of like kind, maturity, and amount and in authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for assignment or transfer of any Certificate (other than the Initial Certificates authorized in Section 9 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, one or more new Certificates, executed on behalf of and furnished by the City, shall be registered and issued to the assignee or transferee of the previous Holder; such Certificates to be of authorized denominations, of like series, if applicable, of like Stated Maturity, and of a like aggregate principal amount (with respect to Current Interest Certificates) or Maturity Amount (with respect to Capital Appreciation Certificates) as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates (other than the Initial Certificates authorized in Section 9 hereof) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount (with respect to Current Interest Certificates) or Maturity Amount (with respect to Capital Appreciation Certificates) as the Certificates surrendered for exchange, upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates, executed on behalf of and furnished by the City, to the Holder requesting the exchange.

All Certificates issued upon any such transfer or exchange of Certificates shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 20 hereof; and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Certificate called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

**SECTION 7: Book-Entry-Only Transfers and Transactions.** Notwithstanding the provisions contained in Sections 5 and 6 relating to the payment and transfer/exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the letter of representation from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and provide for the Certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred, and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 5 and 6 hereof.

**SECTION 8: Execution - Registration.** The Certificates shall be executed on behalf of the City by the Mayor under the City's seal reproduced or impressed thereon and attested by the City Clerk or Alternate City Clerk. The signature of said officials on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who are or were the proper officials of the City as of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Certificates to the initial purchaser(s) and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201, V.T.C.A., Government Code, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered, and delivered.

**SECTION 9: Initial Certificates.** The Certificates herein authorized shall be initially issued as fully registered Certificates of the appropriate kind (Current Interest Certificates and Capital Appreciation Certificates) as specified in the Pricing Certificate, being (i) a single, fully registered Current Interest Certificate in the aggregate principal amount noted and principal installments to become due and payable as provided in the Pricing Certificate and numbered TR-1, and (ii) a single, fully registered Capital Appreciation Certificate in the aggregate Maturity Amount noted, and with installments of such Maturity Amount to become due and payable as provided, in the Pricing Certificate and numbered TCAB-1 (hereinafter called the "Initial Certificates") and the Initial Certificates shall be registered in the name of the initial purchaser or the designee thereof. The Initial Certificates shall be the Certificates submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificates, the Paying Agent/Registrar, pursuant to written instructions from the initial purchasers), or the designee thereof, shall cancel the Initial Certificates delivered hereunder and exchange therefor definitive Certificates of like kind and of authorized denominations, Stated Maturities, principal amounts (with respect to Current Interest Certificates) or Maturity Amounts (with respect to the Capital Appreciation Certificates) and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchasers), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

**SECTION 10: Forms.**

(a) **Forms Generally.** The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates, shall be substantially in the forms set forth in this Section or in the Pricing Certificate with such appropriate insertions,

omissions, substitutions, and other variations as are permitted or required by this Ordinance and, with the Certificates to be completed and modified with the information set forth in the Pricing Certificate, 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 insurance legends on insured Certificates and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Certificates. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The definitive Certificates and the Initial Certificates shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution thereof.

(b) Form of Certificates.

[CURRENT INTEREST CERTIFICATES]

REGISTERED  
NO. R- \_\_\_\_\_

PRINCIPAL AMOUNT  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF EL PASO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION,  
SERIES 2012

Certificate Date: \_\_\_\_\_ Interest Rate: \_\_\_\_\_ Stated Maturity: \_\_\_\_\_ CUSIP No. \_\_\_\_\_

Registered Owner:

Principal Amount: \_\_\_\_\_ DOLLARS

The City of El Paso (hereinafter referred to as the "City"), a body corporate and political subdivision in the County of El Paso, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the \_\_\_\_\_) 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 being payable on \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing

\_\_\_\_\_, until maturity or prior redemption. Principal of this Certificate is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Certificate. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the \_\_\_\_ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$\_\_\_\_\_ (herein referred to as the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (a) constructing, resurfacing and improving various streets, roads, bridges, thoroughfares, sidewalks, pathways and related municipal facilities within the City, including lane markings, ADA accessibility, traffic signals, loop detectors, lighting and landscaping related thereto and the acquisition of necessary rights-of-way and land in connection therewith, (b) design, construction and installation of flood control, storm water, drainage improvements, ponding area improvements and related municipal facilities within the City, including the acquisition of rights-of-way, real property and any related demolition necessary in connection therewith, (c) renovating, improving and equipping existing municipal facilities, including fiber optic connectivity, IT facility improvements, ADA improvements, roofing system rehabilitation and replacement, air circulation, (d) acquisition, construction and improvement of municipally owned public art projects, (e) design, acquisition, construction and improvements to transportation and terminal facilities, including the acquisition of necessary rights of way and land therefor, (f) acquisition, renovation, rehabilitation, improving and equipping municipal facilities for departmental administrative purposes, (h) design and construction of fire stations, (i) design, acquisition, construction, improvement and equipping of parks and recreational facilities, (j) rehabilitating, renovating, improving and equipping existing municipal facilities, including libraries, maintenance service centers, animal control and fire stations, and (k) demolition of dangerous structures, and (ii) the purchase of land, buildings and/or capital equipment, including motor vehicles, for the following City departments: police, fire, transportation, library, street and

bridge, parks and recreation, public works, health and service center; and (iii) professional services rendered in connection therewith, in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, V.T.C.A., Government Code, Chapter 1371, as amended, and V.T.C.A. Government Code, Chapter 1502, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance"). The Certificates are issued in part as "Current Interest Certificates", which total in principal amount \$ \_\_\_\_\_ and pay accrued interest at stated intervals to registered owners and in part as "Capital Appreciation Certificates", which total in original principal amount \$ \_\_\_\_\_ and pay no accrued interest prior to their Stated Maturities or redemption.

[The Certificates maturing on the dates hereinafter identified (the "Term Certificates") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Certificates due

Term Certificates due

Redemption Date

Principal Amount

Redemption Date

Principal Amount

The particular Term Certificates of a Stated Maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Certificates for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Certificates of like Stated Maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Current Interest Certificates maturing on and after \_\_\_\_\_, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on \_\_\_\_\_, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Certificates, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Certificate to be redeemed, in whole or in part,

at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the redemption price of the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is 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 Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

This Certificate is payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and is additionally payable from and secured by a lien on and pledge of the Surplus Revenues, in an amount not to exceed \$1,000, of the City's waterworks and sewer system (the "System"), as provided in the Ordinance, such lien and pledge being junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of the "Prior Lien Obligations" (as defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue obligations payable from and secured by a lien on and pledge of the Net Revenues ranking prior and superior to the pledge securing the payment of the Certificates. Additionally, the City reserves and retains the right to issue Additional Certificates equally and ratably secured with the Certificates by a parity lien on and pledge of the Surplus Revenues.

Reference is hereby made to the Ordinance, a copy of which is on file at the offices of the Paying Agent/Registrar, and to all of the provisions of which the Registered Owner by the

acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificate; the properties constituting the System; the Surplus Revenues pledged to the payment of the principal of and interest on this Certificate; the nature, extent, and manner of enforcement of the pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owners; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein have the meanings assigned in the Ordinance.

~~This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.~~

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal at the Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a Certificate 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 (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each registered owner of a Certificate appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a pledge of

and lien on the Surplus Revenues of the System as aforesated. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City.

CITY OF EL PASO, TEXAS

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

**[CAPITAL APPRECIATION CERTIFICATES]**

REGISTERED  
NO. CAB- \_\_\_\_\_

MATURITY AMOUNT  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF EL PASO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION,  
SERIES 2012

Certificate Date: \_\_\_\_\_

Interest Rate: \_\_\_\_\_

Stated Maturity: \_\_\_\_\_

CUSIP No. \_\_\_\_\_

Registered Owner:

Maturity Amount:

The City of El Paso (hereinafter referred to as the "City"), a body corporate and political subdivision in the County of El Paso, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above, the Maturity Amount stated above (or so much thereof as shall not have been paid upon prior redemption). The Maturity Amount of this Certificate represents the accretion of the original principal amount of this Certificate (including the initial premium, if any, paid herefor) from the date of delivery to the initial purchasers to the Stated Maturity and such accretion in value occurring at the above Stated Yield

and compounding on \_\_\_\_\_, and semiannually thereafter on \_\_\_\_\_ and \_\_\_\_\_. A table of the "Accreted Values" per \$5,000 "Accreted Value" at maturity is printed on this Certificate or attached hereto. The term "Accreted Value", as used herein, means the original principal amount of this Certificate plus the initial premium, if any, paid herefor with interest thereon compounded semiannually to \_\_\_\_\_ and \_\_\_\_\_, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on \_\_\_\_\_ or \_\_\_\_\_) at the Stated Yield for the Stated Maturity shown above and in the above referenced Table of Accreted Values. For any date other than \_\_\_\_\_ or \_\_\_\_\_, the Accreted Value of this Certificate shall be determined by a straight line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months). If the date for the payment of the principal or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

The Accreted Value of this Certificate is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Payment of the Maturity Amount or Accreted Value as of a redemption date of this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$ \_\_\_\_\_ (herein referred to as the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (a) constructing, resurfacing and improving various streets, roads, bridges, thoroughfares, sidewalks, pathways and related municipal facilities within the City, including lane markings, ADA accessibility, traffic signals, loop detectors, lighting and landscaping related thereto and the acquisition of necessary rights-of-way and land in connection therewith, (b) design, construction and installation of flood control, storm water, drainage improvements, ponding area improvements and related municipal facilities within the City, including the acquisition of rights-of-way, real property and any related demolition necessary in connection therewith, (c) renovating, improving and equipping existing municipal facilities, including fiber optic connectivity, IT facility improvements, ADA improvements, roofing system rehabilitation and replacement, air circulation, (d) acquisition, construction and improvement of municipally owned public art projects, (e) design, acquisition, construction and improvements to transportation and terminal facilities, including the acquisition of necessary rights of way and land therefor, (f) acquisition, renovation, rehabilitation, improving and equipping municipal facilities for departmental administrative purposes, (h) design and construction of fire stations, (i) design, acquisition, construction, improvement and equipping of parks and recreational facilities, (j) rehabilitating, renovating, improving and equipping existing municipal facilities, including libraries, maintenance service centers, animal control and fire stations, and (k) demolition of

dangerous structures, and (ii) the purchase of land, buildings and/or capital equipment, including motor vehicles, for the following City departments: police, fire, transportation, library, street and bridge, parks and recreation, public works, health and service center; and (iii) professional services rendered in connection therewith, and to pay the costs and expenses of issuance, in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Local Government Code, Subchapter C of Chapter 271, as amended, V.T.C.A., Government Code, Chapter 1371, as amended, and V.T.C.A. Government Code, Chapter 1502, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance"). The Certificates are issued in part as "Current Interest Certificates", which total in principal amount \$\_\_\_\_\_ and pay accrued interest at stated intervals to registered owners and in part as "Capital Appreciation Certificates", which total in original principal amount \$\_\_\_\_\_ and pay no accrued interest prior to their Stated Maturities.

The Capital Appreciation Certificates maturing on and after \_\_\_\_\_ may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in Maturity Amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on \_\_\_\_\_, or on any date thereafter, at the redemption price of the Accreted Value (as determined and defined herein) as of the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice to be sent by United States Mail, first class postage prepaid, to the registered owners of the Certificates to be redeemed, and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its Maturity Amount) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Certificate (or the portion of its Maturity Amount to be redeemed) shall become due and payable, and shall cease to accrete in value from and after the redemption date, provided moneys for the payment of the redemption price to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the Maturity Amount of a Certificate is to be redeemed and the registered owner hereof is someone other than Cede & Co., payment of the redemption price shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the Maturity Amount thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the redemption price of the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said

redemption is 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 Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

This Certificate is payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and is additionally payable from and secured by a lien on and pledge of the Surplus Revenues, in an amount not to exceed \$1,000, of the City's waterworks and sewer system (the "System"), as provided in the Ordinance, such lien and pledge being junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of the "Prior Lien Obligations" (as defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue obligations payable from and secured by a lien on and pledge of the Net Revenues ranking prior and superior to the pledge securing the payment of the Certificates. Additionally, the City reserves and retains the right to issue Additional Certificates equally and ratably secured with the Certificates by a parity lien on and pledge of the Surplus Revenues.

Reference is hereby made to the Ordinance, a copy of which is on file at the offices of the Paying Agent/Registrar, and to all of the provisions of which the Registered Owner by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificate; the properties constituting the System; the Surplus Revenues pledged to the payment of the principal of and interest on this Certificate; the nature, extent, and manner of enforcement of the pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owners; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, accruing interest at the same rate, and of the same aggregate Maturity Amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the date of surrender of this Certificate as the owner entitled to payment of the Maturity Amount at its Stated Maturity, or

Accreted Value at its redemption, in whole or in part, and (ii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a pledge of and lien on the Surplus Revenues of the System as aforesated. In case any provision in this Certificate 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. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City.

CITY OF EL PASO, TEXAS

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

NOTE TO PRINTER: Print the "Table of Accreted Values" on the Certificates as called for in paragraph one.

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Certificates only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER )  
 ) REGISTER NO. \_\_\_\_\_  
OF PUBLIC ACCOUNTS )  
 )  
THE STATE OF TEXAS )

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within-mentioned Ordinance; the certificate or certificates 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 Certificate.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION,  
as Paying Agent/Registrar

Registration Date:

\_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

(e) 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 Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

(f) The Initial Certificates for the Current Interest Certificates and the Capital Appreciation Certificates shall be in the respective forms set forth therefor in paragraph (b) of this Section, except as follows:

**[CURRENT INTEREST INITIAL CERTIFICATE]**

Heading and first two paragraphs shall be amended to read as follows:

NO. TR-1 \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF EL PASO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION,  
SERIES 2012

Certificate Date:  
\_\_\_\_\_

Registered Owner:

Principal Amount: DOLLARS

The City of El Paso (hereinafter referred to as the "City"), a body corporate and political subdivision in the County of El Paso, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on \_\_\_\_\_ in the years and in principal installments in accordance with the following schedule:

<u>Stated</u> <u>Maturity</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate(s)</u>
----------------------------------	-----------------------------------	-----------------------------------

(Information to be inserted from Pricing Certificate).

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal installments hereof from the \_\_\_\_\_ at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on \_\_\_\_\_, and each \_\_\_\_\_ and thereafter, until maturity or prior redemption. Principal installments of this Certificate are payable in the year of maturity or on a redemption date to the registered owner hereof by Wells Fargo Bank, National Association (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Minneapolis, Minnesota (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the \_\_\_\_\_ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

[CAPITAL APPRECIATION INITIAL CERTIFICATE]

Heading and first two paragraphs shall be amended to read as follows:

REGISTERED  
NO. TCAB-1

MATURITY AMOUNT  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF EL PASO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION,  
SERIES 2012

Certificate Date:

\_\_\_\_\_

Registered Owner:

Maturity Amount:

The City of El Paso (hereinafter referred to as the "City"), a body corporate and political subdivision in the County of El Paso, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the aggregate Maturity Amount stated above on \_\_\_\_\_ in each of the years and in installments in accordance with the following schedule:

<u>Year of</u> <u>Maturity</u>	<u>Installment</u> <u>Maturity Amount</u>	<u>Stated</u> <u>Yield(s)</u>
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(Information to be inserted from Pricing Certificate).

The respective installments of the Maturity Amount hereof represents the accretion of the original principal amounts of each year of maturity from the date of delivery to the initial purchasers (\_\_\_\_\_) to the respective years of maturity (including the initial premium, if any, paid by the initial purchasers) and such accretion in values occurring at the respective Stated Yields and compounding on \_\_\_\_\_, and semiannually thereafter on each \_\_\_\_\_ and \_\_\_\_\_. A table of the "Accreted Values" per \$5,000 "Accreted Value" at maturity is attached to this Certificate. The term "Accreted Value", as used herein, means the original principal amount of this Certificate plus premium, if any, paid herefor with interest thereon compounded semiannually to \_\_\_\_\_ and \_\_\_\_\_, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on \_\_\_\_\_ or \_\_\_\_\_) at the respective Stated Yields shown above and in the Table of Accreted Values attached hereto. For any date other than shall be determined by a straight line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months). If the date for the payment of the principal of or interest on the

Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

The installments of the Maturity Amount or Accreted Value of this Certificate are payable in the years of maturity or on a redemption date to the registered owner hereof, without exchange or collection charges, by Wells Fargo Bank, National Association (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in Minneapolis, Minnesota (the "Designated Payment/Transfer Office"), and shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

**SECTION 11: Interest and Sinking Fund.** The City covenants that for the purpose of paying the interest on and providing a sinking fund for the payment, redemption and retirement of each series of Certificates, there shall be and is hereby created one or more special Funds to be designated as specified in the Pricing Certificate by the Pricing Officer (each an "Interest and Sinking Fund") which Interest and Sinking Funds shall be kept and maintained at the City's depository bank, and moneys deposited in the Interest and Sinking Fund shall be used for no other purpose. The Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, Chief Financial Officer and City Clerk of the City, individually or jointly, are hereby authorized and directed to make withdrawals from said Funds sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Interest and Sinking Funds (on or prior to a principal and/or interest payment date) an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates.

**SECTION 12: Levy of Taxes.** Pursuant to the authority granted by the Constitution and the laws of the State, there shall be and there is hereby levied, within the limitations prescribed by law, for the current year and each succeeding year thereafter while any of the Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in the City, adequate to pay the Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the applicable Interest and Sinking Fund. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(a) The City's annual budget shall reflect (i) the amount of Debt Service Requirements to become due on the Certificates in the next succeeding Fiscal Year of the City, (ii) the amount on deposit in the Surplus Revenue Fund and the applicable Interest and Sinking Fund, as of the date such budget is prepared (after giving effect to any payments required to be made during the remainder of the then Fiscal Year), and (iii) the amount of Surplus Revenues estimated and budgeted to be available for the payment of the Debt Service Requirements on the Certificates during the next succeeding Fiscal Year of the City.

(b) The amount required to be provided in the succeeding Fiscal Year of the City from ad valorem taxes shall be the amount the Debt Service Requirements to be paid on the Certificates in the next succeeding Fiscal Year of the City exceeds the sum of (i) the amount shown to be on deposit in the Surplus Revenue Fund and the applicable Interest and Sinking Fund (after giving effect to any payments required to be made during the remainder of the then current Fiscal Year) at the time the annual budget is prepared, and (ii) the Surplus Revenues shown to be budgeted and available for payment of the Debt Service Requirements.

(c) Following the final approval of the annual budget of the City, the governing body of the City shall, by ordinance, levy an ad valorem tax at a rate sufficient to produce taxes in the amount determined in paragraph (b) above, to be utilized for purposes of paying the principal of and interest on the Certificates in the next succeeding Fiscal Year of the City.

(d) If the liens and provisions of this Ordinance shall be released in a manner permitted by Section 21 hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the applicable Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Certificates, there shall be subtracted the amount of any Certificates that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

**SECTION 13: Pledge of Surplus Revenues.** Pursuant to the authority granted by the Constitution and laws of the State, the City hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment and security of Prior Lien Obligations, a limited pledge of the Surplus Revenues of the System not to exceed \$1,000, with the exception of those in excess of the amounts required to be deposited to the applicable Interest and Sinking Fund as hereafter provided, are hereby irrevocably pledged, equally and ratably, to the payment of the principal of and interest on the Certificates and any Additional Certificates, if issued, and such pledge shall be valid and binding without further action by the City and without any filing or recording except for the filing of this Ordinance in the records of the City.

V.T.C.A., Chapter 1208, Government Code, as amended, applies to the issuance of the Certificates and the pledge of the revenues granted by the City under this Section of this Ordinance, and such pledge is therefore valid, effective, and perfected. If the State law is amended at any time while the Certificates are Outstanding and unpaid such that the pledge of the revenues granted by the City under this Section of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Holders of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under State law to comply with the

applicable provisions of V.T.C.A., Chapter 9, Business & Commerce Code, as amended, and enable a filing to perfect the security interest in said pledge to occur.

**SECTION 14: Surplus Revenue Fund.** The City hereby establishes a special fund or account to be designated the "City of El Paso, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012, Surplus Revenue Fund" or such other designation specified in the Pricing Certificate (the "Surplus Revenue Fund"), said fund to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City, and shall in no event be diverted or drawn upon for any purpose other than those herein provided. All Surplus Revenues shall be paid over and deposited into the Surplus Revenue Fund. The Surplus Revenues shall be appropriated and employed in the following order:

(a) First: For deposit to the applicable Interest and Sinking Fund to provide for the payment of the Debt Service Requirements of the Certificates in accordance with the terms and conditions of this Ordinance; and

(b) Second: After all the requirements of subparagraph (a) above have been provided for, whether by the collection of an ad valorem tax levied in this Ordinance or by the use of the pledged Surplus Revenues, the Surplus Revenues may be used for any lawful purpose.

**SECTION 15: Deposits to Interest and Sinking Fund.** Any accrued interest received by the City from the purchasers of the Certificates shall be deposited into the applicable Interest and Sinking Fund. Any proceeds of sale of the Certificates remaining after completion of, and payment of all costs associated with the Project (including any change orders) shall be deposited in the applicable Interest and Sinking Fund. Amounts deposited to applicable Interest and Sinking Funds shall reduce the sums otherwise required to be deposited in said Funds from ad valorem taxes and the Surplus Revenues.

**SECTION 16: Security of Funds.** 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 the State for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

**SECTION 17: Remedies in Event of Default.** In addition to all the rights and remedies provided by the laws of the State, the City covenants and agrees particularly that in the event the City: (a) defaults in the payments to be made to an Interest and Sinking Fund; or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, any Holder shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall 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. The specific remedies herein provided shall be cumulative of

all other existing remedies, and the specification of such remedies shall not be deemed to be exclusive.

**SECTION 18: Special Covenants.** The City hereby covenants as follows:

(a) That it has the lawful power to pledge the Surplus Revenues of the System to the payment of the Certificates in the manner herein contemplated and has lawfully exercised said powers under the Constitution and laws of the State, including V.T.C.A., Chapter 271, Local Government Code, as amended, and V.T.C.A., Government Code, Sections 1502.56 and 1502.58.

(b) That other than for the payment of the Certificates and the Prior Lien Obligations, the Surplus Revenues have not in any manner been pledged to the payment of any debt or obligation of the City or of the System.

(c) The City shall take no action or fail to take any action, which action or failure to act may render the interest on any of such Certificates subject to federal income taxation, particularly pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), nor shall the City take any action or fail to take any action, which action or failure to act, would have the effect of causing the income derived by the City from the System to become subject to federal income taxation in the hands of the City, whether or not provision shall have been made for the payment of such Certificates.

**SECTION 19: Issuance of Prior Lien Obligations and Additional Certificates.** The City hereby expressly reserves the right to hereafter issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable thereto under law or otherwise, payable, in whole or in part, from the Net Revenues (without impairment of the obligation of contract with the Holders of the Certificates) upon such terms and conditions as the City Council may determine. Additionally, the City hereby expressly reserves the right to hereafter issue Additional Certificates payable, in whole or in part, from and secured by a lien on and pledge of the Surplus Revenues of equal rank and dignity, and on a parity in all respects, with the lien thereon and pledge thereof securing the payment of the Certificates.

It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements, and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements, and covenants contained in any ordinance authorizing the issuance of the Prior Lien Obligations, and to the extent of any irreconcilable conflict between the provisions contained herein and in any ordinance authorizing the issuance of Prior Lien Obligations, the provisions, agreements, and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance, but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the Holders of the Prior Lien Obligations.

**SECTION 20: Mutilated – Destroyed – Lost and Stolen Certificates.** If: (a) any mutilated Certificate is surrendered to the Paying Agent/Registrar or the City, and the Paying Agent/Registrar receives evidence to their satisfaction of the destruction, loss, or theft of any Certificate; and (b) there is delivered to the City and the Paying Agent/Registrar such security or

indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Certificate has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Certificate, a new Certificate of like series, if applicable, of the same Stated Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost, or stolen Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Certificate, pay such Certificate when due.

Upon the issuance of any new Certificate under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Certificate shall constitute a replacement of the prior obligation of the City, whether or not the mutilated, destroyed, lost, or stolen Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Certificates.

**SECTION 21: Satisfaction of Obligations of City.** If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied and the lien on and pledge of the Surplus Revenues under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates, or any principal amount(s) (with respect to Current Interest Certificates) and Maturity Amount (with respect to Capital Appreciation Certificates) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when: (a) money sufficient to pay in full such Certificates or the principal amounts thereof at maturity or the redemption date therefor, 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 (b) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to 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 Certificates, or the principal amounts thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption

date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, and all income from Government Securities 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 Certificates, 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 Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Certificates for which such moneys were deposited and are held in trust to pay, shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State.

The term "Government Securities" shall mean (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 under applicable State law that may be used to defease obligations such as the Certificates.

The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Securities for the Government Securities 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 Certificates 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 Certificates, to call for redemption, at an earlier date, those Certificates 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 Certificates for redemption; (ii) gives notice of the reservation of that right to the Holders of the Certificates 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.

**SECTION 22: Ordinance a Contract – Amendments – Outstanding Certificates.** This Ordinance, together with the Pricing Certificate, shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section and in Section 39 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance or any provision in the Pricing Certificate in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders who own a majority of the aggregate of the principal amount (with respect to Current Interest Certificates) and Maturity Amount (with respect to Capital Appreciation Certificates) of the Certificates then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance or any provision in the Pricing Certificate; provided that, without the consent of all Holders of Outstanding Certificates, ~~no such amendment, addition, or rescission shall~~ (1) ~~extend the time or times of~~ payment of the principal of and interest on the Certificates, reduce the principal amount or Maturity Amount, as the case may be, thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount or Maturity Amount, as the case may be, of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

**SECTION 23: Covenants to Maintain Tax Exempt Status of Interest on the Certificates.**

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

“Closing Date” means the date on which the Certificates 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 Certificates.

“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 Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

“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 Certificates. 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 Certificates 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 the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the Holder 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 Certificate, 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 Certificates:

(1) 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 Certificates, 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

(2) 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 Certificates 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 Certificates 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 Certificates 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 Certificates.

(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 Certificates 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:

(1) 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 Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates 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.

(2) 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 Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchasers 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 applicable Interest and Sinking Fund or its general fund, as

permitted by applicable Texas statute, regulation or opinion of the Attorney General, the amount that when added to the future value of previous rebate payments made for the Certificates 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.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), 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 Certificates, 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 Certificates not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, Chief Financial Officer and City Clerk of the City, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as one or more of such persons deems necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption, or similar or other appropriate certificate, form, or document.

**SECTION 24: Sale of Certificates - Official Statement.** The Certificates authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a purchase agreement (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer, in accordance with Section 4 hereof. With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Certificates;
2. The details of the public offering of the Certificates by the Purchasers;
3. The details of an Official Statement (and, if appropriate, any Preliminary Official Statement) relating to the Certificates and the City's Rule 15c2-12 compliance;
4. A security deposit for the Certificates;

5. The representations and warranties of the City to the Purchasers;
6. The details of the delivery of, and payment for, the Certificates;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the City under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the City;
11. The survival of representations made in the Purchase Contract;
12. The payment of any expenses relating to the Purchase Contract;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Certificates.

The Pricing Officer is hereby authorized and directed to execute the Purchase Contract 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 Certificates by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by said 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 Purchasers.

**SECTION 25: Control and Custody of Certificates.** The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificates pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts, and the delivery thereof to the Purchasers.

**SECTION 26: Proceeds of Sale.** Immediately following the delivery of the Certificates, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and any municipal bond insurance, accrued interest received from the Purchasers of the Certificates, if any, and premium in the amount, if any, specified in the Pricing Certificate) shall be deposited to the credit of a construction account maintained on the books and records of the City and, if not immediately invested, in a fund kept at a depository bank of the City. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of V.T.C.A., Government Code, Chapter 2256,

including guaranteed investment contracts permitted in V.T.C.A., Section 2256.015, et seq, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the applicable Interest and Sinking Fund as shall be determined by the City Council. Accrued interest and premium in the amount, if any, specified in the Pricing Certificate received from the sale of the Certificates and any excess certificate proceeds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the applicable Interest and Sinking Fund.

**SECTION 27: Notices to Holders-Waiver.** Wherever this Ordinance or the Pricing Certificate provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case in which notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance or the Pricing Certificate provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**SECTION 28: Cancellation.** All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be returned to the City.

**SECTION 29: Bond Counsel Opinion.** The obligation of the Purchasers to accept delivery of the Certificates is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Bond Counsel to the City, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. A true and correct reproduction of said opinion is hereby authorized to be printed on the Certificates, or an executed counterpart thereof is hereby authorized to be either printed on definitive printed obligations or deposited with DTC along with the global certificates for the implementation and use of the Book-Entry-Only System used in the settlement and transfer of the Certificates.

**SECTION 30: Further Procedures.** The Mayor, Mayor Pro Tem, City Manager, Deputy City Manager, Chief Financial Officer and City Clerk of the City 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 Certificates, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Certificates, the Mayor, Mayor Pro Tem, City Clerk, Alternate City Clerk, City Manager, Deputy City Manager and/or the Chief Financial Officer of the City, and its 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 Certificates 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.

**SECTION 31: CUSIP Numbers.** CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

**SECTION 32: Benefits of Ordinance.** Nothing in this Ordinance or the Pricing Certificate, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof or the Pricing Certificate, this Ordinance and all of its provisions and the Pricing Certificate being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar, and the Holders.

**SECTION 33: Inconsistent Provisions.** All ordinances 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 34: 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 35: Effect of Headings.** The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**SECTION 36: Construction of Terms.** If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

**SECTION 37: Severability.** If any provision of this Ordinance or the Pricing Certificate or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the Pricing Certificate and the application thereof to other circumstances shall nevertheless be valid, and the City Council of the City hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 38: Incorporation of Findings and Determinations.** The findings and determinations of the City Council of the City contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

**SECTION 39: Continuing Disclosure Undertaking.**

(a) **Definitions.** As used in this Section, the following terms have the meanings ascribed to such terms below:

“MSRB” means the Municipal Securities Rulemaking Board.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

(b) **Annual Reports.** The City shall provide annually to the MSRB (1) within six (6) 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 City of the general type included in the 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 City, when and if available. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City 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 City otherwise would be required to provide financial information and operating data pursuant to this Section.

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.

(c) **Notice of Certain Events.** The City will provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. principal and interest payment delinquencies;
2. nonpayment-related defaults, if material;

3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;
6. 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 Certificates, or other material events affecting the tax status of the Certificates;
7. modifications to rights of holders of the Certificates, if material;
8. bond calls, if material, and tender offers;
9. defeasance;
10. release, substitution, or sale of property securing repayment of the Certificates, if material;
11. rating changes;
12. bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. the consummation of a merger, consolidation, or acquisition involving the 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; and
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the 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 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 City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) 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.

(e) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with subsection (c) hereof that causes Certificates to be no longer outstanding.

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates under the Rule, 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 City's financial results, condition, or prospects 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 Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL HOLDER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY 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.

No default by 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.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise 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, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates 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 Holders of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Certificates 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 Holders and beneficial owners of the Certificates. 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.

**SECTION 40: Municipal Bond Insurance.** The Certificates 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 Certificates and make the determination of the provisions of any commitment therefor.

**SECTION 41: Public Meeting.** 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 Chapter 551 of the Texas Government Code, as amended.

**SECTION 42: Effective Date.** This Ordinance shall take effect and be in full force immediately from and after its adoption on the date hereof in accordance with the provisions of V.T.C.A., Government Code, Section 1201.028.

*[Remainder of page left blank intentionally.]*

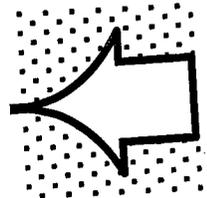
APPROVED AND ADOPTED this 16<sup>th</sup> day of October, 2012.

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

ATTEST:

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

(SEAL)



APPROVED AS TO FORM:

Paul A. Braden

Paul A. Braden  
Attorney for the City

APPROVED AS TO CONTENT:

Carmen Arrieta-Candelaria

Carmen Arrieta-Candelaria  
Chief Financial Officer  
City of El Paso, Texas

Bertha A. Ontiveros

Bertha A. Ontiveros  
Assistant City Attorney  
City of El Paso, Texas

EXHIBIT A  
PAYING AGENT/REGISTRAR AGREEMENT

## PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of \_\_\_\_\_, 2012 (this "Agreement"), by and between the City of El Paso, Texas (the "Issuer"), and Wells Fargo Bank, National Association, Dallas, Texas, a banking association organized and existing under the laws of the United States of America and authorized to do business in the State of Texas. (the "Bank").

### RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "City of El Paso, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2012", dated \_\_\_\_\_, 2012 (the "Securities"), such Securities scheduled to be delivered to the initial purchasers thereof on or about \_\_\_\_\_, 2012; 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; and

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 "Bond Resolution" (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 "Bond Resolution".

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.

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 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.

“Bank Office” located means the office of the Bank at the address appearing on the execution page hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Bond Resolution” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, certified by the Secretary or any other officer of the Issuer and delivered to the Bank.

“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 Bond Resolution).

“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 Bond Resolution.

“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 Bond Resolution 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, 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 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:

Wells Fargo Bank, N.A.  
Corporate Trust Services  
Sixth and Marquette  
Minneapolis, Minnesota 55479-0113

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 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 Bank Office.

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 Bond Resolution). 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 agency 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 at the dates specified in the Bond Resolution.

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 replacement of Securities shall be noted in the Security Register. The Bank represents and warrants its office in Dallas, Texas will at all times have immediate access to the Security Register by electronic or other means and will be capable at all times of producing a hard copy of the Security Register at its Dallas office for use by the Issuer.

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 National Association of Securities Dealers, or other form satisfactory to the Bank, 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 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 an adequate inventory of printed Securities to facilitate transfers or exchanges thereof to the Bank if such issue becomes ineligible for book entry. The Bank covenants that the inventory of printed Securities 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 Certificates.

The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, 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 applicable provisions of the Bond Resolution, 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, or destroyed, lost or stolen, the Bank, in its discretion, 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 destroyed lost or stolen Security upon approval by 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, or 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.

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 approved by the Issuer as prepared by the Issuer's financial advisor or other agent. The Bank may act on a facsimile transmission of the closing memorandum to be followed by an original of the closing memorandum signed by the financial advisor or the Issuer.

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.

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 - Agency Account/Collateralization.

An agency account shall at all times be kept and maintained by the Bank for the receipt, safekeeping and disbursement of moneys received from the Issuer hereunder 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 agency accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such agency account shall be made by check drawn on such agency account unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

The Bank shall be under no liability for interest on any money received by it hereunder.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after the final maturity of the Security has become due and payable will be paid by the Bank to the Issuer, and the Holder of such Security shall thereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such moneys shall thereupon cease.

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 offices of the Issuer are 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 current "Operational Arrangements" memorandum 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 execution page hereof.

Section 6.04 Effect of Headings.

The Article and Section headings herein are for convenience 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 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 6.08 Entire Agreement.

This Agreement and the Bond Resolution 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 Bond Resolution, the Bond Resolution shall govern.

Section 6.09 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 6.10 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 given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. 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 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 6.11 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.

CITY OF EL PASO, TEXAS

By: \_\_\_\_\_

\_\_\_\_\_  
Pricing Officer

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, Dallas, Texas

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 750 North St. Paul Place, Suite 1750  
Dallas, Texas 75201  
Attention: Corporate Trust Department

ANNEX A

SCHEDULE OF BANK FEES

*(See attachment.)*

# City of El Paso

## Plan for 2012 Debt Issuance

October 16, 2012 - Final

Prepared by: Carmen Arrieta-Candelaria

Chief Financial Officer

October 7, 2012



# Plan for 2012 Debt Issuance

October 16, 2012 - Final

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## Certificates of Obligation and Refunding Issuance

This document outlines the plan for issuing up to \$63,000,000 of debt in the fall of 2012 pertaining to the December 2008 , February 2010, November 2010, April 2011 and August 2012 authorizations as granted by the City Council of the City of El Paso. The Plan also proposes to refund up to \$23,260,000 of 2003 Certificates of Obligation.

## **City Staff and Others Assigned to Project**

### ***City Lead Staff Assigned***

William F. Studer, Deputy City Manager for Development and Tourism  
Carmen Arrieta-Candelaria, Chief Financial Officer  
Dr. Mark Sutter, Comptroller

### ***Financial Advisors***

First Southwest  
221 North Kansas Street, Suite 1200  
El Paso, Texas 79901

POC: George Williford, Managing Director  
J.C. "Corky" Hall, Executive Director  
Maria Fernanda Urbina, Senior Vice President

### ***Underwriters Selected***

Lead: RBC Capital Markets, LLC  
Contact: Ron Morrison/Todd Holder/Paul Cassidy/Rhett Bredy

Supporting: Siebert Brendford Shank & Co, Inc.  
Contact: Art Morales

Merrill Lynch, Pierce, Fenner & Smith  
Contact: Curt Shel mire

### ***Bond Counsel***

Paul A. Braden, Partner  
FULBRIGHT & Jaworski L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-2784  
T: 214 855 8189 \* F: 214 855 8200  
El Paso: 915 351 6053

## **Timeline of Events**

The following *Timeline of Events* is proposed by First Southwest and approved by City Staff.

**CITY OF EL PASO, TEXAS**

**Combination Tax and Revenue Certificates of Obligation, Series 2012  
General Obligation Refunding Bonds, Series 2012**

**Preliminary Schedule of Events**

Aug-12						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Sep-12						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Oct-12						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Nov-12						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Complete By	Day	Event
17-Jul-12	Tuesday	First Southwest Company submits information request to the City and begins working on official statement
14-Aug-12	Tuesday	First Southwest Company receives information requested from City
16-Aug-12	Thursday	First draft of the Official Statement distributed for comments
20-Aug-12	Monday	Provide comments on initial draft of POS
11-Sep-12	Tuesday	City Council approves resolution to authorize Notice of Intent to issue Certificates of Obligation, Series 2012
13-Sep-12	Thursday	1st Publication of Notice of Intent to Issue Certificates of Obligation, Series 2012
20-Sep-12	Thursday	2nd Publication of Notice of Intent to Issue Certificates of Obligation, Series 2012
1-Oct-12	Monday	Send POS to Rating Agencies
8-Oct-12	Monday	Rating Agency Conference Calls
16-Oct-12	Tuesday	City Council considers selling Certificate of Obligations & Refunding Bonds through a parameter resolution Receive ratings
23-Oct-12	Tuesday	Pricing date for the Certificate of Obligations & Refunding Bonds; Execution of sale agreements
30-Oct-12	Tuesday	Final official statement printed and mailed
20-Nov-12	Tuesday	Closing. Certificates & Bonds are delivered to Underwriters and proceeds received by City

### **Resolution –Notice of Intent:**

On September 11, 2012, City Council approved a resolution to authorize publication of notice of intention to issue these certificates of obligation. Notice of intent was published in accordance with the resolution approved.

### **Copy of Reimbursement Resolution**

The Reimbursement Resolution pertaining to these projects to be reimbursed was executed by William F. Studer, Deputy City Manager, in June 2011, and is kept on file in the Financial Services Department.

### **Refunding Opportunity**

First Southwest proposes that the City refund \$23,260,000 of the 2003 Series of Certificates of Obligation series. This will net a PV benefit of 12.924%, or \$2,839,429, which is above the City's refunding threshold of 2%, as per Section 7.2 of the City's Debt Management Policy.

### **Tax Model**

The Tax Model for this issuance has been reviewed by staff and staff has determined that the tax model will be in compliance with the tax limit of 27¢ given the current assumptions. The proposed tax model includes the proposal to issue the current debt under a 25-year term.

### **Size of Issuance:**

Proposed Issuance (not including the refunding):

*\$63,000,000 which includes all associated bond issuance costs*

The 2012 Issuance is comprised of authorizations from December 2008, February 2010, March 2010, April 2011 and August 2012 authorizations. The following chart, *Chart I*, is the timing of this issuance and remaining authorizations approved by Council as September 11, 2012. Appendix A includes those projects to be reimbursed as well as the authorizations granted by Council.

**Chart I: Proposed Scenarios of Remaining Debt Authorizations  
Updated on 9/18/12**

Proposed Scenario as of August 28, 2012 with revisions to 2008 Program

Debt Scenario - All Existing Authorized Debt Plus Short Term CIP	Subfund	Amount Previously Issued	2012	2013*	2014	2015	2016	2017	2018*	Total
December 2008 Authorization	471	45,164,832	5,000,000	10,963,305						61,128,137
February 2010 Authorization	451	20,000,000	20,000,000							40,000,000
Approved Transportation Funding - March 2010	452	4,350,000		5,417,219	10,000,000					19,767,219
Approved Transportation Funding In November 2, 2010	453		2,000,000	14,645,019	40,000,000	14,247,375	15,000,000			85,892,394
Short-Term CIP Approved on April 19, 2011	456		20,100,000	15,000,000	14,800,000	15,313,569				65,213,569
Long Term Street Infrastructure Plan				21,800,000	21,800,000	21,800,000	21,800,000	21,800,000	109,400,000	218,400,000
City Hall Related Purchases			2,431,520	26,295,440						28,726,960
Subtotal - Tax Supported Debt Sun Metro Only		69,514,832	49,531,520	94,120,983	86,600,000	51,360,944	36,800,000	21,800,000	109,400,000	519,128,279
			12,000,000		5,000,000					17,000,000
<b>Total Issuance Needed</b>		<b>69,514,832</b>	<b>61,531,520</b>	<b>94,120,983</b>	<b>91,600,000</b>	<b>51,360,944</b>	<b>36,800,000</b>	<b>21,800,000</b>	<b>109,400,000</b>	<b>536,128,279</b>
Note: \$14,841,219 is 100% Sun Metro debt	General	69,514,832	22,931,520	64,158,745	41,600,000	37,113,569	21,800,000	21,800,000	109,400,000	318,803,834
	Transportation		2,000,000	20,062,238	50,000,000	14,247,375	15,000,000			101,309,613
	Technology		24,600,000	9,900,000						34,500,000
	Sun Metro (Self)		12,000,000							12,000,000

Note: The Sun Metro authorization was granted by City Council in December 2008. This debt is considered *self-supporting debt* and does not impact the I&S tax rate for the City.

### List of Projects to be funded in Narrative Form

The following are projects to be funded: (i) construction projects as follows: (a) constructing, resurfacing and improving various streets, roads, bridges, thoroughfares, sidewalks, pathways and related municipal facilities within the City, including lane markings, ADA accessibility, traffic signals, loop detectors, lighting and landscaping related thereto and the acquisition of necessary rights-of-way and land in connection therewith, (b) design, construction and installation of flood control, storm water, drainage improvements, ponding area improvements and related municipal facilities within the City, including the acquisition of rights-of-way, real property and any related demolition necessary in connection therewith, (c) renovating, improving and equipping existing municipal facilities, including fiber optic connectivity, IT facility improvements, ADA improvements, roofing system rehabilitation and replacement, air circulation, (d) acquisition, construction and improvement of municipally owned public art projects, (e) design, acquisition, construction and improvements to transportation and terminal facilities, including the acquisition of necessary rights of way and land therefor, (f) acquisition, renovation, rehabilitation, improving and equipping municipal facilities for departmental administrative purposes, (h) design and construction of fire stations, (i) design, acquisition, construction, improvement and equipping of parks and recreational facilities, (j) rehabilitating, renovating, improving and equipping existing municipal facilities, including libraries, maintenance service centers, animal control and fire stations, and (k) demolition of dangerous structures; and (ii) the purchase of land, buildings and/or capital equipment, including motor vehicles, for the following City departments: police, fire, transportation, library, street and bridge, parks and recreation, public works, health and service center; and (iii) professional services rendered in connection with this issuance.

See Appendix A for List of Projects to be reimbursed and detail of specific authorizations.

**Appendix A: List of Projects to be reimbursed and detail of specific authorizations**

CITY OF EL PASO, TEXAS  
Detailed List of Projects to be Reimbursed  
As of August 23, 2012

Project	Name/Description	Capital Projects Fund		By District	Amount to be Issued/Reimbursed
		Expenditures June 1, 2011 through August 23, 2012			
P08FC001	NORTHWIND WALL CONSTRUCTION	30,797		DIST 1	
P09ST015	LINCOLN MIDDLE SCHOOL FLASHERS	3,670		DIST 1,8	
P09ST015A	LINCOLN FLASH/MULBERRY/WARRIOR	15,819		DIST 1	
P09ST017	BURGESS HIGH SCHOOL FLASHERS	17,346		DIST 3	
P09ST018	McARTHUR MIDDLE SCH. FLASHERS	13,521		DIST 3	
P09ST019	BARRON ELEMENTARY SCH FLASHERS	13,487		DIST 4	
PAPADMINY09	ADMINISTRATION	(3,091)		CITYWIDE	
PCP06ST013	SIGNAL/FLASHER INSTALL CP06	1,780		CITYWIDE	
PCP06ST022B	OREGON STREET RECONSTRUCTION	25,290		DIST 1,8	
PCP08LI01	CIELO VISTA LIBRARY RELOCATION	16,645		DIST 3	
PCP09CMP002	MESA BRT	194,114		DIST 1,8	
PCP09IT001	FIBER INTERCONNECT	975,678		CITYWIDE	
PCP09IT002	IT TELEPHONE UPGRADE	90,338		CITYWIDE	
PCP09MF001	FACILITY REHABILITATION - 2009	273,268		CITYWIDE	
PCP09MT004	MISSION VALLEY TRANSIT TERM	136,640		DISTRICT 7	
PCP09MT007	NORTHGATE TRANSIT TERMINAL	1,529,266		DISTRICT 4	
PCP09MT008	ADMINISTRATION BLDG & LNG	2,238,700		DISTRICT 2	
PCP09MT009	ADA CURB CUTS & SHELTERS	673,267		CITYWIDE	
PCP09MT010	BUS PURCHASES	3,846,976		CITYWIDE	
PCP09MT011	MONTANA BRT	84,046		DIST 2,3,5	
PCP09MT012	DYER BRT	124,039		DIST 2,4	
PCP09MT014	2004 NEW FLYER MID-LIFE REBUIL	63,573		DIST 3,6,7	
PCP09ST002	ALAMEDA BRT	871,711		DIST 3,6,7	
PCP09ST003O	EL DORADO ACADEMY-SCH FLASHERS	468		DIST 5	
PCP09ST004	NEIGHBORHD TRAF MGMT PROGRAM	141,425		CITYWIDE	
PCP09TX002	AIRWAY EXTENSION	720		DISTRICT 3	
PCP10ST08	2010 STREET RESURFACING	475,800		CITYWIDE	
PCP10ST08A	Hawkins Resurfacing	252,765		DIST 3	
PCP10ST09	BATAAM RAILWAY RECONSTRUCTION	318,490		CITYWIDE	
PFLSVCO1	EQUIPMENT REPLACEMENT	1,891,135		CITYWIDE	
PHED023	CITY-COUNTY HEALTH ADMIN PH 3	10,150		DIST 3	
PMF07002	CIP ADMINISTRATIVE COSTS	14,244		CITYWIDE	
PSTM06 PW506	GOVT HILLS OUTFALL/DURAZNO NE	705,329		DIST 3	
PSTM06 PW540	DALLAS OUTFALL	4,017,408		DIST 8	
PUBART0905	RIO BOSQUE	115,300		DIST 6	
PUBART0906	STANTON BRIDGE	57,955		DIST 8	
PUBART0908		19,526		CITYWIDE	
<b>471-CO 2009 ISSUE</b>		<b>19,257,595</b>	<b>17,000,000</b>		Planned expenses; fund balance sufficient to cover expenses. Sun Metro's debt is all issued with this issuance.
PAPADMINY10	PUBLIC ART ADMINISTRATION	70,906		CITYWIDE	
PART10ACLVSQ	CLEVELAND SQUARE PARK IMPRVMT	111,986		DIST 8	
PCP08MF01R	CITY HALL RE-ROOFING	22,409		DIST 8	
PCP10FI01	F. S. # 31	713,586		DIST 8	
PCP10FI02	F. S. # 37	170,639		DIST 5	
PCP10HE01	ANIMAL SHELTER	182,507		DIST 2	
PCP10IT02A	DATA CENTER-(EPCC ADMIN BLDG)	8,311,121		DIST 3	
PCP10IT02B	CW NETWORK INFRASTRUCTURE	104,092		CITYWIDE	
PCP10MF01	FACILITY REHABILITATION	52,425		CITYWIDE	
PCP10MF01A	FACILITY REHAB-AB FALL MANSION	1,180,552		DIST 8	
PCP10MF01B	CITY HALL ENTRYWAY REPAIR	26,737		DIST 8	
PCP10MF02	PROPERTY ACQUISITIONS	2,526,515		CITYWIDE	
PCP10MF02A	NORTHGATE MALL ACQUISITION	45		DIST 4	
PCP10ST01B	TRAF SIGNAL-ZARAGOSA@C. SHULTZ	9,617		DIST 5,6	
PCP10ST01C	TRAF SIGNAL-ZARAGOSA@SOMBRAS	32,081		DIST 5,6	
PCP10ST01D	TRAF SIGNAL-ZARAGOSA@SUN FIRE	131,534		DIST 5,6	
PCP10ST01E	TRAF SIGNAL-KNIGHTS@MIDWAY	134,400		DIST 3	
PCP10ST03	SIDEWALK IMPROVEMENTS	466,916		CITYWIDE	
PCP10ST03B	2011 SIDEWALK GAP	9,495		CITYWIDE	
PCP10ST04	NGHBRHOOD TRAFFIC-PROGRAM PH 1	487,341		CITYWIDE	
PCP10ST05	NGHBRHOOD TRAFFIC-PROGRAM PH 2	(117,738)		DIST 2	
PCP10ST06	COUNTRY CLUB ROAD	494,438		DIST 1,8	
PCP10ST07	ST RECONST - SAN ANTONIO	244,515		DIST 8	
PCP10ST14	ST RECONST - MONTWOOD	307,412		DIST 5,7	
PUBART1001A	CULTURAL WORKS	30,935		CITYWIDE	
<b>451-CO 2010 ISSUE</b>		<b>15,704,556</b>	<b>20,000,000</b>		Difference is remaining authorization and planned expenses; this will exhaust authorization.
PAPADMINY11	FY2011 Pub Art admin costs	33		CITYWIDE	
PCP09MT008	ADMINISTRATION BLDG & LNG	315,515		DIST 2	
PCP09ST002	ALAMEDA BRT	100,856		DIST 3,6,7	
PCP11MT03	MESA BRT MATCH	1,177,848		CITYWIDE	
PCP11MT04	DYER BRT MATCH	2,500		CITYWIDE	
PUBART1101	FY11 for 2% for the Arts	87,000		CITYWIDE	
PCP12MT01	EL PASO STREETCAR	159,076		DIST 1,8	
<b>453-CO 2011 ISSUE</b>		<b>1,842,828</b>	<b>2,000,000</b>		Difference due to planned expenses
PCP10ST14	ST RECONST - MONTWOOD	6,530		DIST 5,7	
PCP12FI01	FS #37 CONSTRUCTION 2012_13	5,365		DIST 5	
PCP12FI03	F. S. # 513 2012_13	303,955		DIST 3,8	
PCP12IT01	NETWORK INFRASTRUCTURE 2012_13	490,106		CITYWIDE	
PCP12IT02	CABLE INFRASTRUCTURE 2012_13	215,933		CITYWIDE	

CITY OF EL PASO, TEXAS  
Detailed List of Projects to be Reimbursed  
As of August 23, 2012

Project	Name/Description	Capital Projects Fund		By District	Amount to be Issued/Reimbursed
		Expenditures June 1, 2011 through August 23, 2012			
PCP12IT04	FIBER/CONNECTIVITY 2012_13	205,493		CITYWIDE	
PCP12IT05	IT SOFTWARE 2012_13	84,194		CITYWIDE	
PCP12IT06	PEOPLESOFT RE-IMPLEME 2012_13	6,015,092		CITYWIDE	
PCP12IT08	DEPT SOFTWARE/HARDWAR 2012_13	9,850		CITYWIDE	
PCP12MF01	FACILITY REHAB CW 2012_13	577,093		CITYWIDE	
PCP12MF01A	MSC ELEVATOR	171,220		DIST 7	
PCP12MFE01	MSC BLDG 3 CONVERT REFR SYS	53,557		DIST 7	
PCP12MFE03	REFRIG AIR - S.J. REC CNTR	1,050		DIST 3	
PCP12MFE04	REFRIG AIR - LEONA FORD	660		DIST 8	
PCP12MFE05	WALK-IN COOLER - ZOO	18,600		DIST 3	
PCP12MFE07	F.S. 26 WOMEN REST/LOCKER ROOM	4,793		DIST 6	
PCP12MFE08	F.S. 20 WOMEN REST/LOCKER ROOM	4,635		DIST 3	
PCP12MFE09	F.S. 19 WOMEN REST/LOCKER ROOM	4,680		DIST 7	
PCP12MFE10	F.S. 8 WOMEN REST/LOCKER ROOM	4,635		DIST 1	
PCP12MFE13	MSC FLEET BREAK ROOM	1,350		DIST 7	
PCP12MFE17	MAIN LIBRARY ENTRANCE REMODEL	15,356		DIST 8	
PCP12MFG07	F.S. 29 WATER HEATER	3,700		DIST 6	
PCP12MFG27	F.S. 17 - REHAB KITCHEN	7,820		DIST 6	
PCP12MFG35	GSD ADMIN OFFICE HALLWAYS	19,873		DIST 7	
PCP12MFG40	ROOF RECOATING - MSC BLDG 4	720		DIST 7	
PCP12MFG51	F.S. 20 CARPORT	4,523		DIST 3	
PCP12MFG55	ENTRY REHAB - ART MUSEUM	40,200		DIST 8	
PCP12MFG57	MULTIPLE GAS LINES - ZOO	78,782		DIST 8	
PCP12MFG58	CARPET WORK - MEMORIAL LIBRARY	14,973		DIST 2	
PCP12MFG60	GSD ACCTG OFFICE - FURNITURE	75,033		DIST 7	
PCP12MFG66	4640 DELTA DR - DEMOLITION	9,691		DIST 8	
PCP12MFG69	ROOF RECOATING - MSC BLDG 2,3	2,368		DIST 7	
PCP12PRK01B	PARK POND - SHAWVER	48,643		DIST 7	
PCP12PRK01C	PARK POND - SKYLINE	71,461		DIST 4	
PCP12PRK01D	PARK POND - GALATZAN-OXIDATION	46,718		DIST 8	
PCP12PRK01F	PARK POND - CAPISTRANO PH I	46,447		DIST 6	
PCP12PRK01G	PARK POND - EDGEMERE & GUTHRIE	10,845		DIST 5	
PCP12PRK01H	PARK POND-VOCATIONAL@RIVERSIDE	90,881		DIST 3	
PCP12PRK01I	PARK POND - JAMESTOWN	40,016		DIST 6	
PCP12PRK02A	MEMORIAL PARK TENNIS COURT	72,080		DIST 2	
PCP12PRK02B	DELTA POOL ENTRANCE	18,315		DIST 3	
PCP12PRK02I	CORONADO/BALBOA PARK IMPRVS	3,617		DIST 1	
PCP12PRK02L	RADFORD NEIGHBORHOOD PARK	17,079		DIST 2	
PCP12ST01	NTMP PHASE 3 2012_13	359,781		CITYWIDE	
PCP12ST03	SCHWABE CONSTRUCTION 2012_13	156,089		DIST 7	
PCP12ST04	SIGNAGE 2012_13	580,958		CITYWIDE	
PCP12ST06	STREET RESURFACING 2012_13	2,477,119		CITYWIDE	
PCP12ST07	UNPAVED ROW 2012_13	273,469		CITYWIDE	
PCP12ST08	SIGNALS & FLASHERS 2012 & 2013	103,542		CITYWIDE	
PCP12ST08H	MIDWAY @ MIMOSA	141,498		DIST 3	
PCP12ST08I	MISSOURI @ DALLAS	70,371		DIST 8	
PCP12ST08J	SOCORRO @ OSCAR ALVAREZ	12,607		DIST 6	
PCP12ST08K	EDGEMERE @ R.C. POE	1,540		DIST 5	
PCP12ST08L	COTTON @ SAN ANTONIO	118,448		DIST 8	
PCP12MFG56	PEBBLE HILLS REG COMM LIGHTING	7,225		DIST 5	
PPA1007	MONTALVO PK UPGRADE PH 2	19,896		DIST 4	
456-FY12-13CO'S C-27051	Fund 27051 - April 2011 Authorization	13,378,254			Difference due to planned expenses
	Public Art - 2%			Citywide	46,760
	Property Acquisition - 801/811 Texas)			Dist 8	2,338,000
August 2012	Fund TBD - August 2012 Authorization	-			Expenses not yet incurred; issuing debt due to timing.

**2009 DEBT ISSUANCE  
Critical Priorities  
Option B**

City of El Paso  
Approved on December 2, 2008

<b>PROPOSED LONG TERM DEBT</b>			
<b>Sun Metro Need</b>			
Sun Metro*	Downtown Transfer Site	Local Match & Project Shortfall	\$508,619
	Glory Road TT	Local Match & Project Shortfall	\$9,184,661
	Mission Valley TT	Local Match & Project Shortfall	\$603,802
	Westside TT	Local Match & Project Shortfall	\$1,428,929
	Oregon - Smart 101	Local Match & Project Shortfall	\$101,209
	Northgate TT	Local Match & Project Shortfall	\$5,781,736
	Administrative Building & LNG	Design Only	\$2,000,000
	ADA Curbscuts & Shelters	Total \$6,000,000; \$2,000,000 each year of 3-year period	\$2,000,000
<b>Total</b>			<b>\$21,608,956</b>
<b>Other Need</b>			
COB Shortfall	Storm 2006 Priority II Projects	Project Shortfalls	\$12,612,805
Transportation CIP	COEP Funding for Planning & Design	Montana BRT (Shortfall), \$1,216,000 ***; Dyer BRT, \$1,340,000 ***	\$2,556,000
TxDOT	Funding Commitments for Local Match, Planning, & Design per projected TxDOT letting schedule	Airway - \$907,500 Local Match & Design; Hawkins - \$1,028,500 Local Match & Design; BRT Alameda, Local Match, Planning & Design, \$3,484,000**/**; Other Projects Local Match \$2,000,000	\$7,420,000
Comprehensive Mobility Plan	TxDOT Roadway Projects, Match & ROW Acquisition Costs; City Transit Total Project Costs	Loop 375 (Transmountain), ROW acquisition, \$50,000; Loop 375 (Joe Battle), ROW acquisition, \$100,000; Spur 276, ROW acquisition, \$880,000; BRT Mesa, Match \$1,000,000***; BRT Montana, Match \$400,000	\$2,430,000
2% Public Art	All Capital Projects	Per Municipal Code requirement	\$500,376
<b>Total</b>			<b>\$25,519,181</b>
<b>All Needs Total</b>			<b>\$47,128,137</b>
<b>PROPOSED MASTER EQUIPMENT NOTES</b>			
Sun Metro	Bus Acquisition	40 New Buses	\$16,000,000
General Fund	Fleet Replacement	TBD	\$10,000,000
<b>Total</b>			<b>\$26,000,000</b>

**\$73,128,137**

\* Sun Metro Projects include 2% Public Art Calculations  
 \*\* 80% of funding amount (\$2,787,200) is TxDOT reimbursable upon phase completion  
 \*\*\* Funding pays for: Alternatives Analysis, NEPA Review/Environmental, Preliminary Engineering, Construction Cost Estimate

Approved: 2-23-10

EXHIBIT A  
PROPOSED 2010 CAPITAL PLAN - REVISED

YEAR ONE - IMMEDIATE PRIORITIES					
Project	District	Amount	Project Type	Funding Source	Comment
Fire Station #31	8	\$1,460,000	Construction	Certificates of Obligation	New Fire Station at 110 Mesa Park; design & site acquisition complete; priority developed by Fire Master Plan <i>[Supplemental funding from Grant Award, \$1,000,000]</i>
Fire Station #37	5	\$300,000	Design	Certificates of Obligation	New Fire Station at Rich Beem & Edgemere; site acquisition complete; priority developed by Fire Master Plan
Signalization	5,6,3	\$750,000	Purchase & Installation	Certificates of Obligation	Each installation at a cost of \$150,000; Five priority locations identified: Montana @ Rich Beem, Zaragosa @ Charles Shultz, Zaragosa @ Sombras del Sol, Zaragosa @ Sun Fire, Knights @ Midway
Street Signage	Citywide	\$500,000	Purchase & Installation	Certificates of Obligation	New & Replacement regulatory signage needed citywide, \$400,000; new school zone signage replacement, \$100,000 <i>[Supplemental funding from Red Light Revenue; \$150,000 for school zone signage, \$115,000 for hand held devices for Police]</i>
Sidewalk Improvements	Citywide	\$650,000	Construction	Certificates of Obligation	Completes sidewalk gap program currently identified; See Enclosure 1
Neighborhood Traffic Management Program - Phase I	Citywide	\$1,000,000	Construction	Certificates of Obligation	Priorities developed under NTMP process; See Enclosure 2
Neighborhood Traffic Management Program - Phase II	2	\$250,000	Design	Certificates of Obligation	Monroe, Van Buren & Trowbridge <i>[Supplemental funding from Red Light Revenue, \$250,000]</i>

**EXHIBIT A  
PROPOSED 2010 CAPITAL PLAN - REVISED**

<b>Project</b>	<b>District</b>	<b>Amount</b>	<b>Project Type</b>	<b>Funding Source</b>	<b>Comment</b>
Facility Rehabilitation	Citywide	\$3,500,000	Design & Construction	Certificates of Obligation	Next phase priorities developed by Building Condition Assessment; includes \$1,200,000 for AB Fall Mansion Rehabilitation
Country Club Road	1,8	\$1,000,000	Design (incorporating future BRT)	Certificates of Obligation	Includes coordination with EPWU & TxDOT on ROW improvements; submission for federal construction funding pending
Street Reconstruction	8	\$2,000,000	Construction	Certificates of Obligation	San Antonio (from El Paso to Campbell)
<u>Sreet Reconstruction</u>	<u>5,7</u>	<u>\$1,000,000</u>	<u>Design</u>	<u>Certificates of Obligation</u>	<u>Montwood (from McRae to Windrock)</u>
Animal Shelter	2	\$500,000	Design	Certificates of Obligation	Phase II renovation
Bus Shelter Acquisition	Citywide	\$2,000,000	Purchase & Installation	Master Equipment Notes or Certificates of Obligation [Sun Metro]	Phase I Implementation; New bus shelters for 175 locations; Locations to be Determined
<b>Sub Total</b>		<b>\$14,910,000</b>			
2% For Arts		\$298,200			
2% Bond Costs		\$304,164			
<b>Total</b>		<b>\$15,512,364</b>			
<b>YEAR ONE - OTHER PROGRAMMED PRIORITIES</b>					
IT Capital	Citywide	<u>\$14,000,000</u>	Design, Construction & Purchase	Certificates of Obligation; Master Equipment Notes	Priorities developed by IT Strategic Plan & Immediate Replacement Projects as recommended by County IT Management Team; See Enclosure 4
Property Acquisition*	TBD	\$10,000,000	Real Estate Acquisitions	Certificates of Obligation	Acquisition of properties for key economic drivers; sites to be determined
<b>Sub Total</b>		<b>\$24,000,000</b>			
2% Bond Costs		\$487,636			
<b>Total</b>		<b>\$24,487,636</b>			
<b>Issuance TOTAL</b>		<b>\$40,000,000</b>			

\* Proceeds from any future sale of these lands would be used solely to retire the debt associated with the purchase; Debt would be issued only at time of Council approval for acquisition if cash is not sufficiently available.

Underlined Text denotes recommended staff revisions resulting from City Council feedback.

**EXHIBIT B**  
**TRANSPORTATION FUNDING PLAN -**  
**COEP PROJECT PRIORITIES / MPO TRANSPORTATION IMPROVEMENT PROGRAM**

Approved: November 2, 2010

<b>RECOMMENDED FUNDING</b>										
<b>Priority</b>	<b>Project</b>	<b>Total Project Cost</b>	<b>Local Match</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
1	Carolina Bridge Widening	\$1,899,633	\$1,899,633	\$1,266,422	\$633,211	\$0	\$0	\$0	\$0	\$0
2	Country Club Road Construction	\$12,000,000	\$12,000,000	\$3,000,000	\$6,000,000	\$3,000,000	\$0	\$0	\$0	\$0
3	Yarbrough Overpass Shortfall	\$850,000	\$850,000	\$850,000	\$0	\$0	\$0	\$0	\$0	\$0
4	Airway Blvd Construction	\$5,000,000	\$750,000	\$375,000	\$375,000	\$0	\$0	\$0	\$0	\$0
5	TxDOT Matches	\$3,500,000	\$3,500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
<b>Sub Total</b>		<b>\$23,249,633</b>	<b>\$18,999,633</b>	<b>\$5,991,422</b>	<b>\$7,508,211</b>	<b>\$3,500,000</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$500,000</b>
2% for Arts			\$379,993	\$119,828	\$150,164	\$70,000	\$10,000	\$10,000	\$10,000	\$10,000
2% Bond Issuance Costs			\$387,593	\$122,225	\$153,168	\$71,400	\$10,200	\$10,200	\$10,200	\$10,200
<b>Total</b>			<b>\$19,767,218</b>	<b>\$6,233,475</b>	<b>\$7,811,543</b>	<b>\$3,641,400</b>	<b>\$520,200</b>	<b>\$520,200</b>	<b>\$520,200</b>	<b>\$520,200</b>



Approved April 19, 2011

**SHORT-TERM PROPOSED CAPITAL IMPROVEMENT PLAN - FY 2012-2013**

PROJECT	TOTAL BUDGET	FY 2012	FY 2013
Fire Station 37 @ Edgemere & Rich Beem	\$ 3,100,000	\$ 3,100,000	
Fire Station 5 Replacement	\$ 2,116,500	\$ 200,000	\$ 1,916,500
Fire Station 13 Replacement	\$ 2,116,500	\$ 200,000	\$ 1,916,500
Fire Station 12 Replacement @3801 Ft. Blvd. - Design Only	\$ 290,000		\$ 290,000
Fire Training Academy* (\$7,000,000)			
<b>SUBTOTAL - FIRE DEPARTMENT PROJECTS</b>	<b>\$ 7,623,000</b>	<b>\$ 3,500,000</b>	<b>\$ 4,123,000</b>
NTMP	\$ 1,000,000	\$ 500,000	\$ 500,000
Pasodale Phase 4 and Schwabe	\$ 6,000,000	\$ 3,000,000	\$ 3,000,000
Signage	\$ 1,000,000	\$ 500,000	\$ 500,000
Signals & Flashers	\$ 2,000,000	\$ 1,000,000	\$ 1,000,000
Street Reconstruction - Montwood St. Construction	\$ 10,000,000	\$ 5,000,000	\$ 5,000,000
Street Resurfacing	\$ 6,000,000	\$ 3,000,000	\$ 3,000,000
Unpaved ROW	\$ 1,000,000	\$ 500,000	\$ 500,000
<b>SUBTOTAL - STREET INFRASTRUCTURE PROJECTS</b>	<b>\$ 27,000,000</b>	<b>\$ 13,500,000</b>	<b>\$ 13,500,000</b>

\*Note: Fire Training Academy shown for information only; funding not included pending completion of strategic planning process.

Note: Fire Departments replacements are proposed as a consolidation; related item to be discussed at 5:00 today at City Council.



**SHORT-TERM PROPOSED CAPITAL IMPROVEMENT PLAN - FY 2012-2013 (Continued)**

Facility Rehabilitation Citywide	\$ 4,000,000	\$ 2,000,000	\$ 2,000,000
IT Capital*	\$ 21,500,000	\$ 11,500,000	\$ 10,000,000
Park/Ponds - In accordance with storm water master plan	\$ 2,000,000	\$ 1,000,000	\$ 1,000,000
Parks - Playground/Swing Improvements, Lighting and/or Walking Paths	\$ 2,000,000	\$ 1,000,000	\$ 1,000,000
<b>SUBTOTAL - OTHER FACILITIES</b>	<b>\$ 29,500,000</b>	<b>\$ 15,500,000</b>	<b>\$ 14,000,000</b>
<b>SUBTOTAL - ALL PROJECTS</b>	<b>\$ 64,123,000</b>	<b>\$ 32,500,000</b>	<b>\$ 31,623,000</b>
2% for the Arts	\$ 1,282,460	\$ 650,000	\$ 632,460
2% for Bond Issuance Costs	\$ 1,308,109	\$ 663,000	\$ 645,109
<b>New Authorization Totals</b>	<b>\$ 66,713,569</b>	<b>\$ 33,813,000</b>	<b>\$ 32,900,569</b>

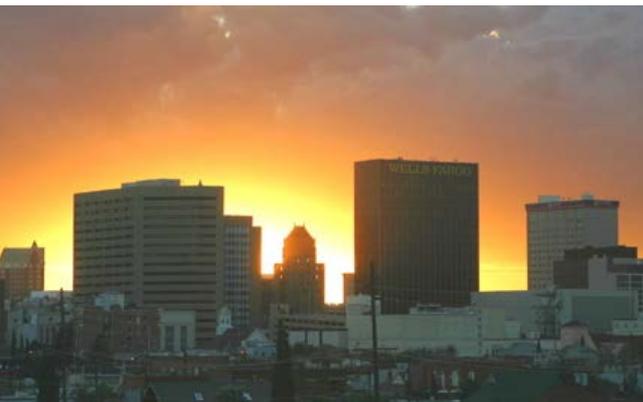
\*\$1.5 million will be funded out of Municipal Court Technology Fee Fund

Approved : September 18, 2012

EXHIBIT "A"

2013 City Hall Relocation and Baseball Stadium  
Capital Improvement Program

Project:	Project Budget
<b>City Hall Relocation</b>	
801/11 Texas	\$ 2,460,800
300 North Campbell	\$ 11,507,750
Parking Lot	\$ 3,140,800
Upgrades, Renovations and Furnishings for facilities	\$ 11,005,000
Public Art	\$ 562,287
Bond Issuance Costs	\$ 562,287
<i>Subtotal</i>	<i>\$ 29,238,924</i>
<b>Baseball Stadium</b>	
Construction of Public Sports Facility	\$ 50,000,000
Public Art	1,000,000
Bond Issuance Costs	1,000,000
<i>Subtotal</i>	<i>\$ 52,000,000</i>
<b>TOTAL CIP BUDGET</b>	<b>\$ 81,238,924.00</b>



# City of *El Paso*, Texas

## Certificate of Obligation Authorization Process

October 16, 2012

Item No. 6A – City Council Agenda

**FirstSouthwest**  SM

# Certificate of Obligation Notice and Authorization Process

- Council passed Resolution to publish Notice of Intention to issue certificates of obligation
  - Resolution passed September 11, 2012
  - 1<sup>st</sup> publication of Notice must precede date of authorization by at least 31 days
- Council acts on parameter Ordinance authorizing issuance of certificates of obligation
  - October 16, 2012

# Parameter Authorization

- Parameter authorization will enable sale of certificates of obligation at optimum timing and structure within 6 month period
- Council delegates final pricing authority to Pricing Officer(s)
- Council will establish sale parameters in Ordinance
  - Maximum Interest Rate – 4.25%
  - Aggregate Principal Amount of Issue - \$63,000,000
  - Final Maturity Date – December 31, 2038
  - Expiration of Delegated Authority – 6 Months
- Pricing Officer can only approve sale if Council parameters are met.

# Financing Participants\*:

## *Underwriters:*

Lead: RBC Capital Markets, LLC  
Supporting: Siebert Brendford Shank & Co, Inc.  
Merrill Lynch, Pierce, Fenner & Smith

## *Bond Counsel*

Paul A. Braden, Partner  
FULBRIGHT & Jaworski L.L.P.

**\*For both CO issuance and refunding deal.**

# Projects and Sizing of Certificate of Obligation Issue

<b>Purpose</b>	<b>Project Amount</b>
Authorized General Funds	\$ 22,931,520
Transportation	2,000,000
Technology	24,600,000
Sun Metro	12,000,000
Total	\$ 61,531,520

Maximum Issue Size: \$63,000,000\*\*

\*\*Includes all costs of issuance.



# CERTIFICATES OF OBLIGATION

Dates of Authorizations	Project Cost
December 2008*	\$17,000,000
February 2010	20,000,000
November 2, 2010	2,000,000
April 2011	20,100,000
August 2012	2,431,520
<b>Total</b>	<b>\$61,531,520</b>
<b>Rounded Issuance Size</b>	<b>\$63,000,000</b>

\*Includes \$12 million in self-supporting debt from Sun Metro

Note: All project authorizations have been attached to the Plan of Issuance as well as a detailed listing by district of all projects to be refunded.



# City of El Paso

**FirstSouthwest**  SM



## General Obligation Refunding Bonds, Series 2012

October 16, 2012

Item No. 6B – City Council Agenda

# Issue to be Refunded

- **Combination Tax & Revenue Certificates of Obligation, Series 2003**
  - Outstanding Par: \$21,970,000
  - Outstanding Coupons: 3.625% - 4.75%
  - 2014-2028 Maturities
  - Callable August 15, 2013

# Summary of Refunding

- **Potential Gross Savings\***: \$3,284,226
- **Net Present Value Savings\***: \$2,839,429 (12.924%)
- **Amortization**: Series 2012 Refunding bonds will expire on 2028. This is the same year Series 2003 would have expired. ***Debt will not be extended beyond original maturity.***
- **Savings Strategy**: Savings will be maximized in FYE 2015 and uniform thereafter.

\*Savings are based on market conditions as of October 9, 2012. Actual savings depend on market conditions at the time of pricing.

# Parameter Bond Sale

**Section 1207 of the Government Code allows refunding bonds via a Parameter Sale**

- **Council delegates final pricing authority to Pricing Officer(s)**
- **Council establishes bond sale parameters:**
  - Maximum True Interest Cost – 4.00%
  - Minimum Savings Threshold for Refunding – 2% Present Value Savings
  - Aggregate Principal Amount of Issue - \$23,260,000
  - Final Maturity Date – December 31, 2028
  - Expiration of Delegated Authority
    - 6 Months
- **Pricing Officer can only approve sale if Council parameters are met**

# Parameter Bond Sale

## Reason for Parameter Bond Sale = FLEXIBILITY

**Market Timing** – Bond issue is in ‘Day-to-Day’ mode meaning that bonds can be priced at any time and in an interest rate environment that is advantageous rather than being locked into pricing on the date of a Council meeting.

*City Administrative Staff recommends approval of the Ordinances authorizing issuance of the Certificates of Obligation and the Refunding Bonds*

# Financing Team

## City of El Paso

Bill Studer – Deputy City Manager Development & Tourism

Carmen Arrieta-Candelaria – Chief Financial Officer

Dr. Mark Sutter – Comptroller

## First Southwest

George Williford – Managing Director

Corky Hall – Executive Director

Maria Fernanda Urbina – Senior Vice President

# Questions?