

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

DEPARTMENT: Financial Services

AGENDA DATE: December 18, 2012

CONTACT PERSON NAME AND PHONE NUMBER: Carmen Arrieta-Candelaria, CFO, (915) 541-4011

DISTRICT(S) AFFECTED: ALL

SUBJECT:

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

Discussion and action on a Resolution authorizing and approving the creation of the City of El Paso Downtown Development Corporation pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code to aid, assist and act for and on behalf of the City in the financing and development of the Ballpark Venue Project; approving the Articles of Incorporation; appointing the Initial Directors and Chairperson; and containing findings and other provisions relating to other matters incidental and related thereto; and providing for an effective date. (All Districts) [Carmen Arrieta-Candelaria, Chief Financial Officer 915-541-4011]

BACKGROUND / DISCUSSION:

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

Subchapter D of Chapter 431, Texas Transportation Code, as amended ("Chapter 431"), authorizes the creation and organization of a public, nonprofit local government corporation to act as a duly constituted authority of a city to aid and assist the city in the performance of one or more of the city's governmental functions; and Chapter 431 requires a local government corporation to be created pursuant to the provisions of Chapter 394, Texas Local Government Code, as amended ("Chapter 394"), and requires a local government corporation's articles of incorporation be in the form and be executed, approved, and filed in the manner prescribed by Chapter 394; and a local government corporation may have and exercise all of the powers prescribed by Chapter 431, Chapter 394, and the Texas Non-Profit Corporation Act (Chapter 431, Chapter 394 and the Texas Nonprofit Corporation Law are referred to collectively as the "Acts"). In accordance with Chapter 394, a written application for the incorporation of a local government corporation to be called the "City of the Paso Downtown Development Corporation (the "Corporation") has been presented to and filed with the City Clerk of the City.

The Corporation will be organized for the purpose of aiding, assisting, and acting for and on behalf of the City in the performance of the City's governmental functions, including, but not limited to: (A) providing a means to develop, implement and finance, or otherwise pay or reimburse, the costs of a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games and related infrastructure as defined in Chapter 334, Local Government Code, as amended (collectively referred to as the "Project") and all of the costs of such Project (the "Project Costs"); (B) issuing bonds and/or notes for the financing of such Project Costs; and (C) leasing, selling, granting, transferring, or otherwise conveying all or a portion of the ownership interest in the Project as permitted by applicable law. In so acting on behalf of the City, the

Corporation will assist the City in the performance of the City's governmental functions as contemplated by the Acts.

The City Council, as the governing body of the City, must review and approve the proposed form of the Articles of Incorporation and determine to authorize and approve the creation of the Corporation.

The Local Government Corporation financing structure is being recommended in order to lower the cost of the debt associated with the financing of the Project. City subject-to-appropriation debt will have a better interest rate than HOT/Team revenue-only debt; the City also would not have to fund a debt service reserve fund under this structure and would not have to show coverage multiples. Under Texas law, in order for the City to provide a subject-to-appropriation "backstop" on the debt, the City would need to form a corporation. A type of "HOT Revenue bonds" would still be issued but would be issued by the Corporation, not the City. The City would contractually agree that, subject-to-annual appropriation, the City would contribute additionally lawfully available funds only in the event the HOT revenues and Team revenues would not be sufficient to pay debt service on the revenues bonds issued by the Corporation.

Attached supporting documents include the resolution, the articles of incorporation and bylaws of the corporation and the application to the City Council for the creation of the LGC.

PRIOR COUNCIL ACTION:

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

On August 14, 2012, the City Council approved an ordinance to hold an election on November 6, 2012, for the purpose of submitting to the voters of the City the Venue Project and Hotel Occupancy Tax Proposition.

AMOUNT AND SOURCE OF FUNDING:

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

N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: Carmen Anita Candalaria
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, AUTHORIZING AND APPROVING THE CREATION OF THE CITY OF EL PASO DOWNTOWN DEVELOPMENT CORPORATION PURSUANT TO SUBCHAPTER D OF CHAPTER 431 OF THE TEXAS TRANSPORTATION CODE, AS AMENDED, TO AID, ASSIST AND ACT FOR AND ON BEHALF OF THE CITY IN THE FINANCING AND DEVELOPMENT OF A MULTIPURPOSE COLISEUM, STADIUM OR OTHER TYPE OF ARENA OR FACILITY THAT IS PLANNED FOR USE FOR ONE OR MORE PROFESSIONAL OR AMATEUR SPORTS EVENTS, INCLUDING MINOR LEAGUE BASEBALL GAMES AND RELATED INFRASTRUCTURE; APPROVING THE ARTICLES OF INCORPORATION; APPOINTING THE INITIAL DIRECTORS AND CHAIRPERSON; AND CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO OTHER MATTERS INCIDENTAL AND RELATED THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Subchapter D of Chapter 431, Texas Transportation Code, as amended (“Chapter 431”), authorizes the creation and organization of a public, nonprofit local government corporation to act as a duly constituted authority of a city to aid and assist the city in the performance of one or more of the city’s governmental functions; and

WHEREAS, Chapter 431 requires a local government corporation to be created pursuant to the provisions of Chapter 394, Texas Local Government Code, as amended (“Chapter 394”), and requires a local government corporation’s articles of incorporation be in the form and be executed, approved, and filed in the manner prescribed by Chapter 394; and

WHEREAS, a local government corporation may have and exercise all of the powers prescribed by Chapter 431, Chapter 394, and the Texas Non-Profit Corporation Act (formerly Article 1396, Vernon’s Texas Civil Statutes, as amended), now codified in the Texas Business Organizations Code as the Texas Nonprofit Corporation Law, as defined in Section 1.008 of the Texas Business Organizations Code, as amended (Chapter 431, Chapter 394 and the Texas Nonprofit Corporation Law are referred to collectively as the “Acts”); and

WHEREAS, Chapter 394 requires as condition to the creation of a local government corporation that at least three (3) residents of the City and the State of Texas (the “State”) who are at least eighteen (18) years of age submit a written application for the incorporation of the local government corporation; and

WHEREAS, there has been presented to and filed with the City Clerk of the City of El Paso, Texas (the “City”), an application executed by three (3) residents of the City who meet the requirements of Chapter 394 requesting the incorporation of the City of El Paso Downtown Development Corporation (the “Corporation”); and

WHEREAS, the Corporation will be organized for the purpose of aiding, assisting, and acting for and on behalf of the City in the performance of the City's governmental functions, including, but not limited to: (A) providing a means to develop, implement and finance, or otherwise pay or reimburse, the costs of a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games and related infrastructure as defined in Chapter 334, Local Government Code, as amended (collectively referred to as the "Project") and all of the costs of such Project (the "Project Costs"); (B) issuing bonds and/or notes for the financing of such Project Costs; and (C) leasing, selling, granting, transferring, or otherwise conveying all or a portion of the ownership interest in the Project as permitted by applicable law. In so acting on behalf of the City, the Corporation will assist the City in the performance of the City's governmental functions as contemplated by the Acts; and

WHEREAS, the City Council of the City (the "Council"), as the governing body of the City, has reviewed and approved the proposed form of the Articles of Incorporation attached hereto as **Exhibit A** and has determined to authorize and approve the creation of a local government corporation, a nonprofit entity, as its constituted authority and instrumentality to accomplish the purposes set forth in Article IV of such Articles of Incorporation pursuant to the provisions of Chapter 431; and

WHEREAS, the Council hereby finds and determines that the adoption of this Resolution is in the best interests of the citizens of the City;

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

SECTION 1. The Council hereby finds, determines, and declares that the application for the incorporation of the City of El Paso Downtown Development Corporation was executed and filed in the manner required by Chapter 394, and the Council therefore has authority to consider and act on the application for incorporation of the Corporation.

SECTION 2. The Council hereby finds, determines, recites, and declares that it is wise, expedient, necessary and advisable that the Corporation be formed, be created and be organized under the provisions of Chapter 431 and, to the extent required by Chapter 431, the provisions of Chapter 394, as a duly constituted authority of the City, and the Corporation is hereby authorized to aid, assist and act on behalf of the City in the performance of its governmental functions; and to perform the other purposes described in the Articles of Incorporation.

SECTION 3. The Corporation may aid, assist, and act for and on behalf of the City to further the public purposes set forth in Article IV of the Articles of Incorporation, as the same may be amended from time to time. In furtherance of those public purposes, the Corporation may cause and arrange for the design, development, construction, implementation, financing and operation of the Project, pursuant to the provisions of State law, and may take all lawful actions necessary or useful in furthering such public purposes.

SECTION 4. The Corporation is hereby designated as the duly constituted authority and instrumentality of the City (within the meaning of those terms in the regulations of the Treasury and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 of the Internal Revenue Code of 1986, as amended) and shall be authorized to act on behalf of the City for the public purposes set forth in Section 3 hereof; but the Corporation is not intended to be and shall not be a political subdivision or a political corporation within the meaning of the Constitution and the general laws of the State, including without limitation Article III, Section 52 of the State Constitution, and the City does not delegate to the Corporation any of its attributes of sovereignty, including the power to tax, the power of eminent domain, or its police power.

SECTION 5. This Resolution is adopted for the purpose of satisfying the conditions and requirements of the Acts and of section 103 of the Internal Revenue Code of 1986, as amended, and the regulations prescribed thereunder from time to time and for the benefit of the Corporation, the City, the owners or holders from time to time of the bonds or notes of the Corporation, and all other interested persons.

SECTION 6. The Council hereby approves the Articles of Incorporation of the Corporation in substantially the form attached hereto as **Exhibit A**, and incorporated by reference as a part of this Resolution for all purposes, and authorizes the incorporators of the Corporation to file such Articles of Incorporation with the Secretary of State of the State in the manner provided by law.

SECTION 7. The Council hereby appoints the directors listed in the Articles of Incorporation attached hereto to the initial board of directors for the Corporation. Subsequent Directors shall be appointed as provided in the bylaws to be adopted by the Corporation.

SECTION 8. The Council appoints Mayor John Cook as the initial Chairperson of the board of directors. Subsequent chairpersons shall be designated as provided by the bylaws to be adopted by the Corporation.

SECTION 9. The Corporation may, under the conditions set forth in the Acts and in this Resolution, issue, or provide for the issuance of, bonds or notes, acquire, lease, sell or convey certain properties, and enter into purchase agreements, lease agreements, credit agreements, operating agreements and all other agreements necessary or useful in connection with the Project; provided that the Corporation shall not issue bonds or notes without the consent of the Council. Furthermore, bonds or notes issued by the Corporation shall be deemed not to constitute a debt of the State, the City, or of any other political corporation, subdivision, or agency of the State or a pledge of the faith and credit or taxing power of any of them, but such bonds or notes shall be payable solely from the revenues pledged to the payment of such bonds or notes. In no event shall the Corporation be authorized to levy ad valorem taxes.

SECTION 10. The Council hereby finds, determines, recites and declares that any notes, bonds, loans, debts or other obligations of the Corporation shall not be deemed an indebtedness, liability, general or moral obligation or pledge of the faith or credit of the State, the City or any other political subdivision or governmental unit, nor shall any such notes, bonds, loans, debts or

other obligations constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction or any agreement, obligation or indebtedness of the City or of the State within the meaning of any constitutional or statutory provision whatsoever.

SECTION 11. The Council hereby finds, determines, recites and declares that it is the purpose, intent and desire of the City, in approving the creation of the Corporation and its Articles of Incorporation, that such actions and the Corporation hereby authorized comply with the requirements of the Internal Revenue Code 1986, as amended, and the Treasury Regulations and Internal Revenue Service rulings promulgated thereunder and the rulings issued pursuant thereto, such that the Corporation shall be deemed to be a constituted authority acting on behalf of the City pursuant to the provisions of the Chapter 431.

SECTION 12. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are incorporated by reference and are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 13. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters ordained herein.

SECTION 14. This Resolution shall be construed and enforced in accordance with the laws of the State and the United States of America.

SECTION 15. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 16. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 17. This Resolution shall become effective from and after its date of passage in accordance with law.

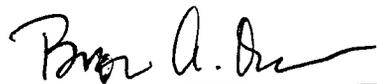
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THIS ___ DAY OF DECEMBER, 2012.

John F. Cook, Mayor

ATTEST:

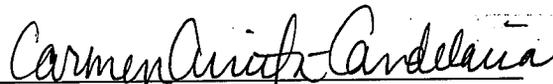
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



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

APPROVED AS TO CONTENT:



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

Exhibit A

Articles of Incorporation
For
City of El Paso Downtown Development Corporation

ARTICLES OF INCORPORATION

OF

CITY OF EL PASO DOWNTOWN DEVELOPMENT CORPORATION

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more, and a resident of the City of El Paso, Texas (the "City") and a citizen of the State of Texas (the "State"), acting as incorporators of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended (the "Act"), and to the extent required by the Act, Chapter 394, Texas Local Government Code, as amended ("Chapter 394"), do hereby adopt the following articles of incorporation for such corporation (the "Articles of Incorporation"):

ARTICLE I

The name of the corporation is "CITY OF EL PASO DOWNTOWN DEVELOPMENT CORPORATION" (the "Corporation").

ARTICLE II

The Corporation is a public, nonprofit corporation.

ARTICLE III

Subject to the provisions of Article XV, the period of duration of the Corporation shall be perpetual.

ARTICLE IV

The Corporation is organized for the purpose of aiding, assisting, and acting for and on behalf of the City in the performance of the City's governmental functions, including, but not limited to: (A) providing a means to develop, implement and finance, or otherwise pay or reimburse, the costs of a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games and related infrastructure as defined in Chapter 334, Local Government Code, as amended (collectively referred to as the "Project") and all of the costs of such Project (the "Project Costs"); (B) issuing bonds and/or notes for the financing of such Project Costs; and (C) leasing, selling, granting, transferring, or otherwise conveying all or a portion of the ownership interest in the Project as permitted by applicable law. In so acting on behalf of the City, the Corporation will assist the City in the performance of the City's governmental functions as contemplated by the Acts.

The Corporation is formed pursuant to the provisions of the Act, which Act authorizes the Corporation to assist and act on behalf of the City and to engage in activities in the furtherance of the purpose for its creation.

To the extent necessary to carry out its authorized purposes, the Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State to corporations incorporated under the Act including, without limitation, all powers not in conflict with the Act granted to domestic nonprofit corporations by the Texas Nonprofit Corporation Law, as defined by Section 1.008 of the Texas Business Organizations Code, as amended, and shall have all other powers of a like or different nature not prohibited by law which are necessary or useful to enable the Corporation to perform the authorized purposes for which it is created.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Section 101.001, Texas Civil Practice and Remedies Code, as amended. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Chapter 101, as amended, Texas Civil Practice and Remedies Code. The Corporation shall not exercise the powers of sovereignty of the City, including the power to tax, eminent domain power, or police power.

ARTICLE V

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

ARTICLE VI

The City Council has by resolution adopted on the 18th day of December, 2012, authorized the creation of the Corporation as a local government corporation and approved these Articles of Incorporation pursuant to Subchapter D of the Act.

To the extent necessary to carry out its authorized purposes, the Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given under the Act, Chapter 394, and under the general laws of the State to nonprofit corporations incorporated under the Texas Nonprofit Corporation Law which are consistent with the provisions of the Act with respect to the development and operation of the Project together with all powers incidental thereto or necessary therefor. Notwithstanding the foregoing, before the consummation of the sale and delivery of any bonds or notes, the Corporation shall obtain approval from the City Council, as evidenced by the adoption of a written resolution of the City Council. Additionally, in the exercise of the powers of the Corporation, the Corporation may enter into any sale, loan, lease, trust, operating, or other agreement as authorized by the Act that are necessary and appropriate to the fulfillment of the authorized purposes of the Corporation as set forth in Article IV hereof.

The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Corporation is authorized to act on behalf of the City as provided in these Articles of Incorporation. However, the Corporation is not a political subdivision or political corporation of the State within the meaning of the State constitution and laws, including, without limitation, Article III, Section 52 of the State Constitution, and no agreements, bonds, debts, or obligations of the Corporation are or shall ever

be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or a grant of public money or thing of value, of or by the City, except as provided by State law, or any other political corporation, subdivision, or agency of the State, or a pledge of the faith and credit of any of them.

ARTICLE VII

These Articles of Incorporation may at any time and from time to time be amended as provided in the Act or Chapter 394 so as to make any changes herein and add any provisions hereto permitted by law. Any such amendment not prohibited above shall be effected in either of the following manners: (i) the members of the Board of Directors of the Corporation (the "Board") shall file with the City a written application requesting permission to amend the Articles of Incorporation, specifying in such application the amendments proposed to be made, and the City may consider such application and, if it shall by appropriate resolution duly find and determine that it is wise, expedient, necessary or advisable that the proposed amendments be made and shall approve the form of the proposed amendments, then the Board may amend the Articles of Incorporation by adopting such amendments at a meeting of the Board and delivering the articles of amendment to the Secretary of State for the State, or (ii) the City Council may, in its sole discretion, and at any time, amend these Articles of Incorporation, and change the structure, organization, programs, or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act, Chapter 394, and any limitation provided by the State Constitution and laws of the State and the United States of America on the impairment of contracts entered into by the Corporation), by written resolution adopting the amendment to the Articles of Incorporation of the Corporation or articles of dissolution at a meeting of the City Council and delivering articles of amendment or dissolution to the Secretary of State for the State, as provided in the Act. Restated Articles of Incorporation may be filed with the Secretary of State for the State as provided in the Act.

ARTICLE VIII

The meetings of the Corporation shall be subject to the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Board is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, as amended, in the same manner as if the Corporation were a political subdivision.

ARTICLE IX

The initial bylaws of the Corporation shall be adopted by the Board and shall, together with these Articles of Incorporation, govern the initial affairs of the Corporation until and unless amended in accordance with the provisions of the Act and these Articles of Incorporation. The bylaws and each amendment and repeal of the bylaws must be approved by the City Council by resolution.

ARTICLE X

The street address of the initial registered office of the Corporation is 2 Civic Center Plaza, El Paso, Texas 79901, and the name of the initial registered agent at such address is Richarda Duffy Momsen, City Clerk.

ARTICLE XI

The affairs of the Corporation shall be managed by a nine (9) member board of directors (the "Board"), or such greater or lesser number (if then permitted by the Act), to be equivalent at all times with the total number of positions constituting the City Council of the City (including the Mayor of the City). The Board shall be composed in its entirety of persons who are members of the City Council of the City (including the Mayor of the City), and whose terms of office shall be fixed by and coterminous with, their respective terms of office as members of the City Council of the City (but in no event, shall any term exceed six years). A director shall hold office for the term to which the director is qualified and until a successor is qualified. A director serves without compensation but shall be entitled to reimbursement incurred in performing services as a director. Any vacancy in the Board shall be filled in the manner prescribed by the Bylaws.

ARTICLE XII

The number of directors of the Corporation (the "Directors") initially constituting the Board is nine (9). The names and addresses of the nine (9) initial Directors are:

<u>Names</u>	<u>Addresses</u>
John F. Cook	2 Civic Center Plaza El Paso, Texas 79901
Ann Morgan Lilly	2 Civic Center Plaza El Paso, Texas 79901
Susie Byrd	2 Civic Center Plaza El Paso, Texas 79901
Emma Acosta	2 Civic Center Plaza El Paso, Texas 79901
Carl L. Robinson	2 Civic Center Plaza El Paso, Texas 79901
Michiel Noe	2 Civic Center Plaza El Paso, Texas 79901
Eddie Holguin, Jr.	2 Civic Center Plaza El Paso, Texas 79901
Steve Ortega	2 Civic Center Plaza El Paso, Texas 79901
Cortney Niland	2 Civic Center Plaza El Paso, Texas 79901

All of the initial directors are residents of the City. Pursuant to Section 431.102(c) of the Act, a majority of the Board will reside within the City.

ARTICLE XIII

The names and street addresses of the incorporators, each of whom resides within the City, are:

<u>Names</u>	<u>Addresses</u>
William F. Studer, Jr.	2 Civic Center Plaza El Paso, Texas 79901
Carmen Arrieta-Candelaria	2 Civic Center Plaza El Paso, Texas 79901
Mark Sutter	2 Civic Center Plaza El Paso, Texas 79901

ARTICLE XIV

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by State law. Any repeal or amendment of this Article by the Board shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences and the bylaws, a Director shall not be liable to the fullest extent permitted by any amendment to the State law hereafter enacted that further limits the liability of a Director.

ARTICLE XV

If the Board determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds or notes issued by and all other obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026 of the Local Government Code, as amended, or with applicable law then in existence. In the event of dissolution of the Corporation, after the payment or satisfaction of all debts, liabilities and obligations, all assets will be turned over to the City, or its successor, unless the City Council shall otherwise direct.

ARTICLE XVI

A. The City Council, by written resolution, may authorize and direct the dissolution of the Corporation. However, the Corporation shall not be dissolved or liquidated, and its business shall not be terminated, by act of the City Council or otherwise, so long as the Corporation shall be obligated to pay any bonds, notes, or other obligations.

B. No action shall be taken pursuant to the first paragraph of this Article, in any manner or at any time that would impair any contract, lease, right, or other obligation theretofore executed, granted, or incurred by the Corporation.

ARTICLE XVII

As provided in the bylaws, the Corporation may indemnify any director, officer, agent or former director, officer or agent of the Corporation for expenses and costs, including attorney's fees, actually or necessarily incurred by the person in connection with any claim asserted against the person, by action in court or other forum, by reason of such person having been a director, officer or other agent.

ARTICLE XVIII

These Articles of Incorporation may not be changed or amended unless approved by the City Council by resolution or ordinance.

IN WITNESS WHEREOF, we have hereunto set our hands this the ___ day of December, 2012.

William F. Studer, Jr., Incorporator

Carmen Arrieta-Candelaria

Carmen Arrieta-Candelaria, Incorporator

Mark Sutter, Incorporator

THE STATE OF TEXAS

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§
§

COUNTY OF EL PASO

I, the undersigned, a Notary Public of the State of Texas, do hereby certify that on this the ___ day of December, 2012, William F. Studer, Jr., Carmen Arrieta-Candelaria, and Mark Sutter, who each being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators and that the statements therein contained are true.

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

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

(SEAL)

My Commission Expires:
