Texas Water Development Board

Application This project is a land and groundwater rights acquisition project for El Paso Water Utilities (EPWU). The Project includes the purchase of 32,500 acres of land in Hudspeth County.

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Property Rights Permits & Easements Environmental Determination CE/DNE Adverse Environmental/Social Impacts Associated PIF(s) Additional Attachments Document - Additional_Attachments Document - Additional_Attachments

Legal Authority

The legal authority under which the applicant was created and operates.: HOME_RULE

General Information

County: El Paso Name of Entity: El Paso PSB

System Contact Physical Address Address 1: 1154 Hawkins Blvd Address 2: City: El Paso State: TX Zip: 79925-0001 Phone: (915) 594-5501 Fax: (915) 594-5666 Website: www.epwu.org

System Contact Mailing Address Address 1: PO Box 511 Address 2: City: El Paso State: TX Zip: 79961-0511

Description

Brief description of the project: This project is a land and groundwater rights acquisition project for El Paso Water Utilities (EPWU).

Officers/Members

Applicant's Officers and Members

Henry Gallardo Public Service Board Chairperson Terri Garcia PSB Secretary-Treasurer

Christopher Antcliff PSB Vice Chairperson

Kristina Mena PSB Member

Bradley Roe PSB Member

Dr. Richard Schoephoerster PSB Member

Oscar Leeser Mayor, City of El Paso

John E. Balliew, PE President and CEO

Marcela Navarrete Vice President, Strategic Finance

Alan Shubert, PE Vice President of Operations and Technical Service

Primary Contact

Name: Scott Reinert Title: Water Resources Manager Address 1: 1154 Hawkins Blvd. Address 2: City: El Paso State: TX Zip: 79925-0001 Phone: (915) 594-5579 Fax: (915) 594-5699 Email: sreinert@epwu.org

Applicant's Contributors

Contributor Type	Firm Name	Contact Name	Address	Phone	Fax	Email
Applicant Engineer						
Bond Counsel	Fulbright and Jaworski	Paul Braden	2200 Ross Avenue, Suite 2800 Dallas TX 75201-2784	214-855- 8189	214-855- 8200	pbraden@fulbright .com
Financial Advisor	First Southwe st Compan y	Maria Urbina	221 N. Kansas St. Suite 200 El Paso TX 79901-0001	915-351- 7228	915-351- 7230	
Certified Public Accountant (or other appropriate rep	Gibson Ruddock Patterso n LLC	Greg Gibson	600 Sunland Park, 6-300 El Paso TX 79912-0001	915-356- 3700	915-356- 3779	
Legal Counsel						
Any other Contributor representing the Applicant before the board						

Contributor Contracts (documents follow this page)

326061 Bonding advisement 326062 Financial advisement

326063

Audit

El Paso Water Utilities Public Service Board

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FULBRIGHT & JAWORSKI L.L.P. A REGISTERED LIMITED LIABILITY PARTNERSHIP 2200 ROSS AVENUE, SUITE 2800 DALLAS, TEXAS 75203-2784 WWW.FULBRIGHT.COM

January 18, 2008

Paul A, Braden Partner Peraden@fuleright.com 1

DIRECT DIAL TELEPHONE; FACSIMILE:	
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Ms. Joyce Wilson City Manager City of El Paso 2 Civic Center Plaza El Paso, Texas 79901

Re: Legal Representation of City of El Paso regarding the Issuance of Obligations

Dear Ms. Wilson:

As discussed, we are pleased to submit to you a proposed agreement for Fulbright & Jaworski L.L.P., to serve as bond counsel ("Bond Counsel") to the City of El Paso (the "Issuer") with respect to the issuance of tax-exempt debt obligations and such other obligations, if any, that the Issuer may elect to issue from time to time (the "Obligations"). When approved by you, this letter, together with the Additional Terms of Engagement attached hereto, will become effective and will evidence an agreement between the Issuer and our firm with respect to our representation of the Issuer as bond counsel (the "Representation").

Terms of Engagement

This letter sets out the terms of our engagement in the Representation. Certain of those terms are included in the body of this letter, and additional terms are contained in the attached document, entitled *Additional Terms of Engagement*. That document is expressly incorporated into this letter, and it should be read carefully. The execution and return of the enclosed copy of this letter constitutes an agreement to all the terms set forth in this letter and in the attached *Additional Terms of Engagement*.

As Bond Counsel, we will prepare, or assist the appropriate Issuer officials and staff in the preparation of, all required legal proceedings and will perform certain other necessary legal work in connection with the Issuer's authorization, issuance, and sale of the Obligations. Our services as Bond Counsel will include the following Basic Services, which we will carry out directly or in concert with officials and staff of the Issuer, as follows:

1. Preparation of legal proceedings and documents to call and hold bond elections, if applicable.

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Preparation of the resolution or ordinance authorizing issuance of the selection of the resolution $\frac{2}{13} \frac{2}{13} \frac$ 2. Obligations and all other instruments which comprise the transcript of legal proceedings pertaining to the authorization, issuance, and sale of the Obligations, as well as legal research, document preparation, and consultation with respect to related municipal finance legal issnes:

Attendance at meetings called by the appropriate Issuer officials, to the 3. extent required or requested by the Issuer, to discuss sale of the Obligations or other municipal finance related legal issues;

Preparation and submission of transcripts of legal proceedings pertaining 4. to the issuance of the Obligations to the Attorney General of Texas to obtain an approving opinion;

Consultation with Issuer officials and staff and the Issuer's financial 5. advisor, together with underwriters, if any, to review information to be included in the offering documents for the Obligations, but only to the extent that such information describes the Obligations, the security therefor, federal income tax status and our opinion;

Supervision of the printing or preparation of the Obligations and the 6. delivery thereof to the purchasers thereof;

At the closing of the sale of the Obligations, delivery of an approving opinion, based on facts and law existing as of its date, as to the due authorization of the issuance, execution, and delivery of the Obligations, the validity of the Obligations, and the tax-exempt status of the interest thereon, if applicable;

Prior to and in connection with the closing of the Obligations, giving advice to the Issuer to enable appropriate officials to comply with the arbitrage requirements of the Internal Revenue Code of 1986 as they affect the Obligations, including yield restrictions and arbitrage rebate requirements; and

After the closing of the sale of the Obligations and upon specific request 9. of the Issuer, providing assistance to the Issuer concerning questions and issues that may arise prior to the maturity, and with respect to the terms, of the Obligations.

Our engagement is to advise you with respect to legal issues only, we understand that you have or are in the process of engaging an investment banking firm as your financial advisor, and unless otherwise instructed by you we will also consult with and take direction from your financial advisor in the issuance of the Obligations. Unless we are separately engaged to provide such services, our duties as bond counsel specifically do not include;

except as described above, or except as specifically engaged for such Τ. purpose, assisting in the preparation or review of an official statement or any other disclosure document with respect to the Obligations, or performing an independent

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investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

preparing requests for tax rulings from the Internal Revenue Service;

preparing blue sky or investment surveys with respect to the Obligations;

4. drafting of state constitutional amendments or preparation of authorizing legislation;

5. making an investigation or expressing any view of the creditworthiness of the Issuer or of the Obligations or any obligor therefor;

6. except if specifically engaged for such purpose, assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the Obligations and, after initial delivery of the Obligations, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking;

7. responding to Internal Revenue Service audits or Securities and Exchange Commission investigations; or

8. any other matter not specifically set forth above that is not required to render the Bond Opinion.

It is understood and agreed that our engagement is limited to the Representation. We are not being retained as general counsel, and our acceptance of this engagement does not imply any undertaking to provide legal services other than those set forth in this letter.

Our Personnel Who Will Be Working on the Representation

I will be working on any proposed offering and sale of Obligations. Other firm personnel, including firm lawyers and legal assistants, will participate in the Representation if, in our judgment, their participation is necessary or appropriate.

Our Legal Fees and Other Charges

For the services performed in connection with the issuance of Obligations, we will be paid a fee as set forth on the attached schedule of fees. Such fees(s) shall be paid from the proceeds of the sale of the Obligations or from other funds, as the Issuer deems appropriate, and, except to the extent otherwise provided herein, are contingent on a successful closing of the Obligation sale unless otherwise agreed to by the parties hereof. We customarily do not submit any statement for fees and out-of-pocket expenses until the closing of the sale of Obligations;

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however, if there is a substantial delay in completing the financing or if it is determined that the financing will not proceed to a closing, we will submit a statement for any-out-of-pocket expenses reasonably incurred.

In addition to our fees for rendering professional services, you will compensate us for expenses and non-professional services incurred incident to the performance of our legal services, such as photocopying, delivery charges, travel expenses, long-distance telephone calls, facsimile transmissions, overtime for secretaries and other nonlegal staff, specialized computer applications such as computerized legal research, and filing fees, whether or not the Obligations are issued.

In the event we are requested by the Issuer to perform services beyond the scope of Bond Counsel or to perform services as Bond Counsel, including the issuance of a legal opinion, which are not directly related to the issuance of Obligations, the Firm's hourly rates apply and the fees are not contingent. Any such work that is not directly related to an offering of Obligations or that is beyond the scope of Bond Counsel must be specifically authorized by the City Attorney, the City Manager or Deputy City Manager for Financial and Administrative Services prior to such work being performed. Our statements for any such hourly services and expenses relating to such work will normally be rendered on a monthly basis and are due and payable upon receipt by you.

There shall be no individual liability to any member of the City Council of the Issuer, or any other official of the Issuer for the payment of any amounts due hereunder.

If this agreement is terminated by you and a sale of Obligations which we worked on closes, we will be entitled to payment of reasonable fees in compensation for the work performed by us to the date of termination, based upon our standard hourly rates and the time expended on the transaction.

Conflicts of Interest

Before accepting the Representation, we have undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest that would bar our firm from representing the Issuer in the Matter. Based on the information available to us, we are not aware of any potential disqualification. We reviewed that issue in accordance with the rules of professional responsibility adopted in Texas. We believe that those rules, rather than the rules of any other jurisdiction, are applicable to the Representation, and the execution and return of the enclosed copy of this letter by the Issuer represents an express agreement to the applicability of those rules.

We also note that we represent many issuers, investment banking firms, commercial banks, and other parties to public finance transactions from time to time in connection with issuance of bonds other than the Obligations or in non-bond-related matters, including your financial advisor and possible purchasers of the Obligations.

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In addition to our representation of other companies and individuals, we also regularly represent lawyers and law firms. As a result, other counsel involved in issuance of the Obligations may be a lawyer or law firm that we may represent now or in the future. Likewise, such counsel may represent our firm now or in the future. Further, we have professional and personal relationships with many other attorneys, often because of our participation in bar associations and other professional organizations.

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It is our professional judgment that such relationships with the others described in this section do not adversely affect our ability to represent the Issuer in this matter. Your acceptance of these terms of engagement represents your consent to our representation of those persons now and in the future on the terms outlined in this section.

Conclusion

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This letter, the attached Additional Terms of Engagement and the other attachments constitute the entire terms of the engagement of Fulbright & Jaworski L.L.P. in the Representation. These written terms of engagement are not subject to any oral agreements or understandings, and they can be modified only by further written agreement signed both by the Issuer and Fulbright & Jaworski L.L.P. Unless expressly stated in these terms of engagement, no obligation or undertaking shall be implied on the part of either the Issuer or Fulbright & Jaworski L.L.P.

Please carefully review this letter and the attached *Additional Terms of Engagement*. If both documents are acceptable, please sign and return the enclosed copy of this letter so that we may commence the Representation. Thank you for the opportunity to be of service to the City of El Paso.

Very truly yours, Paul A. Braden

PAB/emt

cc: William F. Studer Deputy City Manager -Financial and Administrative Services

> Charles McNabb City Attorney

City of El Paso Agrees to and Accepts this Letter and the Attached Terms of Engagement:

City of El Paso

By e k. Title Date:2 <u>ebruaru</u> 26,2008

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SCHEDULE OF FEES

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A. Tax Supported New Money General Obligations and Certificates of Obligation: \$5,000 + (i) \$1.00 for each \$1,000 of par value of Obligations issued for all amounts up to \$50 million, and thereafter (ii) \$0.80 for each \$1,000 of par value of Obligations issued, with a minimum of \$7,500.

B. Refunding Bonds: 1.25 times above amounts.

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C. Revenue or Other Special Obligations: 1.5 times above amounts and/or by agreement.

Expenses. In addition to bond counsel fees, the Firm would be entitled to payment or reimbursement for out-of-pocket expenses incurred in performing services in this engagement, including in-house photocopying (\$0.10 per page), local messenger and delivery service, long-distance telephone and telecopying services, computerized research, travel, overnight courier services, filing or document retrieval fees and large reproduction projects sent outside the Firm.

FULBRIGHT & JAWORSKI L.L.P.

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Additional Terms of Engagement

03FEB 13 PH 2:17 This is a supplement to our engagement letter, dated January 18, 2008. The purpose of this document is to set out additional terms of our agreement to provide the representation described in our engagement letter (the "Representation") concerning any proposed offering and sale of Obligations (the "Matter"). Because these additional terms of engagement are a part of our agreement to provide legal services, the Issuer should review them carefully and should promptly communicate to us any questions concerning this document. We suggest that the Issuer retain this statement of additional terms along with our engagement letter and any related documents.

The Scope of the Representation

As lawyers, we undertake to provide representation and advice on the legal matters for which we are engaged. It is important for our clients to have a clear understanding of the legal services that we have agreed to provide. Thus, if there are any questions about the scope of the Representation that we are to provide in the Matter, please raise those questions promptly, so that we may resolve them at the outset of the Representation.

Any expressions on our part concerning the outcome of the Representation, or any other legal matters, are based on our professional judgment and are not guarantees. Such expressions, even when described as opinions, are necessarily limited by our knowledge of the facts and are based on our views of the state of the law at the time they are expressed.

Upon accepting this engagement on the Issuer's behalf, Fulbright & Jaworski L.L.P. agrees to do the following: (1) provide legal counsel in accordance with these terms of engagement and the related engagement letter, and in reliance upon information and guidance provided by the Issuer; and (2) keep the Issuer reasonably informed about the status and progress of the Representation.

To enable us to provide effective representation, the Issuer agrees to do the following: (1) disclose to us, fully and accurately and on a timely basis, all facts and documents that are or might be material or that we may request; (2) keep us apprised on a timely basis of all developments relating to the Representation that are or might be material; (3) attend meetings, conferences, and other proceedings when it is reasonable to do so; and (4) otherwise cooperate fully with us.

Our firm has been engaged to provide legal services in connection with the Representation in the Matter, as specifically defined in our engagement letter. After completion of the Representation, changes may occur in the applicable laws or regulations that could affect the Issuer's future rights and liabilities in regard to the Matter. Unless we are actually engaged after the completion of the Representation to provide additional advice on such issues, the firm has no continuing obligation to give advice with respect to any future legal developments that may pertain to the Matter.

It is our policy and the Issuer's agreement that the person or entity that we represent is the one identified in our engagement letter, and that our attorney-client relationship does not include any related persons or entities. For example, if a corporation, partnership, or other organization is identified as our client in our engagement letter referenced above, we do not represent any related parent companies, subsidiaries, affiliates, employees, officers, directors, shareholders,

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partners, members, commonly owned corporations or partnerships, or other such persons, entities, or affiliates, whether becoming such by virtue of merger, dissolution, acquisition, or any other means. Accordingly, it is understood that we may represent another client with persons adverse to any such affiliated or related person or entity without first obtaining consent from the Issuer.

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It is further agreed that the attorney-client relationship terminates upon our completion of the services for which we have been retained in the Representation.

Who Will Provide the Legal Services

As our engagement letter confirms, Fulbright & Jaworski L.L.P. will represent the Issuer in the Matter. Fulbright & Jaworski L.L.P. is a registered limited liability partnership that has elected to adopt the Texas Revised Partnership Act.

Although our firm will be providing legal services, each client of the firm customarily has a relationship principally with one attorney, or perhaps a few attorneys. At the same time, however, the work required in the Representation, or parts of it, may be performed by other firm personnel, including lawyers and legal assistants. Such delegation may be for the purpose of involving other firm personnel with experience in a given area or for the purpose of providing services on an efficient and timely basis.

Our Relationships With Others

Our law firm represents many companies and individuals. In some instances, the applicable rules of professional conduct may limit our ability to represent clients with conflicting or potentially conflicting interests. Those rules of conduct often allow us to exercise our independent judgment in determining whether our relationship with one client prevents us from representing another. In other situations, we may be permitted to represent a client only if the other clients consent to that representation.

Rules concerning conflicts of interest vary with the jurisdiction. In order to avoid any uncertainty, it is our policy that the governing rules will be those applicable to the particular office of our firm that prepares the engagement letter for a particular matter. The acceptance by the Issuer of our engagement letter constitutes an express agreement with that policy, unless the engagement letter specifically states that some other rules of professional responsibility will govern our attorney-client relationship.

From time to time, our firm may concurrently represent one client in a particular case or matter and, at the same time, our firm may be asked to represent an adversary of that same client in an unrelated case or matter. We would consider doing so only if it is our professional judgment that the firm could undertake the concurrent representation impartially and without any adverse effect on the responsibilities that the firm has to either client.

Specifically, it is possible that, during the Representation, some of our present or future clients will have disputes with the Issuer. By accepting these terms of engagement, it is expressly understood and agreed that we may continue to represent, or may undertake in the future to represent, existing or new clients in any matter that is not substantially related to the Representation, even if the interests of such clients in those other matters are directly adverse to the Issuer. We agree, however, that the prospective consent to conflicting representation contained in the preceding sentence shall not apply if, as a result of the Representation, we have

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obtained proprietary or other confidential information of a non-public nature that, if known to the other client, could be used in any other matter by that client with fine regult of any inaterial disadvantage to the Issuer.

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In addition to our representation of other companies and individuals, we also regularly represent lawyers and law firms. As a result, opposing counsel in the Matter may be a lawyer or law firm that we may represent now or in the future. Likewise, opposing counsel in the Matter may represent our firm now or in the future. Further, we have professional and personal relationships with many other attorneys, often because of our participation in bar associations and other professional organizations. It is our professional judgment that such relationships with other attorneys do not adversely affect our ability to represent any client. The acceptance of these terms of engagement represents an unqualified consent to any such relationships between our firm and other lawyers or law firms, even counsel who is representing a party that is adverse to the Issuer in the Matter that is the subject of this engagement or in some other matter.

Communications and Confidentiality

We have available Internet communication procedures that allow our attorneys to use e-mail for client communications in many instances. Accordingly, unless the Issuer specifically directs us otherwise, we may use unencrypted e-mail sent on the Internet to communicate with the Issuer and to send documents we have prepared or reviewed.

We recognize our obligation to preserve the confidentiality of attorney-client communications as well as client confidences, as required by the governing rules of professional responsibility. If the Matter involves transactions, litigation or administrative proceedings or like proceedings in which our firm appears as counsel of record for the Issuer in publicly available records, we reserve the right to inform others of the fact of our representation of the Issuer in the Matter and (if likewise reflected of record in publicly available records) the results obtained, unless the Issuer specifically directs otherwise.

Disclaimer

Fulbright & Jaworski L.L.P. has made no promises or guarantees to the Issuer about the outcome of the Representation or the Matter, and nothing in these terms of engagement shall be construed as such a promise or guarantee.

Termination

At any time, the Issuer may, with or without cause, terminate the Representation by notifying us of the Issuer's intention to do so. Any such termination of services will not affect the obligation to pay for legal services rendered and expenses and charges incurred before termination, as well as additional services and charges incurred in connection with an orderly transition of the Matter.

We are subject to the codes or rules of professional responsibility for the jurisdictions in which we practice. There are several types of conduct or circumstances that could result in our withdrawing from representing a client, including, for example, the following: non-payment of fees or charges; misrepresentation or failure to disclose material facts; fraudulent or criminal conduct; action contrary to our advice; and conflict of interest with another client. We try to identify in advance and discuss with our clients any situation that may lead to our withdrawal.

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A failure by the Issuer to meet any obligations under these terms of engagement shall entitle Fulbright & Jaworski L.L.P. to terminate the Representation. In that every, the Issuer will take all steps necessary to release Fulbright & Jaworski L.L.P. of any further obligations in the Representation or the Matter, including without limitation the execution of any documents necessary to effectuate our withdrawal from the Representation or the Matter. The right of Fulbright & Jaworski L.L.P to withdraw in such circumstances is in addition to any rights created by statute or recognized by the governing rules of professional conduct.

Billing Arrangements and Terms of Payment

Our engagement letter specifically explains our fees for services in the Matter. It is agreed that the Issuer will make full payment within 30 days of receiving our statement. We will give notice if an account becomes delinquent, and it is further agreed that any delinquent account must be paid upon the giving of such notice. If the delinquency continues and the Issuer does not arrange satisfactory payment terms, we may withdraw from the Representation and pursue collection of our account.

Document Retention

At the close of any matter, we send our files in that matter to a storage facility for storage at our expense. The attorney closing the file determines how long we will maintain the files in storage. After that time, we will destroy the documents in the stored files.

At the conclusion of the Representation, we return to the client any documents that are specifically requested to be returned. As to any documents so returned, we may elect to keep a copy of the documents in our stored files.

Charges for Other Expenses and Services

Typically, our invoices will include amounts, not only for legal services rendered, but also for other expenses and services. Examples include charges for photocopying, long-distance telephone calls, travel and conference expenses, messenger deliveries, computerized research, and facsimile and other electronic transmissions. In addition, we reserve the right to send to the Issuer for direct payment any invoices delivered to us by others, including experts and any vendors

In situations where we can readily determine the exact amount of expenses for products and services provided by third parties to be charged to the Issuer's account, our invoices will reflect the cost to us of the products and services. In many situations, however, the precise total cost of providing a product or service is difficult to establish, in which case we will use our professional judgment on the charges to be made for such product or service, which charges may vary from or exceed our direct cost of such product or service. In some situations, we can arrange for ancillary services to be provided by third parties with direct billing to the client. Attached is a copy of our current recharge schedule for expenses and services, which is subject to change from time to time.

Standards of Professionalism and Attorney Complaint Information

Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we are to advise our clients of the contents of the Texas Lawyer's Creed, a copy of which is attached. In

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addition, we are to advise clients that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. A brochure entitled *Attorney Complaint Information* is available at all of our Texas offices and is likewise available upon request. A client that has any questions about State Bar's disciplinary process should call the Office of the General Counsel of the State Bar of Texas at 1-800-932-1900 toll free.

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The Texas Supreme Court and the Texas Court of Criminal Appeals adopted this Creed, with the requirement that lawyers advise their clients of its contents when undertaking representation.

I am a lawyer, I am entrusted by the People of Texas to preserve and improve our legal system. I am litensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely seviding the violation of laws and rules. I am committed in this Creed for no other reason from it is right.

1. OUR LEGAL SYSTEM. A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism. Is an passionately proof of my profession. Therefore, "Adv word is my bond." I am responsible to assure that all persons have access to competent representation regardless of wealth at position in life. I counsil myself to m adequate and efficience pro bono program. I am obligated to obtent my ellents, the public, and other lawyers regarding the splith and letter of this Creed. I will always be conscious of my intry to the judicial system.

constious of my day to the judicial system. IL LAWVER TO CLEENT. A isover owes to a client allegiance, learning, skill, and industry. A isover shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. A lawyer shall not be deterred by any real or industries. I will advise my client's lawful colessor to achieve my client's lawful objectives in legal transactions and in fitigation as quickly and economically as possible. I will advise my client that ioyaity and committants to interfere with my duty to provide objective and independent advice. I will advise my client that ioyaity and committants to interfere with any duty to provide objective and independent with the will advise any one or indulge in any clients's lawful to demand that labuse anyone or indulge in any clientse conduct. I will advise any client that we will not pursue conduct which is withen opposing party. I will advise my client the inancial resources of the opposing party. I will advise my client that we will not pursue thatter that do not advised interview and one outset of the opposing party. I will advise my client that resources of the interded primarity to harses or drain the inancial resources of the opposing party. I will advise my client that resource the right to determine whether to grant accommodations to opposing counsel in all matures that do not advised in a client las reasonable requests make by other counsel, I will advise my client starful objectives. A client has no right to instruct me to refuse reasonable requests make by other counsel, I wil

III LAWYER TO LAWYER. A lawyer owes to opposing coursel, in the conduct of legal transactions and the pursuit of litigation, couriesy, candro, cooperation, and scrupolous observance of all agreements and mutual undersamings, ill feetings between ulients aball not influence a lawyer's condect, attitude, or demeanor toward opposing cotassel. A lawyer stall not inspage in unprofessional torohust in retailation against other unprofessional conduct in retailation against other unprofessional torohust in retailation against other unprofessional conduct is more agained over matters of form or style, buil will coorecrupte on matters of substance, I will identify for other counsel of parties all changes I have made in documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or ontif provisions which have not been agreed upon or ontif provisions which are accessing to reflect the agreement of the Court or other persons, as soon as practicable, when heatings,

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depositions, meetings, conferences or closings are canceled. I will agree to reasonable requests for extensions of timm and for waives of procedural formalifies, provided legitimate objectives of my lient will not be adversely affected. I will not serve motions of pleadings in any manner that unfairly limits another party's opportunity to respond. I will attempt to resolve by agreement my objections to matine contained in pleadings and discovery requests and responses. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior, I will notiket encourage nor knowingly permit my client or anyone under my control to do anything which would be unclinical or improper if done by me. I will not, without good came, attribute bait motives or mathical conduct to opposing counsel nor bring the profession into disrepate by unfounded accusations of impropriety. I will avoid dispersing perconal manaks on actinency nowards opposing counsel, parties and winesses. I will not be influenced by any ill feeling between clients. I will abota from any allusion to personal penalistifies or towing any definit or dismissal to be rendered, when I know the identity of an opposing counsel. I will not atk advanase, by carsing any definit or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's interiors to proced. I will not atten advanase, by carsing by sending the Court of its staff coursel before or contemportaneously with admission to the court. I will promply approve the form of orders which accurately reflect the substance of the ralings of the Court. I will not attempt to gain as enfair advantage by sending the Court or its staff coursely substand advantage by sending the Court or its staff courses which are not objectionable. I will not make objections and give instructions to a deposition. Ceurt appearence, or braing undit a good faith effort has beem made to subschile it by agreement. I wil

IV. LAWVER AND JUDGE. Lawyers and judges owe each other respect, diligence, cander, punctuality, and protection against unjust and improper criticism and stack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession, I will always recognize that fire position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law. I will treat sounsel, opposing parties, the Court, and members of the Court staff with courtesy and civility. I will be punctual. I will not engage in any conduct which offends the dignity and decourts of miceosedings. I will not knowingly misrepresent, mischarasterize, nitsquote or miscile facts or authorities to gain an advantage. I will constroversy deliberate, impartial and studied analysis and consideration. J, will be court, find coursel in pressents imposed upon fac Court. Sciff and coursel in efforts to administer justice and resolve disputes.

FULBRIGHT & JAWORSKI L.L.P.

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(Dalles)

Expenses and Services Summary 03FE3 13 PH 2:17 EXPENSE/SERVICE CHARGE Binding \$2.00 per book (Pricing varies in other office locations) Data Base Research Lexis, Westlaw, Information America Costs allocated by the firm Deliveries Overnight/Express Direct Cost Outside Courier Direct Cost In-House N/A (Pricing varies in other office locations) Courthouse Messengers Filings @ \$10.00 per filing (Pricing varies in other office locations) Document Scanning \$.12 per page - Direct Cost Duplicating Photocopy \$0.15 per page Color photocopy \$0.85 per page Microfilm/Microfiche \$0.50 per page Videography (duplication) \$5.00/tape plus \$20.00/duplication Electronic Mail (via Internet) No Charge Library Research by Library Staff \$130.00 per hour Weekend & Late Evening Air Conditioning N/A (Pricing varies in other office locations) Postage Direct Cost on any item or group of items which cost \$1.00 or more Secretarial Overtime \$28.00 per hour plus supper allowance paid for

Facsimile (Outgoing)

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\$25.00/Hour plus Transportation - Bankruptcy

overtime in excess of 2 hours per day during the week and 6 hours per day on weekends (Pricing varies in other office locations)

\$0.80 per page plus applicable LD charges

EXPENSE/SERVICE

Telephone Long Distance (Domestic) Long Distance (International).

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File Storage Retrieval

Transportation Mileage (personal automobile) Lodging Meals Car Rental/Airline/Rail/Etc.

CD-ROM Research

Graphic Arts

Practice Support

E-Discovery

CHARGE

\$0.30 per minute 80% of direct dial rate

N/A (Pricing varies in other office locations)

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Applicable IRS allowable rate per mile Direct Cost Direct Cost Direct Cost

\$30.00 - \$50.00 per Search (rate varies based on length of search)

\$120.00 - \$150.00 per hour, plus direct cost of supplies \$60.00 - \$215.00 per hour

Direct Cost

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221 North Kansas, Suite 600 El Paso, Texas 79901

915-351-7228 Direct 915-351-7230 Fax Maria Fernanda Urbina Director

Maria.urbina@hilltopsecurities.com

June 2, 2016

Mr. Jeff Walker Texas Water Development Board 1700 N. Congress Avenue Austin, Texas 78701

Re: \$150,000,000 City of El Paso, Texas SWIRFT Loan Application

Dear Mr. Walker,

I am responding to your request that I provide this letter to the Texas Water Development Board (the "Board") addressing the concern that a potential conflict of interest may exist regarding the representation of both City of El Paso (the "City") and the Board by our firm as financial advisor. The City has requested financial assistance in the amount of \$150,000,000 from the Board's Texas Water SWIRFT Loan Program Fund.

In our capacity as financial advisor to the City our firm is assisting the City in its grant/loan application process to the Board for the City's potential issuance of bonds to be purchased by the Board through the Program. If the City's application is chosen by the Board, the Board will directly provide the terms of a grant/loan to the City. Our firm has no involvement in the ranking of loan applications by the Board or the determination of interest rates or any other terms by the Board. Moreover, in our representation of the Board in its offering debt obligations we only review numbers and terms of loan applications in the aggregate and do not review individual loan applications. This enables our firm to retain its independence in fulfilling the duties of its role as financial advisor in a transaction as described above.

Our representation of the Board as financial advisor in the issuance of its debt obligations is not substantially related to the Board's subsequent process in approving applications and funding loans from borrowers. As a result, there is no reasonable possibility that the representation of the Board and the City will adversely limit the representation of the other. If you wish, I will be happy to discuss this in greater detail at your convenience.

Sincerely yours,

Mana Granda Le Sire

Maria Fernanda Urbina

Director

FINANCIAL ADVISORY AGREEMENT

This Financial Advisory Agreement (the "Agreement") is made and entered into by and between the Public Service Board, El Paso Water Utilities ("Issuer") and First Southwest Company ("FSC") effective as of the date executed by the Issuer as set forth on the signature page hereof.

WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of FSC to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereinafter referred to collectively as the "Debt Instruments") from time to time during the period in which this Agreement shall be effective; and

WHEREAS, FSC is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and FSC, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

SECTION I

DESCRIPTION OF SERVICES

Upon the request of an authorized representative of the Issuer, FSC agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to FSC the compensation as provided in Section V hereof.

A. Financial Planning. At the direction of Issuer, FSC shall:

1. <u>Survey and Analysis</u>. Conduct a survey of the financial resources of the Issuer to determine the extent of its capacity to authorize, issue and service any Debt Instruments contemplated. This

Method of Sale. Bvaluate the particular financing being contemplated, giving consideration the complexity, market acceptance, rating, size and structure in order to make a to recommendation as to an appropriate method of sale, and:

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If the Debt Instruments are to be sold by an advertised competitive sale, FSC will:

(1) Supervise the sale of the Debt Instruments, reserving the right, alone or in conjunction with others, to submit a bid for any Debt Instruments issued under this Agreement which the Issuer advertises for competitive bids; however, in keeping with the provisions of Rule G-23 of the Municipal Securities Rulemaking Board, FSC will request and obtain written consent to bid prior to submitting a bid, in any instance wherein FSC elects to bid, for any installment of such Debt Instruments;

(2) Disseminate information to prospective bidders, organize such informational meetings as may be necessary, and facilitate prospective bidders' efforts in making timely submission of proper bids; ·. *

(3) Assist the staff of the Issuer in coordinating the receipt of bids, the safekeeping of good faith checks and the tabulation and comparison of submitted bids; and

. . .

(4) Advise the Issuer regarding the best bid and provide advice regarding acceptance or rejection of the bids.

If the Debt Instruments are to be sold by negotiated sale, FSC will: سيسر بر

(1) Recommend for Issuer's final approval and acceptance one or more investment banking firms as managers of an underwriting syndicate for the purpose of negotiating the purchase of the Debt Instruments.

(2) Cooperate with and assist any selected managing underwriter and their counsel in connection with their efforts to prepare any Official Statement or Offering Memorandum. FSC will cooperate with and assist the underwriters in the preparation of a bond purchase contract, an underwriters agreement and other related documents. The costs incurred in such efforts, including the printing of the documents, will be paid in accordance with the terms of the Issuer's agreement with the underwriters, but shall not be or become an obligation of FSC, except to the extent specifically provided

7. <u>Auditors</u>. In the event formal verification by an independent auditor of any calculations incident to the Debt Instruments is required, make arrangements for such services.

8. <u>Issuer Meetings</u>. Attend meetings of the governing body of the Issuer, its staff, representatives or committees as requested at all times when FSC may be of assistance or service and the subject of financing is to be discussed.

9. <u>Printing</u>. To the extent authorized by the Issuer, coordinate all work incident to printing of the offering documents and the Debt Instruments.

10. <u>Bond Counsel</u>. Maintain liaison with Bond Counsel in the preparation of all legal documents pertaining to the authorization, sale and issuance of the Debt Instruments.

11. <u>Changes in Laws</u>. Provide to the Issuer copies of proposed or enacted changes in federal and state laws, rules and regulations having, or expected to have, a significant effect on the municipal bond market of which FSC becomes aware in the ordinary course of its business, it being understood that FSC does not and may not act as an attorney for, or provide legal advice or services to, the Issuer.

12. <u>Delivery of Debt Instruments</u>. As soon as a bid for the Debt Instruments is accepted by the Issuer, coordinate the efforts of all concerned to the end that the Debt Instruments may be delivered and paid for as expeditiously as possible and assist the Issuer in the preparation or verification of final closing figures incident to the delivery of the Debt Instruments.

13. <u>Debt Service Schedule: Authorizing Resolution</u>. After the closing of the sale and delivery of the Debt Instruments, deliver to the Issuer a schedule of annual debt service requirements for the Debt Instruments and, in coordination with Bond Counsel, assure that the paying agent/registrar and/or trustee has been provided with a copy of the authorizing ordinance, order or resolution.

SECTION III TERM OF AGREEMENT

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section IV of this Agreement, shall remain in effect thereafter for a period of five (5) years from such date. Unless FSC or Issuer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement will be automatically renewed on the fifth anniversary of the date hereof for an additional one (1) year period and thereafter will be automatically renewed on each anniversary date for successive one (1) year periods.

SECTION IV TERMINATION

This Agreement may be terminated with or without cause by the Issuer or FSC upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the amounts due FSC for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

SECTION V

COMPENSATION AND EXPENSE REIMBURSEMENT

The fees due to FSC for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt Instruments or other Securities during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between Issuer and FSC, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which FSC is entitled to reimbursement, shall become due and payable concurrently with the delivery of the Debt Instruments to the purchaser.

APPENDIX A

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The fees due FSC will not exceed those contained in our customary fee schedule as listed below.

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	\$10,000	Initial Fee	• • • •	
	plus \$1.00 per \$1,000	For the first \$2	25,000,000	•
	plus \$0.75 per \$1,000	thereafter		• •
	all be multiplied by 1.20 times for the issuance of revenue bo			
levied only for those :	lary services, including compr services which are reasonably , unless such charges were incr	necessary in completing	the transaction and v	
be contingent upon the of charges for service accordance with the n	es for financial advisory service e delivery of bonds and shall b es described in Section II of i mutual agreennent therefor bety ponsible for the following exp	e due at the time that bot the foregoing Agreemen ween FSC and Issuer.	nds are delivered. The t shall be due and po	payment tyable in
	s expenses or charged to the Is			U
Bond counsel			est an iter and	
bond printing				•
Bond printing Bond ratings				
Bond ratings Computer structuring				-
Bond ratings Computer structuring Credit enhancement				
Bond ratings Computer structuring Credit enhancement CPA fees for refundin				
Bond ratings Computer structuring Credit enhancement CPA fees for refundin Official statement prep	paration and printing			
Bond ratings Computer structuring Credit enhancement CPA fees for refundin Official statement prep Paying agent/registrar/	paration and printing			
Bond ratings Computer structuring Credit enhancement CPA fees for refundin Official statement prep Paying agent/registrary Travel expenses	paration and printing trustee			
Bond ratings Computer structuring Credit enhancement CPA fees for refundin Official statement prep Paying agent/registrary Travel expenses Underwriter and under	paration and printing /trustee rwriters counsel	aborras		
Bond ratings Computer structuring Credit enhancement CPA fees for refundin Official statement prep Paying agent/registrary Travel expenses Underwriter and under	paration and printing trustee	charges		

El Paso Water Utilities Public Service Board

CONTRACT

EL PASO

P.O. BOX 511 El Paso, Texas 79961-0001 Phone: 915.594.5623 Fax: 915.594.5604

> Vendor ID 0000003970 GIBSON RUDDOCK PATTERSON LLC 600 Sunland Park Dr Ste 6-300 El Paso TX 79912-9984

Tax Exempt? Y Tax Exempt ID: 746003579

 Unit
 Ordered

 Line #
 Item Description
 Qty
 Price
 Qty
 Price

 1
 SERVICES TO BE PROVIDED PER SPECIFICATIONS, TERMS AND
 NTE
 95,000.00
 1
 95,000.00

 CONDITIONS OF RFP91-12.
 Conditional Service
 Service
 Service
 Service
 Service

*THIS CONTRACT IS FOR THREE YEARS WITH AN OPTION TO EXTEND BY MUTUAL AGREEMENT, ON A YEAR TO YEAR BASIS, FOR TWO ADDITIONAL YEARS.

PER RFP91-12 SPECIFICATIONS, TERMS AND CONDITIONS.

AWARDED BY PSB ON JANUARY 9, 2013

ACCOUNT NUMBER 7050-710

AWARDED AMOUNT: NTE \$85,000.00

VENDOR CONTACT NUMBERS: Ph: (915)356-3700 Email: craig@grp-cpa.com

INVOICES MUST REFERENCE MCRFP91-12

MAIL INVOICES TO: El Paso Water Utilities P.O. Box 511 El Paso, TX 79961 Ph:(915)594-5623

CONTRACT RFP 91-12 IS HEREBY EXTENDED UNDER THE SAME SPECIFICATIONS, TERMS AND CONDITIONS FROM 01/09/15 THRU 01/09/16 PER MICHELLE LEPAGE ON JANUARY 12, 2015. (pf01/12/15)

Total Contract Amount \$95,000.00

Michelly Andree 1-12-15

Dispatch via Print

 Contract ID
 Page

 MCRFP91-12
 1 of 1

 Contract Dates
 Payment Terms

 01/09/2015 to 01/08/2016
 NET 30

 Description:
 AUDIT SERVICES - 2ND EXTENSION (01/09/15

 - 01/08/16)
 - 01/08/16)

600 SUNLAND PARK, 6-300 EL PASO, TX 79912

P 915 356-3700 F 915 356-3779 W GRP-CPA.COM



January 28, 2014

Arturo Duran, Chief Financial Officer Public Service Board - El Paso Water Utilities P.O. Box 511 El Paso, Texas 79961-0002

We are pleased to confirm our understanding of the services we are to provide the Public Service Board -El Paso Water Utilities for the year ended February 28, 2014. We will audit the financial statements of the business-type activities and each major fund, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the Public Service Board - El Paso Water Utilities as of and for the year ended February 28, 2014. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the Public Service Board - El Paso Water Utilities' basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Public Service Board - El Paso Water Utilities' RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1. Management's Discussion and Analysis
- 2. Other Post Employment Benefits Plan Schedules

We have also been engaged to report on supplementary information other than RSI that accompanies the Public Service Board - El Paso Water Utilities' financial statements and will be included in the Comprehensive Annual Financial Report (CAFR) if indicated. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

- 1. Water and Wastewater Utility Fund Schedules (included in CAFR)
- 2. Municipal Drainage Utility Fund Schedules (included in CAFR)
- 3. Schedule of Insurance Coverage (included in CAFR)
- 4. Schedule of Expenditures Federal Award (separate report)

Public Service Board – El Paso Water Utilities Page 2 January 28, 2014

The following other information accompanying the financial statements in the CAFR will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

- 1. Introductory Section
- 2. Statistical Section

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on-

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

The reports on internal control and compliance will each include a paragraph that states that the purpose of the report is solely to describe (1) the scope of testing of internal control over financial reporting and compliance and the result of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance, (2) the scope of testing internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on the effectiveness of internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on compliance but not to provide an opinion on the effectiveness of internal control over compliance, and (3) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering internal control over compliance and major program compliance. The paragraph will also state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major programs in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Public Service Board – El Paso Water Utilities Page 3 January 28, 2014

Management Responsibilities

Management is responsible for the basic financial statements, schedule of expenditures of federal awards, and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with preparation of the notes to your financial statements and the schedule of expenditures of federal awards. You will be required to acknowledge in the written representation letter our assistance with preparation of the notes to the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. You agree to assume all management responsibilities for any non-audit services we provide; oversee the services by designating an individual, preferably from senior management, who possess suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management is reliable and financial information is reliable and properly recorded. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. Public Service Board – El Paso Water Utilities Page 4 January 28, 2014

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and 3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take a corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

You are responsible for preparation of the schedule of expenditures of federal awards in conformity with OMB Circular A-133. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon or make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards, including its form and content, is fairly presented in accordance with OMB Circular A-133; (2) that you believe the schedule of expenditures of federal awards, including its form and content, is fairly presented in accordance with OMB Circular A-133; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Public Service Board – El Paso Water Utilities Page 5 January 28, 2014

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Audit Procedures-General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform you the appropriate level of management of any violations of governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Public Service Board – El Paso Water Utilities Page 6 January 28, 2014

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures – Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope that would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, and *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures-Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Public Service Board - El Paso Water Utilities' compliance with the provisions of applicable laws, regulations, contracts, agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Circular Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Public Service Board – El Paso Water Utilities' major programs. The purpose of these procedures will be to express an opinion on the Public Service Board – El Paso Water Utilities' compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Public Service Board – El Paso Water Utilities Page 7 January 28, 2014

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Gibson, Ruddock, Patterson LLC and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to the Environmental Protection Agency, Texas Water Development Board or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Gibson, Ruddock, Patterson LLC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Texas Water Development Board or Environmental Protection Agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Public Service Board – El Paso Water Utilities Page 8 January 28, 2014

We expect to begin our audit in March 2014 and to issue our reports no later than July 2014. E. Craig Gibson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone etc.) except that we agree that our gross fee, including expenses, will not exceed \$95,000. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2013 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the Public Service Board - El Paso Water Utilities and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Sank Pathen LLC

Gibson, Ruddock, Patterson LLC

RESPONSE:

This letter correctly sets forth the understanding of the Public Service Board - El Paso Water Utilities.

By: Title: 2/10/ Date: ___
GLASS & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS, P.C.

System Review Report

September 24, 2013

To the Owners of Gibson, Ruddock, Patterson, LLC and the Peer Review Committee of the TSCPA

We have reviewed the system of quality control for the accounting and auditing practice of Gibson, Ruddock, Patterson, LLC (the firm) in effect for the year ended June 30, 2013. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Gibson, Ruddock, Patterson, LLC in effect for the year ended June 30, 2013, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass, pass with deficiency(ies) or fail.* Gibson, Ruddock, Patterson, LLC has received a peer review rating of *pass.*

Alans & Company GLASS & COMPANY

GLASS & COMPANY Certified Public Accountants, P.C.

515 Congress Avenue, Suite 1900 Austin, Texas 78701 (512) 480-8182 FAX: (512) 480-9465

Contract_3 N/A

A6 & A7

Counties

El Paso

Identify the Applicant's total service area population:: 823,862

Funding Program(s)

Funding Programs

SWIFT: \$150,000,000

Other Funding Sources

Other Funding Sources

Funding Source	Type of Funds (Loan, Grant, etc.)	Amount (\$)	Date Applied for Funding	Anticipated or Funding Secured Date
self-EPWU PSB	internal	\$20,000,000		12-15-2016

Other Funding Comments: Funding application NA; funding date, NA

Funding_1 N/A

Funding & Project Type

Requesting Funding for Planning: N Requesting Funding for Acquisition: Y Requesting Funding for Design: N Requesting Funding for Construction: N

Is the project a water project?: Y

Is the project a wastewater project?: N

Is Applicant requesting funding to refinance existing debt?: N

DUNS:

Federal Awards information:

- 1. Did applicant receive over 80% of their revenue from Federal Awards last year?:
- 2. Did applicant receive over \$25 million in Federal Awards last year?:
- 3. Does the public have access to executive compensation information via SEC or IRS reports?:

Describe procedures for collecting monthly customer bills (include procedures for collection of delinquent accounts):

TWDB-0215 N/A

Contractors & Loan/Grant Participation Summary

Have you already solicited contractors?: Have contracts already been awarded?:

Legal Information

Cite the legal authority under which the Applicant can issue the proposed debt including the authority to make a proposed pledge of revenues.: Bonds will be issued pursuant to and in accordance with, the provisions of Chapter 1502 of the Texas Government Code, including Sections 1502.051 and 1502.052. Section 1502.052 of the Texas Government Code authorizes the governing body of a municipality to pledge all or a part of the revenue of a utility system to the bonds.

What type of pledge will be used to repay the proposed debt?: SYSTEMS_REVENUE

Provide the full legal name of the security for the proposed debt issue(s).: El Paso TX Water and Sewer Revenue Bonds, 2016A

Describe the pledge being offered and any existing rate covenants.: The City of El Paso Texas Water and Sewer Revenue Bonds, Series 2016A, will be secured solely by the "Net Revenues" of the City's water and sewer system and issued on a parity with the City's previously issued water and sewer revenue bonds (the "Previously Issued Senior Lien Bonds"). "Net Revenues" is defined to mean the Gross Revenues less the Operation and Maintenance Expenses. See attached, B4.

RESOLUTION

A RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE UNDER ITS STATE WATER IMPLEMENTATION FUND FOR TEXAS (SWIFT) LOAN PROGRAM WITH BOARD PARTICIPATION OR LOW-INTEREST WITH SUBZIDIZED INTEREST PROGREM FOR A TWO-YEAR COMMITMENT, AND AUTHORIZING THE PRESIDENT/CEO TO SUBMIT AN APPLICATION TO THE TEXAS WATER DEVELOPMENT BOARD (TWDB) IN AN AMOUNT NOT TO EXCEED A TOTAL OF \$150,000,000.

WHEREAS, the El Paso Water Utilities Public Service Board (EPWU), was established on May 22, 1952, by Ordinance No. 752 of the City of El Paso for the purpose of providing potable water and wastewater collection and treatment for the City of El Paso; and,

WHEREAS, EPWU has historically worked with funding agencies to obtain the necessary resources to invest in sustainable, long-term water solutions for the City of El Paso, and,

WHEREAS, EPWU will continue to secure regional water resources that will allow them to provide residents of the City of El Paso, and surrounding communities, with safe, high-quality drinking water; and,

WHEREAS, the City Council adopted a resolution on September 30, 2014 delegating authority to apply for funding from the State Water Implementation Fund of Texas on behalf of the City of El Paso to the El Paso Water Utilities Public Service Board of Trustees, President/CEO; and,

WHEREAS, the President/CEO is hereby designated the authorized representative for purposes of furnishing information and executing such documents as may be required in connection with the preparation and filing of such application for financial assistance and the rules of the Texas Water Development Board; and,

WHEREAS, the following firms and individuals are hereby authorized and directed to aid and assist in the preparation and submission of such application and appear on behalf of and represent the El Paso Water Utilities before any hearing held by the Texas Water Development Board on such application, to wit:

Financial AdvisorMaria Fernanda Urbina, Senior Vice President, First SouthwestBond Counsel:Paul A. Braden, Partner, Fulbright & Jaworski LLP

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

Section 1. That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the El Paso Water Utilities Public Service Board authorizes the President/CEO to sign any and all documents necessary to submit the applications to request funding from the Texas Water Development Board SWIFTBoard Participation Program or Low-interest with Subsidized Interest Program, in a two-year commitment in an amount not to exceed \$150,000,000.00. The funding from the Texas Water Development Board will fund projects identified in the water management strategy included in the 2016 Far West Texas Regional Water Plan, Region E.

PASSED AND APPROVED at the regular meeting of the Public Service Board, this 11th day of May, 2016, at which meeting a quorum was present and which was held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES

Henry Gallard

Chairperson

tervice comp Por Garcia

Secretary/Treasurer V

APPROVED AS TO FORM:

Lupe Cuellar General Counsel

TWDB-0201a Rev 1/3/2014

Application Filing and Authorized Representative Resolution (WRD-201a)

A RESOLUTION by the El Paso Water Utilities Public Service Board of the City of El Paso requesting financial assistance from the Texas Water Development Board; authorizing the filing of an application for assistance; and making certain findings in connection therewith.

BE IT RESOLVED BY THE _____ EI Paso Water Utilities Public Service Board OF THE City of El Paso

<u>SECTION 1</u>: That an application is hereby approved and authorized to be filed with the Texas Water Development Board seeking financial assistance in an amount not to exceed $\frac{150,000,000.00}{150,000,000.00}$ to provide for the costs of land and water rights acquisition under the Texas Water Development Board SWIFT program.

<u>SECTION 2:</u> That John E. Balliew, President and CEO, El Paso Water Utilities PSB, be and is hereby designated the authorized representative of the El Paso Water Utilities Public Service Board for purposes of furnishing such information and executing such documents as may be required in connection with the preparation and filing of such application for financial assistance and the rules of the Texas Water Development Board.

SECTION 3: That the following firms and individuals are hereby authorized and directed to aid and assist in the preparation and submission of such application and appear on behalf of and represent the BPase Water Utilices Public Searche Board before any hearing held by the Texas Water Development Board on such application, to wit:

Financial Advisor:	Maria Fernanda Urbina, Senior Vice President, First Southwest Company
Engineer:	
Bond Counsel:	Paul A. Braden, Partner, Norton Rose Fulbright US LLP
PASSED AND APPROV	ED, this the <u>11th day of May</u> , 20 <u>16</u> . Oler By: <u>Map</u>
(Scal) My Nolan	Henry Gallardo, Public Service Board Chair CALDERON y ID # 2196929 April 29, 2020

TWDB-0201 Revised 2/21/2013

Application Affidavit (WRD-201)

THE STATE OF	TATE OF TEXAS		
COUNTY OF	El Paso	§	
APPLICANT	El Paso Water Utilities Public Service Board	ş	

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared John Balliew, President and CEO as the Authorized Representative of the El Paso Water Utilities Public Service Board , who being by me duly sworn, upon oath says that:

1. the decision by the El Paso Water Utilities Public Service Board (authority, city, county, corporation, district) to request financial assistance from the Texas Water Development Board ("Board") was made in a public meeting held in accordance with the Open Meetings Act (Government Code, §551.001, et seq.) and after providing all such notice as required by such Act as is applicable to the El Paso Water Utilities Public Service Board (authority, city, county, corporation, district);

2. the information submitted in the application is true and correct according to my best knowledge and belief;

3. the El Paso Water Utilities Public Service Board (authority, city, county, corporation, district) has no pending, threatened, or outstanding judgments, orders, fines, penalties, taxes, assessment or other enforcement or compliance issue of any kind or nature by the Environmental Protection Agency, Texas Commission on Environmental Quality, Texas Comptroller, Texas Secretary of State, or any other federal, state or local government, except for the following (if no such outstanding compliance issues, write in "none"):

None

4. the El Paso Water Utilities Public Service Board (authority, city, county, corporation, district) warrants compliance with the representations made in the application in the event that the Board provides the financial assistance: and

5. the El Paso Water Utilities Public Service Board (authority, city, county, corporation, district) will comply with all applicable federal laws, rules, and regulations as well as the laws of this state and the rules and regulations of the Board.

Official Representative Title: President and CEO

SWORN TO AND SUBSCRIBED BEFORE ME, by <u>JOHN</u> <u>1170</u> day of <u>Jack</u>, 20<u>16</u> this

LUCY CALDERON My Notary ID # 2196929 Expires April 29, 2020

Notary Public. State of Texa

TWDB---0201B Revised 02/21/2013

Application Resolution - Certificate of Secretary (WRD-201b)

 THE STATE OF TEXAS
 §

 COUNTY OF
 El Paso
 §

 APPLICANT
 El Paso
 Water_Utilities

 Public Service Board on Behalf of
 the City of El Paso

I, the undersigned, Executive Secretary of the <u>El Paso Water Utilities Public Service Board, El Paso, Texas</u>, DO HEREBY CERTIFY as follows:

That on the 11th day of May, 2016, a regular meeting of the <u>El Paso Water Utilities Public Service Board</u> was held at a meeting place within the City; the duly constituted members of the <u>El Paso Water Utilities Public</u> <u>Service Board</u> being as follows:

Henry Gallardo, Chris Antcliff, Terri Garcia, Bradley Roe, Richard Schoephoerster, Kristina Mena, and

Mayor Oscar Leeser, and all of said persons were present at said meeting, except the following: Mayor Oscar Leeser and Terri Garcia

Among other business considered at said meeting, the attached resolution entitled:

A Resolution Requesting Financial Assistance from the Texas Water Development Board; Authorizing the Filing of an Application for Assistance under Its State Water Implementation Fund for Texas (Swift) Loan Program with Board Participation or Low-Interest with Subsidized Interest Program for a Two-Year Commitment, and Authorizing the President/CEO to Submit an Application to the Texas Water Development Board (TWDB) in an Amount Not to Exceed a Total of \$150,000,000.

was introduced and submitted to the <u>El Paso Water Utilities Public Service Board</u>, for passage and adoption. After presentation and due consideration of the resolution, and upon a motion made by Richard Schoephoerster____, seconded by <u>Bradley Roe</u>, the resolution was duly passed and adopted by the <u>El Paso Water</u> <u>Utilities Public Service Board</u> by the following vote:

5 voted "For" 0 voted "Against"

all as shown in the official Minutes of the <u>El Paso Water Utilities Public Service Board</u> for the meeting held on the aforesaid date.

2. That the attached resolution is a true and correct copy of the original on file in the official records of the <u>El Paso Water Utilities Public Service Board</u>; the duly qualified and acting members of the <u>El Paso Water</u> <u>Utilities Public Service Board</u> on the date of the aforesaid meeting are those persons shown above and, according to the records of my office, advance notice of the time, place and purpose of said meeting was given to each member of the <u>El Paso Water Utilities Public Service Board</u>; and that said meeting, and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the above entitled resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551 of the Texas Government Code.

Executive Secretary, El Paso Water Utilities Public Service Board;

Georgette/Webber

ACKNOWLEDGEMENT

COUNTY OF EL PASO } This instrument was acknowledged before me on this 6th day of June, 2016, by Georgette Webber as Executive Secretary for the El Paso Water Utilities Public Service Board.



STATE OF TEXAS

_0___abstained

Notary Public, State of Texas

Bonds, CCN, Enforcement Action

Is the applicant proposing to issue revenue bonds?: Y

Does the applicant possess a Certificate of Convenience and Necessity (CCN)?: Y

Has the applicant been the subject of any enforcement action by the Texas Commission on Environmental Quality (TCEQ), the Environmental Protection Agency (EPA), or any other entity within the past three years?: Y

RESOLUTION

A RESOLUTION REQUESTING THE EL PASO CITY COUNCIL APPROVE THE ISSUANCE AND SALE OF UP TO FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000,00) OF EL PASO, TEXAS WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2015B, TO BE ISSUED THROUGH THE TEXAS WATER DEVELOPMENT BOARD WITH STATE WATER IMPLEMENTATION REVENUE FUND FOR TEXAS ("SWIRFT") FUNDING TO FINANCE THE PURCHASE OF WATER RIGHTS LAND IN HUDSPETH COUNTY, TEXAS.

WHEREAS, the City Council of the City of El Paso, Texas established the El Paso Texas Water and Sewer Utilities System by Ordinance Number 752, May 22, 1952;

WHEREAS, the City Council as authorized by State law vested the complete management and control of the El Paso Texas Water Utilities System in a board of trustees, said board being the El Paso Water Utilities Public Service Board ("PSB");

WHEREAS, EPWU has historically worked with funding agencies to obtain the necessary resources to invest in sustainable, long-term water solutions for the City of El Paso;

WHEREAS, on September 30, 2014, the City Council adopted a resolution delegating authority to apply for funding from the State Water Implementation Fund of Texas on behalf of the City of El Paso to the El Paso Water Utilities Public Service Board of Trustees, President/CEO;

WHEREAS, the PSB passed a resolution on July 8, 2015, to authorize the President/CEO to request financial assistance from the Texas Water Development Board in an amount not to exceed \$50,000,000.00 in loans from Texas Water Development Board for land and water rights acquisition under the SWIRFT program;

WHEREAS, on July 23, 2015, the Texas Water Development Board approved the El Paso Water Utilities request for assistance in the amount of \$50,000,000.00 to purchase water rights land in Hudspeth County, Texas;

WHEREAS, the sale and issuance of up to \$50,000,000.00 in City of El Paso Texas Water and Sewer System Revenue Bonds, Series 2015B, issued through the Texas Water Development Board is necessary to receive SWIRFT funding; and

WHEREAS, the PSB finds that it is in the best interest of the water and sewer system utility ratepayers for this funding and financing to take place;

NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

Section 1. That the findings and recitations set out in the preamble to this Resolution are true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board, which has been vested with the complete management and control of the El Paso Texas Water and Sewer System, and made a part of this Resolution by this reference for all purposes.

Section 2. That the El Paso Water Utilities Public Service Board requests the El Paso City Council to approve the issuance and sale of up to FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000.00) in City of El Paso, Texas Water and Sewer System Revenue Bonds, Series 2015B, to be issued through the Texas Water Development Board with State Water Implementation Revenue Fund for Texas funding to finance the purchase of water rights land in Hudspeth County, Texas.

Section 3. That all actions heretofore taken by the PSB's President/CEO, the City's Financial Advisor and the PSB's Bond Counsel with respect to this matter are hereby ratified and approved.

PASSED AND APPROVED at a regular meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this, 14th day of October, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Chair Richard T. Schophoerster, PhD, P.E.

APPROVED AS TO FORM:

Lupe Cuellar General Counsel

Secretary/Treasurer

Terri Garcia

ATTEST:

. ..

Texas Commission On Environmental Quality
By These Presents Be It Known To All That
El Paso Water Utilities Public Service Board
having duly applied for cortification to provide server utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this
Certificate of Convenience and Necessity No. 21008 to provide continuous and adequate sewer utility service to that service area or those service areas in El Paso County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35472-C is on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the El Paso Water Utilities Public Service Board to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.
Issued at Austin, Texas, thisUUL 3 0 2008
Mar Willer For the Commission





4/11/2016

http://puctx.maps.arcgis.com/apps/Viewer/index.html?appid=93fa2af03bbf4432979e8527c73cbef0

SEWER

Page 1 of 1



Water and Sewer CCN Viewer



http://puctx.maps.arcgis.com/apps/Viewer/index.html?appid=93fa2af03bbf4432979e8527c73cbef0

4/11/2010

Page 1 of :

El Paso Water Utilities Public Service Board

Enforcement Actions, 2013-15 Texas Commission on Environmental Quality

Agreed Order Docket No. 2014-0392-MLM-E, case no. 48420

- 1. Failed to provide a full-face SCBA that meets OSHA standards for construction and operation. RESOLUTION: obtained an exception to the SCBA rule.
- Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation.
 RESOLUTION: submitted written certification of properly completed water works operation and maintenance records.
- 3. Failed to flush all dead-end mains at monthly intervals. RESOLUTION: submitted a request for an exception for the requirement to flush all deadend mains; submitted a plan to implement a monitoring program and provide data regarding the exception for the dead end mains.
- 4. Failed to obtain authorization from the Commission prior to any discharge of wastewater. RESOLUTION: on behalf of the Respondent, ARCADIS U.S., Inc. submitted an application for a wastewater discharge permit for the Robertson/Umbenhauer Water Treatment Facility, also known as the Canal Water Treatment Plant.

Additionally,

Respondent contributed an SEP Offset Amount to the Trans Pecos Water & Land Trust.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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IN THE MATTER OF AN **ENFORCEMENT ACTION** CONCERNING EL PASO WATER UTILITIES PUBLIC SERVICE BOARD RN103778882

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2014-0392-MLM-E

I. JURISDICTION AND STIPULATIONS

APR 3 0 2015

, the Texas Commission on Environmental Quality ("the On Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding El Paso Water Utilities Public Service Board ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, together stipulate that:

- The Respondent owns and operates a public water supply at 1154 Hawkins Boulevard in 1. El Paso, El Paso County, Texas (the "Facility") that has approximately 187,160 service connections, 18,136 wholesale connections, and serves at least 25 people per day for at least 60 days per year.
- The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the 2. state as defined in TEX. WATER CODE § 26,001(5).
- The Executive Director and the Respondent agree that the Commission has jurisdiction 3. to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- The Respondent received notice of the violations alleged in Section II ("Allegations") on 4. or about March 10, 2014.
- The occurrence of any violation is in dispute and the entry of this Agreed Order shall not 5, constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

- 6. An administrative penalty in the amount of Three Thousand Two Hundred Two Dollars (\$3,202) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Forty Dollars (\$640) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Five Hundred Sixty-Two Dollars (\$2,562) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP")."
- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
- 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On November 6, 2013, submitted a request for an exception for the requirement to flush all dead-end mains;
 - b. On April 16, 2014, submitted a plan to implement a monitoring program and provide data regarding the exception for the dead end mains;
 - c. On June 11, 2014, ARCADIS U.S., Inc., submitted on behalf of the Respondent an application for a wastewater discharge permit for the Robertson/Umbenhauer Water Treatment Facility, also known as the Canal Water Treatment Plant;
 - d. On July 31, 2014, obtained an exception to the self-contained breathing apparatus ("SCBA") rule; and
 - e. On February 19, 2015, submitted documentation demonstrating compliance with the requirement to have small bottles of fresh ammonia solution readily accessible outside the chlorinator rooms.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to provide a full-face SCBA or supplied air respirator that meets Occupational Safety and Health Administration ("OSHA") standards for construction and operation that is readily accessible outside the chlorination room and provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(A), as documented during an investigation conducted from July 29, 2013 through August 8, 2013 and a record review conducted on February 3, 2014. Specifically, there are 56 distribution stations that use chlorine gas; however only 18 of the stations had a SCBA available. In addition, bottles of ammonia were not readily accessible outside the 56 distribution stations that use chlorine gas.
- 2. Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(E)(iv), as documented during an investigation conducted from July 29, 2013 through August 8, 2013 and a record review conducted on February 3, 2014. Specifically, the Customer Service Inspections and reports are conducted and maintained by the City of El Paso Building Permits and Inspections Division and are not readily accessible to the Respondent. In addition, the Customer Service Inspection certificate form varies from the format found in 30 TEX. ADMIN. CODE § 290.47(d).
- 3. Failed to flush all dead-end mains at monthly intervals, in violation of 30 TEX. ADMIN. CODE § 290.46(l), as documented during an investigation conducted from July 29, 2013 through August 8, 2013 and a record review conducted on February 3, 2014.
- 4. Failed to obtain authorization from the Commission prior to any discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.42(a) and 290.42(i), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted from July 29, 2013 through August 8, 2013 and a record review conducted on February 3, 2014. Specifically, backwash water was discharging from the Robertson/Umbenhauer Water Treatment Facility, also known as the Canal Water Treatment Plant, to the American Canal, historically known as the Franklin Canal, without authorization.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be

constrained in any manner from requiring corrective action or penalties for violations which are not raised here.

- 2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Two Thousand Five Hundred Sixty-Two Dollars (\$2,562) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement
- 3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, respond completely and adequately, as determined by the TCEQ, to any requests for information concerning the permit application within 15 days after the date of such requests or before any other deadline specified in writing;
 - b. Within 30 days after the effective date of this Agreed Order, begin compiling and maintaining properly completed water works operation and maintenance records, including but not limited to Customer Service Inspection and reports, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.;
 - d. Within 90 days after the effective date of this Agreed Order and on a quarterly basis thereafter, begin submitting progress reports to the TCEQ regarding actions taken by the Respondent regarding the dead-end main rule. These reports shall include information regarding actions taken by the Respondent in obtaining the exceptions;
 - e. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.d.
 - f. Within 240 days after the effective date of this Agreed Order:
 - i. Obtain approval of the permit application for the discharge of backwash wastewater from the Robertson/Umbenhauer Water Treatment Facility, also known as the Canal Water Treatment Plant, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Obtain an exception to flushing all dead-end mains at monthly intervals or begin flushing all dead-end mains at monthly intervals, in accordance with 30 TEX. ADMIN. CODE § 290.46.

g.

Within 255 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.f.i. and 3.f.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Water Section Manager El Paso Regional Office Texas Commission on Environmental Quality 401 East Franklin Avenue, Suite 560 El Paso, Texas 79901-1206

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. If the Respondent fails to comply with Ordering Provision Nos. 3.a., 3.f.i. and 3.g. above within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

- 7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

40m Jon For the Executive Director

3-2115

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

August 18, 2014 Date

John E. Balliew, P.E. Name (Printed or typed) Authorized Representative of El Paso Water Utilities Public Service Board

President & CEO Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A

Docket Number: 2014-0392-MLM-E SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	El Paso Water Utilities Public Service Board			
Penalty Amount:	Two Thousand Five Hundred Sixty-Two Dollars (\$2,562)			
SEP Offset Amount:	Two Thousand Five Hundred Sixty-Two Dollars (\$2,562)			
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP			
Third-Party Administrator:	Trans-Pecos Water & Land Trust			
Project Name:	Trans-Pecos Water Rights Acquisition Project			
Location of SEP:	Rio Grande River Basin			

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. **Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the Trans Pecos Water & Land Trust for the Trans-Pecos Water Rights Acquisition Project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to acquire, by lease or purchase, surface water rights from various owners of existing water rights in the Rio Grande River Basin in Texas. Within 30 days after water rights are acquired, the Third-Party Administrator shall then apply to TCEQ to administratively amend the water rights permit or certificate of adjudication (collectively referred to as "permit") pursuant to Water Code, Section 11.0237. If the water rights are purchased, the Third-Party Administrator shall change the use exclusively to in-stream flows dedicated to environmental needs. If the water rights are leased, the Third-Party Administrator shall either change the use exclusively to or add a use for in-stream flows dedicated to environmental needs. However, even if a water rights permit allows for other uses in addition to in-stream flows, the Third-Party Administrator shall only exercise the instream flow use during its lease of the water rights acquired through this SEP. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

El Paso Water Utilities Public Service Board Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This project will enhance the quality of the environment by dedicating water in the Rio Grande River for environmental and conservation purposes, benefitting overall protection of water quality as well as aquatic and riparian wildlife habitat. The Rio Grande River Basin is extensive and relied upon for numerous needs, including human consumption and agriculture as well as by aquatic and riparian wildlife. While two international dams – Amistad and Falcon – are used for flood control, irrigation, and help regulate the flow of the river, the geography of the area and drought-prone conditions can impact the quality of water and habitat. Reduced flow, which can cause high salinity water, impacts the reliability of the Rio Grande for its use by farmers, livestock, and wildlife. In addition, non-native plants invade where native plants (or no plants) used to grow, which further affects water loss along the river. Dedicating water in the Rio Grande River for overall protection of water quality as well as aquatic and riparian wildlife habitat will enhance the quality of the environment consistent with Water Code, Section 7.067.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Trans Pecos Water & Land Trust SEP** and shall mail the contribution with a copy of the Agreed Order to:

Trans Pecos Water & Land Trust David Crum, Executive Director 601 North State Street Fort Davis, Texas 79734

Page 2 of 4

El Paso Water Utilities Public Service Board Agreed Order - Attachment A

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

> Texas Commission on Environmental Quality Enforcement Division Attention: SEP Coordinator, MC 219 P.O. Box 13087 Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

> Texas Commission on Environmental Quality Litigation Division Attention: SEP Coordinator, MC 175 P.O. Box 13087 Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases. El Paso Water Utilities Public Service Board Agreed Order - Attachment A

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Bryan W. Shaw, Ph.D., Chairman Toby Baker, Commissioner Zak Covar, Commissioner Richard A. Hyde, P.E., Executive Director



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 4, 2015

Mr. John Balliew President El Paso Water Utilities Public Service Board P.O. Box 511 El Paso, Texas 79961

Re: TCEQ Enforcement Action El Paso Water Utilities Public Service Board Docket No. 2014-0392-MLM-E

Dear Mr. Balliew:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter.

Please review the enclosed Agreed Order, particularly the "Ordering Provisions" section, to determine if further action will be required of you, such as the completion of technical requirements to achieve compliance. When technical requirements are listed (usually Ordering Provision No. 2 or 3), a deadline will be provided based on a specific number of days after the effective date. The effective date of this Agreed Order is three days after the date printed at the top of this letter.

Should you have any questions, please contact Epifanio Villarreal, the Enforcement Coordinator assigned to this matter, at (361) 825-3425.

Sincerely,

Candici Garrett

Candice Garrett Enforcement Division

Enclosure

cc: Epifanio Villarreal, Enforcement Division Water Quality and Public Water Supply Section Manager, Region 6

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tccq.texas.gov/customersurvey printed on recycled paper

Municipality

Is the area to be served by the project within the service area of a municipality or other public utility?: N

Board Approved WCP

If the assistance requested is more than \$500,000 a Water Conservation Plan (WCP) is required. The WCP cannot be more than FIVE years old and must have been adopted by the applicant. Has the applicant adopted a Board-approved WCP? (Check one and attach requested information, if any.): Y

Enter date of Applicant's WCP adoption: 2014-12-10 00:00:00.0

El Paso Water Utilities 2014 Water Conservation Plan As per Rule 363.15 Required Water Conservation Plan Texas Water Development Board

A. UTILITY PROFILE

The City of El Paso, the sociopolitical center of El Paso County and of West Texas, has a distinct culture, climate, and supply of resources that makes water consumption unique among similar municipalities in the desert southwest of the United States. El Paso is located in the northern extreme of the Chihuahuan Desert, and lies on the frontier of three states (Texas, New Mexico and Chihuahua Mex.), two countries (U.S. and Mexico) and three diverse water supplies; the Rio Grande and groundwater from two aquifers, the Hueco and Mesilla Bolsons. The region consisting of El Paso, Texas; Cuidad Juarez, Mexico; and Las Cruces, New Mexico, is home to slightly more than two million people.

El Paso enjoys an average daily temperature of almost 70° and over 300 days of sunshine each year and an average annual rainfall of eight inches. El Paso is the sixth largest city in Texas with an estimated population of 787,208. To serve our customers, El Paso uses ground water and surface water for its potable supply. In 2013 the city produced about 112,000 acre-feet of potable water for its customers. The Hueco Bolson provided 67% of total demand and the Mesilla Bolson, 24% of total demand with 9% from the Rio Grande River. El Paso also uses reclaimed water to supply non-potable demands. Over 8,000 acre-feet per year is distributed to customers for industrial uses and turf irrigation.

The groundwater capacity is approximately 164 MGD including desalinated brackish groundwater, and surface water capacity is 100 MGD. The amount of surface water that is available each year is variable depending drought condition. Despite not receiving full allotments from the Rio Grande Federal Reclamation Program for the past 4 years, EPWU has not implemented any additional mandatory restrictions and has been able to meet demand due to its strategic planning and management of diverse water sources. Utility Profile form included as Appendix (1).

Water Use Data

EPWU-PSB has successfully met the goals outlined in the 2009 and 2014 Water Conservation Plans. The current goal is to maintain overall per capita water consumption at or below 140 gpcd for the next 5 and 130 gpcd by 2019, the 10-year planning periods (CY 2020). This goal is formally adopted in the EPWU-PSB Strategic Plan on an annual basis.

The table below summarizes key water use statistics for 2009-2013. Average per person usage is given in gallons per capita per day (gpcd). Total production per year in billion gallons (BG). Average and peak daily water demand is given in million gallons per day (MGD).

Year	2009	2010	2011	2012	2013
Average GPCD*	135	134	138	136	130
Total Production (MG)	37,067	37,368	38,833	38,820	37,345
Peak Day (MGD)	152,643	158,510	163,463	163,158	161,145
Average Day (MGD)	101,552	102,396	106,362	104,334	99,781
Peaking Factor	1.50	1.55	1.54	1.56	1.61
Population	751,513	767,091	773,995	780,961	787,208

Table 1. Municipal Water Demand 2009-2014

* Gallons per capita day

Page 1





B. INCLUSION OF FIVE-YEAR AND TEN-YEAR TARGETS

El Paso Water Utilities current per capita use is 132 gpcd. In the 2011 Region E Plan the target goal of water conservation is to lower the per capita use to 118 gpcd by the year 2060. This is a decrease in per capita use of 3 gpcd per decade. El Paso will track the per capita use by calculating daily consumption numbers tracked by Operations. We also keep track of unaccounted and authorized consumption by obtaining fire hydrant flows during testing (from El Paso Fire Department) and for water use for line flushing. Unaccounted water loss due to main break is already covered on BMP's section and under **section G**.

	Historic 5-yr Average	Baseline	5-yr Goal for year 2014	10-yr Goal for year 2020
Total GPCD	132.7	133	130	130
Residential GPCD	83 ¹	83	82	80
Water Loss (GPCD)	8.7	8.7	8.5	8.0
Water Loss (Percentage)	6.6%	6.5%	6.0%	6.0%

Table 2. El Paso Water Utilities 5- and 10- YR Goals for Water Savings

1. From TCEQ Water Conservation Implementation Report

C. A SCHEDULE FOR IMPLEMENTING THE PLAN

El Paso will track per capita use, In the event, the daily use doesn't decline according to our planning goals, EPWU will consider the implementation of various water conservation incentives to lower per capita use. Incentives used in the past include turf rebate, air conditioner conversions, low flow toilets and shower heads. The promotion of water conservation through public media campaigns and outlets will continue as they have in the past.

D. A METHOD FOR TRACKING THE IMPLEMENTATION AND EFFECTIVENESS OF THE PLAN.

The following BMP's have been implemented by EPWU for many years. They are currently acted upon as part of our daily operations. The established BMP's allows us to track and measure progress towards improving efficiency.

Page 2
Conservation Analysis and Planning

Conservation Coordinator: Since 1990, EPWU has had a conservation department managed by a Water Conservation Manager. The fully-staffed conservation department is responsible for actively participating in collaborative educational efforts with other city department, governmental and educational agencies to promote and cultivate the understanding and importance of water conservation. Responsible for effectively coordinating the implementation of the Public Service Board's Water Conservation Program initiatives. Enforce the City's Water Conservation Ordinance in order to increase compliance and reduce water waste. The Conservation Manager oversees 9 full time staff that include a Water Conservation Education Specialist, (4) Water Conservation Technicians, (2) Water Conservation Enforcement Inspectors, (1) Building Maintenance and (1) Office Administrator. Conservation staff prepares section budget and develop public outreach programs. The current Conservation Manager was hired August 15, 1994.

Water Survey for Single-Family Customers: During September of 2012, a survey was taken for El Paso Water Utilities to determine the attitudes and information level of their customers regarding water issues and satisfaction with the Utility. The research is designed to reflect the knowledge and opinions of El Paso Water Utilities' customers within the city limits. Interviews were conducted by trained, bilingual telephone interviewers using a random sampling method.

The survey enables El Paso Water Utilities (EPWU) to review customer attitudes, set benchmarks, and incorporate the findings into future planning. El Pasoans have continuing and increasing confidence and satisfaction with El Paso Water Utilities. Over a nineteen year period, confidence in the safety of drinking water has shown a steady increase from 60% in 1993 to 84% in 2012. Research also shows that El Paso Water Utility customers express continued high satisfaction with the cost of water, customer service, communications and the management of water resources. Of note, however, is while the numbers of El Pasoans who have made water conserving changes to their landscape has steadily increased, those who feel they can reduce their water use by 10% or more has significantly decreased from 76% in 2000 to 24% in 2012.

Financial

Water Conservation Pricing: Please refer to section J for explanation of this BMP.

System Operations

Metering of All New Connections and Retrofit of Existing Connections: Please refer to **section F** for explanation regarding this BMP.

Hi/Low Meter Reading Reports: Every day, at the end of the day, once the meter reader's information is downloaded into the system, a Hi/Low report is produced. This report identifies accounts with either low or high consumptions compared to the previous month. The Hi/Low addresses are then assigned to Customer Service Field staff for three main reasons (1) to double check the meter reading for accuracy, (2) if a property leak is found, then to contact the customer before the bill is send out so that customer can fix the leak and (3) if the reading is low, to investigate if the customer is no longer occupying premises which might impact revenues if balances are not recuperated. EPWU reads meters by cycle and each cycle has approximately 10,000 meters. The average Hi/Low readings per cycle is 90. Meter readers record an average of 2.5 readings per year.

Meter Replacement Program: Please refer to **sections E and F and table 5** for additional information regarding this BMP. The El Paso Water Utilities system is 100% metered both for customer and public uses. As a part of our water conservation implementation strategy, our meter replacement program is a long-term plan to replace meters at a rate that maintains a ten year average meter age. A cost / benefit analysis was conducted in 2002 by EPWU staff in order to estimate the appropriate time to change out small meters. Based on the results, it is recommended that the optimal meter age of replacement is 10 to 11 years. This will capture low water flows and ultimately raise revenue.

Page 3

Landscaping

For many years, EPWU offered a Turf Rebate program that was not only successful but very popular. The utilities discontinued such rebate along with other rebates because the per capita consumption goal was achieved. The rebates ended in 2007 and per capita consumption has been maintained as shown on Chart 1 above. We continue to offer educational programs in many topics including landscaping. In April 2013, the EPWU sponsored a Water Audit Certification class for city employees and local landscapers followed by a testing and certification program, 22 attendees to the course and test.

El Paso Water Utilities offers free irrigation audits upon request. Many of such requests are for city parks, school athletic fields. Indoor and Outdoor Water Use Reviews are free educational programs offered by El Paso Water Utilities Conservation Department designed to help residents and businesses save on their monthly bill by understanding how to efficiently use water indoors and outdoors. Indoor use review includes explanation of the water bill and the Average Winter Consumption (AWC), checking for toilet leaks, measure the flow of water from faucets and showerheads to determine how many gallons per minute are used, how to irrigate your lawn and apply water more efficiently, and explain the Water Conservation Ordinance.

The Outdoor Water Use Review includes a site evaluation which identifies any problem areas with the irrigation system and runoff. We test for irrigation distribution uniformity to help determine the irrigation schedule. A detailed report on system management recommendations is mailed. We provide brochures containing plant lists and other plant material watering guidelines. Both reviews include making recommendations on other water conservation practices and provide brochures with water conservation information.

Additionally, EPWU has implemented a Monthly Allotment for Local Government Yard meter Accounts (Per Acre), see Table 5, for the purpose of curtailing excess irrigation, especially during the hot summer months. A uniform rate of \$2.01 per CCF is charged under the allotment figures, any usage by the local government turf irrigation account in excess of the monthly allotment is billed at the Block 3 rates, currently, \$5.27 per CCF.

Education and Public Awareness

Public Information: Please refer to section I for explanation of this BMP.

School Education: Education is an important part of the EPWU Water Conservation Program. The El Paso Water Utilities' Carlos M. Ramirez TecH₂O Water Resources Learning Center is on its 7th year of operations. The Center serves educators, students, policy makers and the public by providing meeting places and resources to promote the understanding and study of water and water issues. It includes a 250-seat auditorium, a training center, interactive exhibits, and display and demonstration projects. The TecH₂O Center is ideal for regional, national and international symposiums and conferences.

El Paso Water Utilities is involved in many activities to increase public awareness about its water resources. The Water Conservation Education Department strives to increase water consciousness throughout the community and area schools. The El Paso area faces unique water challenges and it is our obligation to deliver this information throughout the area to help others understand how crucial it is to work collectively as a region to address the critical water issues. Our intent is to deliver the information program holds workshops and training sessions throughout the community on various subjects related to water conservation. The following table demonstrates the number of educational events and attendees held at the center; the number of outreach events to schools and other venues as well as attendees for such events. We don't foresee a substantial increment on presentations as currently we are fully staffed and there are no plans to increase staffing levels.

	Presentations at TecH ₂ O Center	TecH ₂ O Attendees	Outreach Presentations	Outreach Attendees
FY 2008-09	195	6,531	305	12,540
FY 2009-10	213	8,391	405	14,641
FY 2010-11	184	8,141	127	10,854
FY 2011-12	197	6,344	120	7,302
FY 2012-13	230	12,170	171	28,117

 Table 3. Educational efforts by the Water Conservation Department

The mission of the center is to provide education and training to foster the understanding and appreciation of total water management in the Chihuahuan Desert. We accomplish this through education programs and tours offered on site as well as outreach programs throughout the community. This combined effort helps us to spread our conservation message to thousands of people throughout the year. Below are some of these platforms used to educate the general public.

- Trainings and Conferences Teachers and Professional Development
- Field trips and tours Grades 5th and higher, Careers in STEM, tours for international visitors, elected officials, general public, and EPWU staff
- Public events- Science Cafés, Drinking Water Week, Summer Camp, Water Festival, and workshops for gardening, landscape, desert plants & wildlife
- Outreach Head Start to adults, and community events
- Volunteer Program Docents trained to help us educate others

Partnerships with Nonprofit Organizations: For more than 20 years, EPWU has collaborated with community partners to not only promote conservation but to increase the effectiveness of our message, by such collaborations we have been able to reach substantial number of residents. In addition, we have handled such relations to obtain educational grants. In 2013, the Conservation Department secured a \$6,000+ grant from EPA and BECC for the installation of the "Urban Gardens Using Rain Water Harvesting Techniques" demonstration site, and a \$12,000+ from Texas Parks and Wildlife for an educational program to increase understanding of urban wetlands. This grant is geared to middle school students and the keyhole garden grant is geared to the general public. The following list provides a glimpse of the different community organizations that we partner with to offer educational events.

- Project Wet Host Institute
- Region 19 Education Service Center
- El Paso Zoo El Paso Water Utilities Discovery Education Center
- Keystone Heritage Park Desert Botanical Gardens
- City of El Paso Parks & Recreation
- Texas Parks & Wildlife
- University of Texas at El Paso
- El Paso Community College
- Texas Agri-Life County Extension

Rebate, Retrofit, and Incentive Programs

From 1991 to 2007 EPWU customers were given the opportunity to participate in voluntary rebates and incentive programs that included the following:

- Cash for your commode rebate ran for 11 years
- Clothes Washing Machine rebate ran for 5 years
- Central Refrigeration System rebate ran for 4 years
- Turf Rebate Program rebate ran for 4 years

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- Low-flow Showerhead distribution EPWU had two large programs one in 2001 the other started in 2008 to present
- Faucet aerators for bathrooms and kitchens available since 1991 to present
- Evaporative Air Conditioner Bleed-off Clamps available since 1991 to present
- Waterless Urinals for commercial and governmental accounts distribution of free urinals ran for 3 years
- Hot Water On Demand Pilot program only ran for 2 years. This was stopped due to low participation.
- Leak Adjustment for Low Income Pilot program only ran for a couple of years and it was stopped due to community partnership paperwork complicated process.

Conservation Technology

Rainwater Harvesting: A rain water harvesting tank was installed, as a demonstration site at the center, in 2008. Several public workshops have taken place to promote the use of rainwater. Additionally, this tank is part of the Keyhole demonstration project. We are planning on installing 2 more tanks at the center to take advantage of rainwater to water our landscape areas. Because the center is registered as a Texas Parks Wildscape, the tanks will help us provide water to the native wildlife.

Water Reuse: Wastewater within the EPWU service area is collected and treated at one of four EPWU wastewater reclamation plants using advanced secondary or tertiary treatment. The following table lists each wastewater treatment plant with the corresponding TCEQ number.

able 4. Wastewate	able 4. Wastewater Treatment Plants					
Wastewater	Northwest WWTP	Haskell St.	Roberto	Fred Hervey		
Treatment		WWTP	Bustamante	WWTP		
Plan			WWTP			
TCEQ No.	WQ0010408009	WQ0010408004	WQ0010408010	WQ0010408007		
Reuse Distribution	361 MG / year	273 MG / year	40.4 MG / year	1,823 MG / year		

Table 4. Wastewater Treatment Plants

The result is high water quality that earned EPWU the reputation of operating the first wastewater treatment plant in the world to meet drinking water standards for its reclaimed water. EPWU supplies golf courses, city parks, school grounds, apartment landscapes, construction, and industrial sites with over 5.25 million gallons per day of reclaimed water. Reclaimed water is also used for the operation of treatment plants (in-plant use) and to recharge the Hueco Bolson through injection wells and infiltration basins. The goal for reuse water – as outlined in the EPWU-PSB Strategic Plan is to increase water reuse from 10% of total wastewater to 15% during the next ten year planning period (CY 2020).

E. A MASTER METER TO MEASURE AND ACCOUNT FOR THE AMOUNT OF WATER DIVERTED FROM THE SOURCE OF SUPPLY.

Metering Devices: All metering devices used in the El Paso Water Utilities system meet AWWA C702 standards for cold water meters, NSF/ANSI 61 Standard Annex G & F, and accurate within 5% of designated flow range of the device. For FY 12-13, meter reading accuracy was 99.93% with goal of 99.97%, which is less than one inaccurate reading for every 1,500 meter read.

F. A PROGRAM OF UNIVERSAL METERING

Universal Metering: All customers and public uses of water are metered in the El Paso Water Utilities system. Meter accuracy is maintained by ongoing testing, repairing and by a replacement program of aged meters. EPWU has a complete meter shop with full testing facilities. We have over 50 customer classifications to insure that our entire customer base is in a billing and metered category. Additionally, EPWU maintains an ongoing meter exchange program to minimize revenue loss due to aged meters not recording consumption properly.

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	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13
Meter exchange program	4,912	1,252	7,325	12,211	11,347	12,800
Meter Reading Accuracy	99.91%	99.91%	99.93%	99.92%	99.92%	99.93%
Meters repaired	1,428	1,470	1,424	1,426	1,911	1,888
Meters tested*	1,610	1,650	1,606	1,528	1,877	1,927

 Table 5. Meter Exchange, Meter Accuracy, Meters Repaired and Tested.

Note: * Number of 1 1/2" to 12" meter tested

G. MEASURES TO DETERMINE AND CONTROL WATER LOSS AND CONTINUOUS PROGRAM OF LEAK DETECTION.

The El Paso Water Utilities – Public Service Board is dedicated to reducing the loss of water, improving the efficiency in the use of water and increasing the use of reuse water. Unaccounted for water and gallons per capita day (gpcd) figures are sourced in the Water Conservation Utility Profile (TWDB form WRD-264).

Year	Water Produced (MG)	Total Water Billed (MG)	Unaccounted for Water (MG)	Unaccounted for Water (%)
2009	37,067	34,147	2,920	7.9%
2010	37,348	34,407	2,941	7.9%
2011	38,833	37,022	1,811	4.7%*
2012	38,820	36,322	2,498	6.4%
2013	37,345	35,083	2,262	6.1%

Table 6. Unaccounted for Water

Note* - Meters on some wells were not properly calibrated. Steps have been taken to properly calibrate such meters and/or verify and/or replace faulty flow meter since then.

Unaccounted-for Water Use: Since 2004, El Paso Water Utilities has utilized leak detection loggers on its distribution mains to detect leaks (see Table 3 above). This program has saved more than 1.80 BG between 2004 and 2013. This program involved the installation of over 10,000 Permalog leak detection throughout the water distribution system over a 6 month period. These units are installed on the water main vales of the distribution mains and monitor the system for leaks using acoustic-based monitoring techniques.

Any leaks found with these units are typically repaired within 3 days. Once a leak is exposed for repair, an estimate of the leak flow rate is made and the estimated water savings is computed based on the assumption that the leak would remain undetected for 2 year. In accordance with AWWA guidelines. These 10,000 loggers have now reached the end of their service life and are currently being replaced with 12,000 leak detection loggers from Metrotech. El Paso Water Utilities has maintained a water loss rate of less than 10% for the last 7 years, which is considered "exceptional" by AWWA standards. The El Paso Water Utilities intends to maintain a water loss level below 10%, and a gpcd level of consumption below 135 gpcd, consistently through the next ten year planning period (CY 2020).

Additionally, the EPWU provides preventive and emergency maintenance of all water distribution system, including over 2,500 miles of water mains, over 190,000 water service connections, fire hydrants, and valves. The following table shows the percentage of large main breaks (>12 inches) isolated in less than 2 hours (calendar year).

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Year	Main Brakes Per Mile Per Year	Miles Per Employee	Percentage of large main breaks (>12 inches) isolated in less than 2 hours (Calendar Year	Number of Main Breaks (Calendar Year)
FY2008-09	0.06	11.7	10.1%	168
FY2009-10	0.06	11.6	7.8%	166
FY2010-11	0.06	11.7	14.8%	155
FY2011-12	0.06	11.7	20%	217
FY2012-13	0.08	12.3	19%	193

Table 7. System Distribution Lines Data

H. A PROGRAM OF CONTINUING EDUCATION AND INFORMATION REGARDING WATER CONSERVATION.

Continuing Public Education and Information: The El Paso Water Utilities has been promoting conservation for more than 20 years. In 2007, the EPWU open up a state-of-the-art education facility in 2007. The Carlos M. Ramirez TecH₂O Water Resources Learning Center. The 30,450 square-foot center provides educational and training opportunities to foster the understanding an appreciation of total water management in the Chihuahuan Desert. On average, the center host 300+ events such as school field trips, public and teacher workshops and conferences, Science Café's, and the annual water festival. More than 8,000 attendees visit the center on a yearly basis. The center has 16-themed exhibits including information about the wildlife and flora of the desert, Xeriscape principles, water management challenges, meeting water demands, reclaimed water, and utility water sustainability efforts.

Additionally, EPWU public awareness efforts include monthly conservation messages on the back of the bills, periodic bill stuffers, billboards, TV, radio, newspaper, social media messages, and displays at citywide shows, fairs, and music festivals as well as presentations to civic groups and other organizations. The Conservation Department makes presentations to schools; presentations include a visit by or "Willie the Water Drop" mascot or are customized to the specific target audience. The outreach educational efforts surpass 180 presentation per year reaching more than 20,000 people.

Number of television, radio, social media and bill messages during the high-use season to expand the public information measure. The following table summarizes EPWU public information efforts.

Brochures distributed	20,000 +
Messages provided on utility bills	10
Press releases	12
TV public service announcements	352
Radio public service announcements	358
Social media campaigns	weekly

Table 8: EPWU Public Information Efforts for 20013

I. A WATER RATE STRUCTURE.

The current water rate structure is an increasing block rate structure. Charges for water service are based on the customer's average winter consumption (AWC), which is the average of the amount of water used during the previous December, January, and February billings. (Customers who have not established an AWC are assigned an AWC based on meter size for their classification.) Up to 4 hundred cubic feet (CCF) are included in the minimum charge for residential customers. Copy of rate structure as Appendix (2).

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Block	Charge per CCF	Volume Charge
1	\$1.56 per CCF	Over 4 CCF's to 150% of AWC**
2	\$3.68 per CCF	Over 150% to 250% of AWC
3	\$5.27 per CCF	Over 250% of AWC

Table 9. EPWU Rate Structure for FY 2014-15

**Non-residential customer rates do not include 400 cubic feet allotment in minimum monthly charges. Rates are current as of March 1, 2008.

Under the increasing block rate structure, irrigation accounts tend to have an extremely low Average Winter Consumption (AWC), which is used to calculate block thresholds. Accordingly, the vast majority of the water use in the summer by these accounts was billed at the higher block 2 and 3 rates. Some irrigation accounts were increasing their Average Winter Consumption (AWC) in order to avoid the summer excess rate.

The Utilities established a "Local Government Turf Irrigation Accounts" rate that bills water use based on monthly allotment levels. These levels are based on evapotranspiration measurements and allows for enough watering to replenish evaporation loss. Water use within the allotment is charged at \$1.85 per CCF, usage above such allotments is charged at block 3 rates. Agencies such as public schools, universities and colleges are included in this rate.

Month	Maximum CCF Per Acre	Month	Maximum CCF Per Acre
January	40	July	280
February	40	August	200
March	50	September	180
April	180	October	120
May	200	November	50
June	280	December	40

 Table 10. Monthly Allotment for Local Government Yard meter Accounts (Per Acre)

J. A MEANS OF IMPLEMENTATION AND ENFORCEMENT.

Copy of city ordinance is included as Appendix 3.

The following is a summary of the City Water Conservation Ordinance - Residential Watering is not allowed on Mondays, even numbered addresses are allowed to water on Tuesdays, Thursdays and Saturdays while odd numbered addresses, as well as schools, parks, cemeteries and industrial sites are allowed to water on Wednesdays, Fridays and Sundays. From April 1 through September 30, outdoor watering is allowed only before 10:00 a.m. or after 6:00 p.m. Generally, municipalities will adopt restrictions on outdoor watering as a stage one restriction under a drought management plan. Lawn and Landscape watering restrictions are defined under the Mandatory Compliance section of the El Paso Conservation Ordinance, which means that this policy must be adhered to at all times, regardless of drought conditions.

Any water activity that causes water to spray or flow into the street or public right-of-way is prohibited and considered a violation. Violations are a class C misdemeanor in nature. Although the El Paso Water Conservation Ordinance does not require written warnings before a citation is given, the Conservation Department introduced the ordinance via warnings as part of their public education campaign. Washing of sidewalks, driveways, patios and other non-porous surfaces with a hose are prohibited except to eliminate

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dangerous conditions. These provisions are stated in the El Paso City Code, section 15.13. The enforcement of the conservation ordinance has been the responsibility of the El Paso Water Utilities since June of 1992 and allows for fines from \$50 to \$500 for each violation. Table 6 below illustrates the Water Conservation Department efforts in implementing and enforcing the water conservation plan and all plan elements.

Year	Direct Calls to Customers	D-hangers	Verbal, Phone and Written Warnings	Citations
FY 2008-09	599	365	401	40
FY 2009-10	642	477	1,053	34
FY 2010-11	592	429	920	20
FY 2011-12	726	380	1,023	14
FY 2012-13	880	568	1,065	25
FY 2013-14	772	569	820	34

Table 11. Water Conservation Enforcement 5 Year History (2009-2013)

K. IF THE APPLICANT WILL UTILIZE THE PROJECT FINANCED BY THE TWDB TO FURNISH WATER OR WASTEWATER SERVICES TO ANOTHER SUPPLYING ENTITY THAT IN TURN WILL FURNISH THE WATER OR WASTEWATER SERVICES TO THE ULTIMATE CONSUMER, THE REQUIREMENTS FOR THE WATER CONSERVATION PLAN ALSO PERTAIN TO THESE SUPPLIER ENTITIES.

Periodic Reviews and Implementation: The El Paso Water Utilities is obligated to the TWDB (under 31 TAC §363.71) to submit an annual report describing the implementation, status, and quantitative effectiveness of the water conservation program. This annual report is due within 60 days after the anniversary date of the loan closing for each year that the El Paso Water Utilities – Public Service Board is under financial obligation to the TWDB.

Wholesale customers have specific instructions in their contract with regards to water conservation: El Paso Water Utilities obligation to provide water under Contract may be limited in the same manner and to the same extent that water service is limited to other customers of the Utility, and such obligation to supply is subject to curtailment, in accordance with all applicable local, state, and federal laws, including, without limitation, El Paso's Water Conservation Ordinance (9 15.1 3, El Paso Municipal Code), as amended, the PSB's Rules and Regulations, the PSB's Drought and Water Emergency Management Response Plan, and any other drought management plan, or moratorium, which may be imposed by the Texas Commission on Environmental Quality ("TCEQ"), the Utility, or the City of El Paso.

Seven (7) days written notice shall be provided by the Utility to wholesale customer, or in the event of an emergency, as soon as is practicable, when in the operation and maintenance of its water service facilities it is determined that a cut-off or curtailment in water deliveries to the wholesale customer will be occasioned. The Utility will undertake its best efforts to restore water deliveries, as soon as is practicable, under the specific circumstances occasioning the cut-off. The wholesale customer understands and agrees that its water supply hereunder is subject to cut-off or curtailment in the event of a water emergency being declared under El Paso's Water Conservation Ordinance or Drought and Water Emergency Management Response Plan.

L. DOCUMENTATION THAT THE REGIONAL WATER PLANNING GROUP FOR THE SERVICE AREA OF THE APPLICANT HAS BEEN NOTIFIED OF THE APPLICANT'S WATER CONSERVATION PLAN.

The service area of the County of El Paso is located within the Region E Water Planning Area and the El Paso Water Utilities has provided a copy of the Plan to the Region E Water Planning Group. The 2009 conservation plan presented to the Region E Planning Group was approved and is included on the State Water Plan.

The planning group is in process of completing the 2016 Region E Water Plan. The 50 year plan is updated every five years to include analysis of population, demand, supplies and costs. In the event, existing supplies are not enough to meet demands of the future, water management strategies are included in the plan. The 2016



will include current supplies of surface water and groundwater, reclaimed water, and conservation. New supplies to be included in the 2016 plan include: importation of water from the Dell City area, expansion of the Jonathan Rogers Surface Water plant, additional local ground water, and advanced purification of waste water effluent to meet potable supply requirements.

Exhibit A is a map showing the water and wastewater system for the El Paso Water Utilities, Water and Wastewater System descriptions can be found in the Utility Profile.

EXHIBIT A



M. THE DROUGHT CONTINGENCY PLAN

Please see Appendix (4) - RULES AND REGULATIONS NO.17 - DROUGHT AND WATER EMERGENCY MANAGEMENT RESPONSE RULE

Trigger conditions.

The Drought and Water Emergency Management Response Rule is triggered as the result of reductions in surface water allotment from the Rio Grande Federal Reclamation Project or as a result of the inability to satisfy system water demands for any other reason. The Rule sets out response Stages based on allotment of surface water or when demand for water is projected by the Public Service Board to exceed supply. Each Stage is associated with a menu of possible response measures. Each successive Stage being from Stage I to Stage III represents a response to an increasingly severe condition and includes an increasingly stringent list of response measures. Please refer to Appendix (4) for complete information regarding Drought and Water Emergency Management Response Rule.



WHOLESALE WATER CUSTOMERS

In accordance with Texas Water Code Section 11.039, when necessary as determined by the EPWU, water deliveries to wholesale water customers shall be curtailed on a pro-rata basis. Every wholesale water contract entered into or renewed after adoption of this Rule, including contract extensions, shall include a provision that in the case of a drought or water emergency declaration, water to be distributed shall be divided in accordance with Texas Water Code Section 11.039.

Measures to inform and educate the public.

Involving the public in the preparation of the drought contingency plan provides an important means for education the public about the need for the plan and its content. EPWU is prepared to launch a comprehensive public campaign to notify the public regarding the different states of the drought and/or emergency situation included but not limited to television and radio spots, newspaper articles, messages on the water bill and all social media platforms as well as "message on hold" on our telephone system. z

N. ADOPTION.

There are no changes to the Drought and Water Emergency Management Response Plan (November 2002), therefore, approval by the Public Service Board is not necessary for this update.

O. REPORTING REQUIREMENTS.

Identify who will be responsible for preparing the annual report on the utility profile from TWDB-1965. Loan/Grant Recipients must maintain an approved water conservation program in effect until all financial obligations to the state have been discharge and shall <u>report annually</u> to the executive administrator of the TWDB on the progress in implementing each of the minimum requirements in its water conservation plan and the status of any of its customer's water conservation plan required by contract. The content and format for the annual reporting is included in the forms: <u>Water Conservation Plan Annual Report, TWDB-1966 for retail</u> <u>water suppliers, TWDB-1967 for non-water suppliers and TWDB-1969 for wholesale water suppliers.</u> The final requirement is to report annually on the effectiveness of your Plan by submitting a Water Conservation Plan Annual report every year. The Annual Report (AR) is due May 1st of every year. There are three different AS form; one for retail water suppliers, one for wholesale water suppliers, and one for non-water suppliers. The AR should be submitted using the <u>online forms.</u> AR tutorials are provided to assist with submitting these forms.

Once your plan is submitted, TWDB staff will review your Plan for completeness. Additional comments or questions should be directed to wcpteam@twdb.texas.gov

For information and assistance for utilities requesting TWDB financial assistance contact:

Water Conservation Plans Texas Water Development Board P.O. Box 13231 Austin, Texas 78711-3231 wcpteam@twdb.texas.gov (512) 463-7955

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APPENDIX LIST

- I. 2014 Utility Profile form that was submitted to the TCEQ for El Paso Water Utilities
- **II.** Current Rate Structure
- III. City of El Paso Water Conservation Ordinance
- IV. Rules and Regulation NO.17 Drought and Water Emergency Management Response Rule

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Texas Commission on Environmental Quality

UTILITY PROFILE AND WATER CONSERVATION PLAN REQUIREMENTS FOR MUNICIPAL WATER USE BY RETAIL PUBLIC WATER SUPPLIERS

This form is provided to assist retail public water suppliers in water conservation plan development. If you need assistance in completing this form or in developing your plan, please contact the conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

Name:	El Paso Water Utilities	
Address:	1154 Hawkins El Paso, TX 79925	
Telephone Number:	(915) -5945407	Fax: (915) -5442539
Water Right No.(s):	Texas Permit No. 1535, EPCWID	#1 Permit No. 14-06-500-762
Regional Water Planning Group:	Far West Texas Regional Planning	g Group, Region E
Form Completed by:	Ruben Rodriguez	
Title:	Water Supply Manager	
Person responsible for implementing conservation program:	John H. Balliew	Phone: (915) 594-5501
Signature:	LA Dig 6	Date: 5/1/14

NOTE: If the plan does not provide information for each requirement, include an explanation of why the requirement is not applicable.

UTILITY PROFILE

I. POPULATION AND CUSTOMER DATA

A. Population and Service Area Data

- 1. Attach a copy of your service-area map and, if applicable, a copy of your Certificate of Convenience and Necessity (CCN).
- 2. Service area size (in square miles): 250 square miles (Please attach a copy of service-area map)
- 3. Current population of service area: 787,208
- 4. Current population served for:

a. Water <u>217,406 accounts including wholesale customers</u>

- b. Wastewater 202,068 accounts including wholesale customers
- 5. Population served for previous five 6. Projected population for service area in the following decades:

Year	Population	Year	Population
2009	760,249	2020	1,000,651
2010	767,091	2030	1,141,414
2011	773,995	2040	1,262,817
2012	780,961	2050	1,384,220
2013	787,208	2060	1,505,622

- 7. List source or method for the calculation of current and projected population size. Years 2009 – 2013 were obtained from the Border Region Modeling Project at the University of Texas at El Paso. Figures for 2020, 2030, 2040, 2050 and 2060 were obtained from the Far West Texas Regional Growth Plan for Region E, January 2011.
- B. Customers Data

Senate Bill 181 requires that uniform consistent methodologies for calculating water use and conservation be developed and available to retail water providers and certain other water use sectors as a guide for preparation of water use reports, water conservation plans, and reports on water conservation efforts. <u>A water system must provide the most detailed level of customer and water use data available to it</u>, however, any new billing system purchased must be capable of

reporting data for each of the sectors listed below. http://www.tceq.texas.gov/assets/public/ permitting/watersupply/water_rights/sb181_guidance.pdf

1. Current number of active connections. Check whether multi-family service is counted as ⊠ Residential or □ Commercial?

Treated Water Users	Metered	Non-Metered	Totals
Residential	180,297	00	180,297
Single-Family	178,209	0	178,209
Multi-Family	2,088	0	2,088
Commercial	11,367	0	11,367
Industrial/Mining	161	0	161
Institutional	2,941	0	2,941
Agriculture	0	0	0
Other/Wholesale	22,782	0	22,782

2. List the number of new connections per year for most recent three years.

Year	Mar '11 -Feb '12	Mar '12 -Feb '13	Mar '13 -Feb '14	
Treated Water Users				
Residential	2,902	2,056	1,944	
Single-Family	2,884	2,055	1,955	
Multi-Family	18	0	(11)	
Commercial	(155)	(952)	1,199	
Industrial/Mining	2	0	(9)	
Institutional	(239)	30	64	
Agriculture	0	0	0	
Other/Wholesale	1,970	1,180	931	

3. List of annual water use for the five highest volume customers.

	Customer	Use (1,000 gal/year)	Treated or Raw Water
1	Lower Valley Water District	1,828,944	Treated
2	City of El Paso	1,725,323	Treated
3	Federal Government	1,328,798	Treated
4	El Paso Electric Company	1,132,746	Treated
5	County of El Paso	517,989	Treated

II. WATER USE DATA FOR SERVICE AREA

A. Water Accounting Data

1. List the amount of water use for the previous five years (in 1,000 gallons). Indicate whether this is \Box diverted or \boxtimes treated water.

Year	2009	2010	2011	2012	2013
Month					
January	2,228,324	2,191,028	2,270,331	2,264,969	2,215,928
February	2,179,825	2,021,574	2,147,359	2,199,686	2,097,126
March	3,000,943	2,756,349	3,105,746	2,824,763	2,756,935
April		3,170,445	3,459,099	3,441,501	3,197,430
May	3,951,803	3,788,192	3,886,246	3,790,094	3,858,167
June	4,016,543	4,405,780	4,489,931	4,365,101	4,350,764
July	4,154,573	4,000,489	4,383,575	4,026,590	3,912,802
August	4,316,389	4,177,344	4,285,448	4,309,907	3,963,299
Septembe					
r	3,466,885	3,623,243_	3,542,979	3,542,403	3,283,506
October	3,000,330	3,062,252	3,202,663	3,181,823	3,068,964
November	2,484,740	2,455,295	2,460,665	2,545,428	2,403,431
December	2,176,546	2,283,145	2,161,274	2,325,757	2,237,316
	38,230,90	37,935,13	39,395,31	38,818,02	37,345,66
Totals	8	4	4	0	7

Describe how the above figures were determine (e.g, from a master meter located at the point of a diversion from the source, or located at a point where raw water enters the treatment plant, or from water sales).

2. Amount of water (in 1,000 gallons) delivered/sold as recorded by the following account types for the past five years.

Year	Mar '09 - Feb '10	Mar '10 - Feb '11	Mar '11 - Feb '12	Mar '12 - Feb '13	Mar 13 - Feb '14
Account Types					
Residential	21,689,206	22,168,543	23,225,177	22,568,244	21,663,841
Single-Family	19,072,000	19,464,655	20,505,492	19,898,330	19,100,887
Multi-Family	2,617,206	2,703,888	2,719,685	2,669,914	2,562,954
Commercial	4,282,076	4,508,676	4,712,315	4,565,117	4,498,996
Industrial/Mining	1,083,637	1,223,695	1,387,122	1,810,834	1,805,988
Institutional	4,033,567	4,045,340	3,892,169	4,305,154	3,875,349

Agriculture	0	0	0	0	0
Other/Wholesale	2,425,340	2,551,375	3,371,783	3,318,601	3,305,090

 List the previous records for water loss for the past five years (the difference between water diverted or treated and water delivered or sold).

Year	Amount (gallons)	Percent %
2009	2,920,000,000	7.9
2010	2,941,000,000	7.9
2011	1,811,000,000	4.7
2012	2,498,000,000	6.4
2013	2,262,000,000	6.1

B. Projected Water Demands

If applicable, attach or cite projected water supply demands from the applicable Regional Water Planning Group for the next ten years using information such as population trends, historical water use, and economic growth in the service area over the next ten years and any additional water supply requirements from such growth.

III. WATER SUPPLY SYSTEM DATA

A. Water Supply Sources

List all current water supply sources and the amounts authorized (in acre feet) with each.

Water Type	Source	Amount Authorized
Surface Water	Rio Grande River	15,000 acreft
Groundwater	Hueco Bolson and Mesilla Bolson	105,000 acreft
	El Paso County Water Improvement	Additional
	District #1 and U.S Bureau of	purchased surface
Contracts	Reclamation	water as needed.
Other	N/A	

B. Treatment and Distribution System

- 1. Design daily capacity of system (MGD):214 MGD
- 2. Storage capacity (MGD):
 - a. Elevated <u>17.5 MGD</u>
 - b. Ground <u>210.7 MGD</u>

3. If surface water, do you recycle filter backwash to the head of the plant? ∑ Yes □ No If yes, approximate amount (MGD): 3 MGD

IV. WASTEWATER SYSTEM DATA

- A. Wastewater System Data (if applicable)
 - 1. Design capacity of wastewater treatment plant(s) (MGD): 96.2 MGD
 - 2. Treated effluent is used for ⊠ on-site irrigation, ⊠ off-site irrigation, for ⊠ plant washdown, and/or for □ chlorination/dechlorination.

If yes, approximate amount (in gallons per month): 98 million gallon/month

3. Briefly describe the wastewater system(s) of the area serviced by the water utility. Describe how treated wastewater is disposed. Where applicable, identify treatment plant(s) with the TCEQ name and number, the operator, owner, and the receiving stream if wastewater is discharged.

Please see attachment C.

B. Wastewater Data for Service Area (if applicable)

- 1. Percent of water service area served by wastewater system: <u>99.0</u> %
- 2. Monthly volume treated for previous five years (in 1,000 gallons):

Year	2009	2010	2011	2012	2013
Month					
January	1,568,168	1,584,133	1,665,100	1,836,754	1,645,271
February	1,431,385	1,462,840	1,485,332	1,668,383	1,514,902
March	1,526,145	1,551,585	1,693,081	1,789,373	1,636,898
April	1,495,619	1,556,454	1,668,270	1,692,296	1,568,311
May	1,607,050	1,619,083	1,679,498	1,726,680	1,645,881
June	1,597,778	1,654,387	1,647,272	1,670,489	1,622,099
July	1,723,611	1,722,916	1,766,226	1,774,635	1,742,928
August	1,740,810	1,750,719	1,830,731	1,795,368	1,778,235
September	1,654,647	1,705,605	1,722,777	1,733,104	1,830,435
October	1,679,366	1,738,451	1,675,295	1,679,657	1,677,210
November	1,582,293	1,617,771	1,611,749	1,612,300	1,604,152
December	1,612,764	1,595,213	1,821,227	1,618,431	1,634,130
Totals	19,219,636	19,559,157	20,266,558	20,597,470	19,900,452

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see attachments

V. ADDITIONAL REQUIRED INFORMATION

In addition to the utility profile, please attach the following as required by Title 30, Texas Administrative Code, §288.2. Note: If the water conservation plan does not provide information for each requirement, an explanation must be included as to why the requirement is not applicable.

A. Specific, Quantified 5 & 10-Year Targets

The water conservation plan must include specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use in gallons per capita per day. Note that the goals established by a public water supplier under this subparagraph are not enforceable

B. Metering Devices

The water conservation plan must include a statement about the water suppliers metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply.

C. Universal Metering

The water conservation plan must include and a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement.

D. Unaccounted-For Water Use

The water conservation plan must include measures to determine and control unaccounted-for uses of water (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections; abandoned services; etc.).

E. Continuing Public Education & Information

The water conservation plan must include a description of the program of continuing public education and information regarding water conservation by the water supplier.

F. Non-Promotional Water Rate Structure

The water supplier must have a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water. This rate structure must be listed in the water conservation plan.

G. Reservoir Systems Operations Plan

The water conservation plan must include a reservoir systems operations plan, if applicable, providing for the coordinated operation of reservoirs owned by the applicant within a common watershed or river basin. The reservoir systems operations plan shall include optimization of water supplies as one of the significant goals of the plan.

H. Enforcement Procedure and Plan Adoption

The water conservation plan must include a means for implementation and enforcement, which shall be evidenced by a copy of the ordinance, rule, resolution, or tariff, indicating official adoption of the water conservation plan by the water supplier; and a description of the authority by which the water supplier will implement and enforce the conservation plan.

I. Coordination with the Regional Water Planning Group(s)

The water conservation plan must include documentation of coordination with the regional water planning groups for the service area of the wholesale water supplier in order to ensure consistency with the appropriate approved regional water plans.

J. Plan Review and Update

A public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group. The revised plan must also include an implementation report.

VI. ADDITIONAL REQUIREMENTS FOR LARGE SUPPLIERS

Required of suppliers serving population of 5,000 or more or a projected population of 5,000 or more within ten years

A. Leak Detection and Repair

The plan must include a description of the program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted for uses of water.

B. Contract Requirements

A requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of this chapter.

VII. ADDITIONAL CONSERVATION STRATEGIES

A. Conservation Strategies

Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements of this chapter, if they are necessary in order to achieve the stated water conservation goals of the plan. The commission may require by commission order that any of the following strategies be implemented by the water supplier if the commission determines that the strategies are necessary in order for the conservation plan to be achieved:

1. Conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;

- 2. Adoption of ordinances, plumbing codes, and/or rules requiring water conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;
- 3. A program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;
- 4. A program for reuse and/or recycling of wastewater and/or graywater;
- 5. A program for pressure control and/or reduction in the distribution system and/or for customer connections;
- 6. A program and/or ordinance(s) for landscape water management;
- 7. A method for monitoring the effectiveness and efficiency of the water conservation plan; and
- 8. Any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

Best Management Practices

The Texas Water Developmental Board's (TWDB) Report 362 is the Water Conservation Best Management Practices (BMP) guide. The BMP Guide is a voluntary list of management practices that water users may implement in addition to the required components of Title 30, Texas Administrative Code, Chapter 288. The Best Management Practices Guide broken out by sector, including Agriculture, Commercial, and Institutional, Industrial, Municipal and Wholesale along with any new or revised BMP's can be found at the following link on the Texas Water Developments Board's website: http://www.twdb.state.tx.us/conservation/bmps/index.asp

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact 512-239-3282.

TCEQ - WCP 2014 (El Paso Water Utilities)

V. ADDITIONAL REQUIRED INFORMATION

A. Specific, Quantified 5 & 10-Year Targets

El Paso Water Utilities current per capita use is 132 gcpd. In the 2011 Region E Plan the target goal of water conservation is to lower the per capita use to 118 gcpd by the year 2060. This is decrease in per capita use of 3 gcpd per decade. El Paso will track the per capita use. In the event, the daily use doesn't decline according to our planning goals, EPWU will consider the implementation of various water conservation incentives to lower the per capita use. Incentives used in the past include turf rebate, air conditioner conversions, low flow toilets and shower heads.

B. Metering Devices

All metering devices used in the El Paso Water Utilities system meet AWWA C702 and C702 Standards for cold water meters, NSF/ANSI 61 Standard Annex G & F, and accurate to within 5% within the designated flow range of the device. FY 13-14 meter reading accuracy was 99.96% with a goal of 99.97%, which is less than one inaccurate reading for every 1,500 meters read.

C. Universal Metering

All customers and public uses of water are metered in the El Paso Water Utilities system. Meter accuracy is maintained by ongoing testing, repairing and an aged meter replacement program. EPWU has a complete meter shop with full testing facilities.

D. Unaccounted-For Water Use

Since 2004, El Paso Water Utilities has utilized leak detection loggers on its distribution mains to detect leaks (see response in Section VI.A.) Main breaks are repaired immediately and main leaks are typically repaired within 3 days.

E. Continuing Public Education & Information

The El Paso Water Utilities open up a state-of-the-art educational facility in 2007. The Carlos M. Ramirez TecH₂O Water Resources Learning Center. The 30,450 square-foot center provides education and training opportunities to foster the understanding and appreciation of total water management in the Chihuahuan Desert. On average, the center hosts 300+ events such as school field trips, public and teacher workshops and conferences, Science Café's, and the annual water festival. More than 8,000 attendees visit the center on a yearly basis. The 16-themed exhibits include information about the wildlife and flora of the desert, Xeriscape principles, water management challenges, meeting water demands, reclaimed water, and utility water sustainability efforts.

Additionally, the El Paso Water Utilities public awareness efforts include monthly conservation messages on the back of bills, periodic bill stuffers, billboards, TV, radio, newspaper, social media messages, and displays at citywide shows, fairs, and music festivals as well as presentations to civic groups and other organizations. The Conservation Department makes presentations to those schools that can't come to the center. The presentations often include a visit by our "Willie the Water Drop" mascot. The outreach educational efforts surpass 180 presentations per year reaching more than 20,000 people.

F. Non-Promotional Water Rate Structure

Please see Attachment D: Monthly Minimum Water Rates.

G. Reservoir Systems Operations Plan

El Paso Water Utilities and El Paso County Water Improvement District #1 work together to effectively manage levels at Elephant Butte Reservoir. Please see **Attachment E**: El Paso, TX Rules and Regulations No. 17: Drought and Water Emergency Management Response Rule, Section V

H. Enforcement Procedure and Plan Adoption

Please see Attachments F and Attachment G: El Paso, TX Code of Ordinances, Title 15 – Public Services; Chapter 15.13 - Water Conservation and Chapter 15.12 - Water and Sewer System

I. Coordination with the Regional Water Planning Group(s)

El Paso Water Utilities is represented in Region E (Far West Texas Regional Water Planning Group). The planning group is in process of completing the 2016 Region E Water Plan. The 50 year plan is updated every five years to include analysis of population, demand, supplies and costs. In the event, existing supplies are not enough to meet demands of the future, water management strategies are included in the plan. The 2016 will include current supplies of surface water and groundwater, reclaimed water, and conservation. New supplies to be included in the 2016 plan include: importation of water from the Dell City area, expansion of the Jonathan Rogers Surface Water plant, additional local ground water, and advanced purification of water water effluent to meet potable supply requirements.

J. Plan Review and Update

El Paso Water Utilities reviews and updates its Water Conservation Plan to coincide with the Far West Texas Regional Planning Group, Region E and to include an Implementation Report.

VI. ADDITIONAL REQUIREMENTS FOR LARGE SUPPLIERS

A. Leak Detection and Repair

Beginning in 2004, the El Paso Water Utilities implemented a comprehensive leak detection program which has saved more than 1.80 billion gallons of water between 2004 and 2013. This program involved the installation of over 10,000 Permalog leak detection throughout the water distribution system loggers over a 6 month time period. These units are installed on the water main valves of the distribution mains and monitor the system for leaks using acoustic-based monitoring techniques. Any leaks found with these units are typically repaired within 3 days. Once a leak is exposed for repair, an estimate of the leak flow rate is made and the estimated water savings is computed based on the assumption that the leak would remain undetected for 2 years, in accordance with AWWA guidelines. These 10,000 loggers have now reached the end of their service life and are currently being replaced with 12,000 leak detection loggers from Metrotech. El Paso Water Utilities has maintained a water loss rate of less than 10% for the last 7 years, which is considered "exceptional" by AWWA standards.

B. Contract Requirements

Wholesale customers have specific instructions in their contract with regards to water conservation:

El Paso Water Utilities obligation to provide water under Contract may be limited in the same manner and to the same extent that water service is limited to other customers of the Utility, and such obligation to

supply is subject to curtailment, in accordance with all applicable local, state, and federal laws, including, without limitation, El Paso's Water Conservation Ordinance (9 15.1 3, El Paso Municipal Code), as amended, the PSB's Rules and Regulations, the PSB's Drought and Water Emergency Management Response Plan, and any other drought management plan, or moratorium, which may be imposed by the Texas Commission on Environmental Quality ("TCEQ"), the Utility, or the City of El Paso.

Seven (7) days written notice shall be provided by the Utility to wholesale customer, or in the event of an emergency, as soon as is practicable, when in the operation and maintenance of its water service facilities it is determined that a cut-off or curtailment in water deliveries to the wholesale customer will be occasioned. The Utility will undertake its best efforts to restore water deliveries, as soon as is practicable, under the specific circumstances occasioning the cut-off. The wholesale customer understands and agrees that its water supply hereunder is subject to cut-off or curtailment in the event of a water emergency being declared under El Paso's Water Conservation Ordinance or Drought and Water Emergency Management Response Plan.

VII. ADDITIONAL CONSERVATION STRATEGIES

- A. Conservation Strategies
- 1. See Attachment D: Monthly Minimum Water Rates.
- The city of El Paso follows the International Plumbing Code which requires water conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modifications or addition; please see Attachment H: El Paso, TX Code of Ordinances, Title 18 – Building and Construction; Chapter 18.20 – Plumbing Code
- Currently, the El Paso Water Utilities does not offer a replacement or retrofit of water-conserving plumbing fixtures in existing structures. The only incentive that EPWU has is the distribution of free low-flow shower heads.
- 4. The city of El Paso, under the International Plumbing Code allows for the installation of gray water systems.
- The EPWU has a program for pressure control and reduction in the distribution system and for customer connections.
- Currently, the city of El Paso is reviewing the city's landscape requirements that only apply to commercial sites; Please see Attachment I: El Paso, TX Code of Ordinances, Title 18 – Building and Construction; Chapter 18.46 - Landscape
- EPWU measures effectiveness and efficiency of the water conservation plan by the annual per capita consumption figures and system-wide water loss report. Currently per capita use is 130 gpd.
- 8. El Paso Water Utilities current per capita use is 132 gcpd. In the 2011 Region E Plan the target goal of water conservation is to lower the per capita use to 118 gcpd by the year 2060. This is decrease in per capita use of 3 gcpd per decade. El Paso will track the per capita use. In the event, the daily use doesn't decline according to our planning goals, EPWU will consider the implementation of various water conservation incentives to lower the per capita use. Incentives used in the past include turf rebate, air conditioner conversions, low flow toilets and shower heads.

Attachment A: EPWU CCN No. 10211





Attachment B: EPWU Service Area Map

Attachment C

Wastewater System

Haskell R. Street Wastewater Treatment Plant

The Haskell R. Street plant was built in 1923 and is the oldest wastewater facility in El Paso. It has since undergone several expansions and upgrades, including a \$22,000,000 upgrade in 1999 to improve effluent quality and operational efficiency. This plant has won and continues to win awards for perfect compliance with regulatory permit requirements from the **National Association of Clean Water Agencies (NACWA).** The plant has received NACWA Peak Performance Gold and Platinum Awards for perfect permit compliance. In 2004, the plant received the NACWA Platinum Award for five consecutive years of perfect permit compliance. In 1994, it was selected as the Texas State and USEPA Region VI winner of the Operations and Maintenance Excellence Award, Large Advanced Plant Category.

Construction of the first phase of the Central El Paso Reclaimed Water Project was completed in 2003 and included building a 1 million gallon elevated storage tank, a pumping station, treatment filters, and about four miles of purple pipe. This project provides reclaimed water services to Modesto Gomez Park, Orchard Park, Washington Park, Lincoln Park, Bowie High School, Jefferson High School, Burleson Elementary, El Paso Zoo, and Evergreen Cemetery. In addition, Ascarate Golf Course continues to use reclaimed water. The project saves 325 million gallons of drinking-quality water annually.

The project is valued at \$9 million, which is being funded with grants from the U.S. Bureau of Reclamation, Texas Water Development Board low-interest loans, and City of El Paso Water and Sewer revenue bonds from El Paso Water Utilities.

Phase IA was constructed in 2005, adding over 6 miles of pipeline to the system. Several sites were added to the customer list and include Concordia Cemetery, 3 parks, a storm drain station, city medians and parkways. Phase IA also included the installation of a dispensing station to provide a permanent reclaimed water standpipe location. The dispensing station provides reclaimed water for construction activities, street sweeping, car washing and other nonpotable uses.

The reclaimed water project was the recipient of an Award of Merit from the WateReuse Association in 2006.

Northwest Wastewater Treatment Plant

Serving the West side of the Franklin Mountains into the Upper Valley, this plant began operations in 1987 and has since been expanded to its current 17.5 MGD of treatment capacity. Highly treated effluent is either safely discharged into the Rio Grande or transmitted through the Northwest Reclaimed Water Distribution System. This plant has been nominated for six EPA Operations and Maintenance Excellence Awards, and in 2008 received 1st Place in the National Clean Water Act Recognition Awards for Operations and Maintenance Excellence in the Large Advanced Plant Category. It has received NACWA Peak Performance Gold and Platinum Awards for perfect compliance. In 2003, the plant received the NACWA Platinum Award for having received five consecutive Gold Awards. In 2013, the plant received the NACWA Platinum 14 Award for 14 consecutive years of perfect compliance. In 1992, the plant and its personnel were also recognized for their commitment to safety by being awarded the Water

Environment Federation's George W. Burke Award for Safety. In 2008, the plant also received the Texas State, Regional and National winner of the Clean Water Act O&M Awards Program in the Large Advanced Category.

The Northwest plant provides reclaimed water to west side customers thru a multi-phase project serving more than 300 million gallons of reclaimed water per year to a golf course, seven schools, ten parks, several condominium associations, townhomes, apartments, and residential customers for irrigation of landscapes. The system currently consists of 26 miles of "purple pipelines" in Northwest El Paso. The project is valued at \$23 million and is paid for by grants from the U.S. Bureau of Reclamation, the Texas Water Development Board and through City of El Paso Water and Sewer revenue bonds from EPWU.

Subsequent phases of the project are serving additional school grounds in Canutillo, new parks, schools and recreational areas with reclaimed water for irrigation of landscapes. The system also includes a fully automated Dispensing Station that operates continuously to provide on-demand service to water haulers for construction and other non-potable water users.

Roberto R. Bustamante Wastewater Treatment Plant

The Roberto R. Bustamante plant is the newest plant in the system and began operating in 1991 with 39 MGD capacity. Using traditional technology for treatment, it along with its neighboring water plant, the Jonathan Rogers WTP, serves east El Paso. This plant has been honored by NACWA for its perfect compliance as well. Since the plant's inception and through 2007, it has received NACWA Gold and Platinum Awards for perfect compliance. In 2002, the plant was one of 17 Platinum Award recipients in the nation for five consecutive years of perfect permit compliance. In 1994, the plant received second place in the National USEPA Operations and Maintenance Excellence Awards. In 2005, the plant won the Water Environment Association of Texas Plant of the Year Award. Effluent is discharged into either the Riverside Canal or Riverside Drain for use downstream.

The Roberto Bustamante Wastewater Plant in the Mission Valley supplies reclaimed water through 8,000 linear feet of pipe and an elevated tank to irrigation customers. The project currently provides approximately 40 million gallons of reclaimed water per year for irrigation of Mt. Carmel Cemetery, a 10-acre city-owned tree farm and street medians. Reclaimed water for construction and other non-potable uses is also available through a stand pipe located outside the plant.

Fred Hervey Water Reclamation Plant

This 10 MGD plant has won not only awards, but also worldwide attention. The plant is essentially a combined water and wastewater treatment plant, which treats wastewater to drinking water quality standards. The treated effluent from this plant is sold to El Paso Electric Company for cooling water, to the nationally renowned Painted Dunes Desert Golf Course for irrigation, Bowen Ranch, a regional city park, and the remainder replenishes the Hueco Bolson through a series of injection wells and several groundwater recharge infiltration basins. Tours are regularly provided to industry, utility, and academic representatives as one of the model plants of the system. The plant became operational in 1985 and was significantly financed with EPA assistance. The plant is also a crucial part of the EPWU plan to reduce dependence on groundwater and was featured on the internationally acclaimed PBS series "Water: The Drop of Life". The plant has received numerous awards including: the 1994 AMSA Public Information and Education Award: second place in the 1994 national USEPA Operations and Maintenance Excellence Award, No Discharge category; and the 1998 American Water Works Association's

Conservation and Reuse Award. In 1999, the plant received special recognition by El Paso Del Norte Region Mission Possible-Survival Strategies in the category "Protection and Preservation of the Environment". The plant has also been recognized by NACWA Peak Performance Gold and Platinum Awards for perfect permit compliance.

Wastewater Collection System

The Utility operates and maintains 76 lift stations and maintains over 2,230 miles of wastewater collection lines to keep the sewer system running at peak reliability and provides excellent customer service. The wastewater collection system maintenance section won the Medal of Honor for Heroism from the Water Environment Association of Texas (WEAT) in 2007 for their response to major flooding in 2006. In 2007, the wastewater lift station group was awarded the George W. Burke, Jr. award for their active and effective safety programs.

Attachment D

Monthly Minimum Water Rates

The following rates are effective with meter readings taken after February 28, 2013.

Monthly minimum charges for water service, based on size of meter with a 400 cubic feet (4CCF's) volume allowance:

Meter Size Minimum Monthly Bill

Less than 1" \$5.18

1" \$8.06

1.5" \$13.82

2" \$16.63

3" \$33.21

4" \$49.58

6" \$75.18

8" \$128.77

Charges for water service are based on the customer's average winter consumption (AWC), which is the average of the amount of water used during the previous December, January, and February billings. (Customers who have not established an AWC are assigned an AWC based on meter size for their classification.) Up to 4 hundred cubic feet (CCF) are included in the minimum charge for residential customers.

Block Charge per CCF Volume Charge

1 \$1.56 per CCF Over 4 CCF's to 150% of AWC**

2 \$3.68 per CCF Over 150% to 250% of AWC

3 \$5.27 per CCF Over 250% of AWC

Non residential customer rates to not include 400 cubic feet allotment in minimum monthly charges.

**Average Winter Consumption (AWC) is the average amount of water used during the most recent, December, January and February billing periods. Any Customer that at the time of service has not established an AWC will be assigned the class average AWC by meter size for their customer classification.

All single family residential accounts with $\frac{1}{2}$ " to 2" meters who have an AWC lower than the average AWC for $\frac{1}{2}$ " single family residential class will be assigned the $\frac{1}{2}$ " single family residential class AWC.

Properties located outside the El Paso city limits are charged 1.15 times the rate for the same service to customers whose property is inside the city limits.

Attachment E

El Paso, TX Rules and Regulations No. 17: Drought and Water Emergency Management Response Rule

RULES AND REGULATIONS NO.17 DROUGHT AND WATER EMERGENCY MANAGEMENT RESPONSE RULE

PURSUANT TO THE AUTHORITY VESTED IN THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES, UNDER TEXAS GOVERNMENT CODE SECTION 1502.070, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS MAY 22, 1952, 30 TEXAS ADMINISTRATIVE CODE SECTION 288.20, DROUGHT CONTINGENCY AND CHAPTER 15.13 WATER CONSERVATION OF THE EL PASO MUNICIPAL CODE; BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULE AND REGULATION NO. 17 CONCERNING A DROUGHT AND WATER EMERGENCY MANAGEMENT RESPONSE RULE IS ESTABLISHED AND EFFECTIVE.

SECTION I GENERAL

The Drought and Water Emergency Management Response Rule for the City of El Paso and the El Paso area served by the El Paso Water Utilities Public Service Board (Public Service Board) is an integral part of the overall Water Resources Management Plan for the El Paso area in compliance with State and Local law. The City of El Paso, El Paso Municipal Code Section 15.12.010, sets out that the Public Service Board is authorized to promulgate Rules and Regulations on all subjects relevant to the operation of the City's water and sewer systems, which Rules and Regulations shall have like effect as if adopted by ordinance.

Drought is a naturally occurring climate condition in the West and has occurred in varying severity numerous times and will occur again. The purpose of Rules and Regulations No. 17 is to provide a management framework for dealing with severe drought. In addition, these Rules and Regulations will be used to manage temporary or sudden water emergencies which result in temporary loss or reduction in water or wastewater service due to other non-climate-related factors or conditions.

As El Paso becomes more dependent on the Rio Grande River as a renewable water source, it becomes more vulnerable to long-term, drought-induced water shortages. In the event surface water deliveries to water treatment plants are curtailed, water deliveries to customers may be required to be curtailed. Rules and Regulations No. 17 have as one of its major purposes to provide an equitable management framework to deal with curtailed water deliveries.

The Drought and Water Emergency Management Response Rule is triggered as the result of reductions in surface water allotment from the Rio Grande Federal Reclamation Project or as a result of the inability to satisfy system water demands for any other reason. The Rule sets out response Stages based on allotment of surface water or when demand for water is projected by the Public Service Board to exceed supply. Each Stage is associated with a menu of possible response measures. Each successive Stage being from Stage I to Stage III represents a response to an increasingly severe condition and includes an increasingly stringent list of response measures.

Although the President/CEO of EI Paso Water Utilities (EPWU) may ask at any time he or she deems necessary for a voluntary reduction in water consumption by customers, the Drought and Water Emergency Response Rule is intended to provide a structured framework of responses in Stages that is available and noticed to the public in advance of the need to implement such emergency measures.

SECTION II PURPOSE

The purpose of this Drought and Water Emergency Response Rule is:

1. To provide for measured, contingency plans to manage a drought or water emergency.

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- To continue to deliver to the maximum extent possible during a drought or water emergency a costeffective, adequate, safe and reliable supply of high quality water to the customers.
- To identify successful public information strategies which will inform and motivate the community to reduce normal water consumption to drought allowances.
- To evaluate water emergency and drought management practices in various similar sized cities around the United States and recommend the best practices use in El Paso.
- To identify critical points of change which would result in an acute or long-term water outage in the service area and to establish preemptive measures to address such conditions.
- To recommend a programmed response for each Stage which would most effectively reduce water consumption to the available supply level with the least adverse impact to El Paso Water Utilities customers.
- 7. To comply with local, state and federal laws for drought or water emergency contingencies.

SECTION III PUBLIC SERVICE BOARD WATER RESOURCES MANAGEMENT

Since the beginning of the 20th Century, El Paso County has relied on both surface water and groundwater wells for its municipal water supply. Currently, El Paso Water Utilities supplies approximately 90% of all water used for municipal purposes in El Paso County. Surface water is supplied from the Rio Grande Federal Reclamation Project. The Rio Grande River flows that are diverted to El Paso are primarily derived from snowmelt runoff in southern Colorado and northern New Mexico. Historically, there are also occasional flood surges associated with major storms during the summer monsoon season. Spring runoff is stored in the Elephant Butte Reservoir in southern New Mexico and the El Paso are are.

EPWU is a customer of the local irrigation district (El Paso County Water Improvement District No. 1) and obtains water based on its ownership of water rights land in the Rio Grande Federal Reclamation Project area and the leasing of water rights from agricultural irrigation water rights holders in El Paso County.

EPWU surface water treatment plants have a combined capacity of 100 million gallons per day. Under normal river flow conditions, the plants operate seven months during the year, i.e., during the programmed irrigation season. Currently, El Paso has water rights of about 70,000 acre feet per year from the Rio Grande Federal Reclamation Water Project.

Groundwater supplies are pumped by wells from the Mesilla Bolson and the Hueco Bolson. The Mesilla Bolson is an underground water aquifer located in the Canutillo area and is used to provide water for the western part of El Paso. The Hueco Bolson is an underground water aquifer located on the eastern side of the Franklin Mountains and is used as a primary water supply for northeast and east El Paso. Both aquifers are regional in their extent and underlie portions of New Mexico, Texas and Chihuahua, Mexico.

El Paso Water Utilities conjunctively uses surface water and groundwater to meet water demands. Based on a full Rio Grande River allotment, use of surface water will be maximized and pumping from the Hueco Bolson is minimized. Conversely, during times of protracted drought with resulting low Rio Grande River allotment, pumping from the Hueco Bolson must be maximized. This includes maximizing the use of the Kay Bailey Hutchison Desalination Plant. During a severe drought, pumping from the Mesilla Bolson will also increase.

Conjunctive use management of surface water and groundwater resources recognizes that there are limits to surface water supplies and limits to groundwater supplies. The management of local groundwater use requires

the recognition of limits with respect to the ability of local groundwater basins to supply water readily over the long term, measured in decades.

As the Regional Water Supply Planner, El Paso Water Utilities is a member of the Far West Texas Regional Water Planning Group. As a member of this group and as required by State law, EPWU prepares and updates a 50-year water plan. The plans from the various regions of the State provide an evaluation and projection of current and future populations, water demands, water supply sources, water management strategies and costs. Planning and implementation of future water supply projects will allow the City to meet future water demands. However, such projects will not negate the need for the City to reduce its water usage over time and, in some instances, mandate certain drought contingencies during times of severe drought or water emergencies.

In addition to water supply projects, it may be necessary from time-to-time for EPWU to seek variances from the Texas Commission on Environmental Quality (TCEQ) to utilize groundwater supplies that, while still potable, may not meet maximum contaminant levels for sulfate, chloride, iron, manganese or other total dissolved solids. Such measures will utilize groundwater of secondary drinking water standards, which, although the water will be safe to drink, it may not be as palatable as customers are used to.

SECTION IV NOTIFICATION, INITIATION AND TERMINATION OF DROUGHT AND WATER EMERGENCY ACTION OR STAGES

At the request of the President/CEO of EI Paso Water Utilities and based on his or her assessment of the situation, the Mayor may declare a drought or water emergency in the event of any condition that significantly interrupts the ability of the Public Service Board to supply water to its customers. Initially, actions based on this declaration may include any measure the President/CEO deems necessary to respond to the drought or water emergency, to include any part of the drought and water emergency stages listed herein.

The President/CEO will be responsible for notifying the Director of the Texas Commission on Environmental Quality within five (5) days following the implementation of any mandatory water use restriction. In the event that the drought or water emergency is expected to continue for more than five (5) days, the President/CEO shall make a report to the Chair of the Public Service Board and the Mayor setting out the nature and expected severity of the drought or water emergency. The Mayor shall call a City Council meeting to have the City Council adopt the continuing use of the Rule.

During the period of time covered by the drought or water emergency, the President/CEO will implement and direct such measures as he or she may deem necessary to be taken as set forth herein to include, but not by way of limitation, the implementation of the set out Stages. Such other measures may be implemented as the President/CEO may deem necessary or appropriate to respond to the drought or water emergency to bring the emergency to a close with the minimum loss of property and due consideration for the public health and safety. The Public Service Board shall be responsible to see that all public notification and outreach education measures and activities related to the drought or water emergency and such restrictions and Stages as have been implemented shall be taken.

In a declared drought or water emergency, any combination of management response options may be used system-wide or in any section of the region as circumstances may require in the judgment of the President/CEO. Any of the measures provided for in this Rule shall be implemented conditioned that they will not adversely affect public safety, hospitals or sanitary uses.

The Public Service Board through the President/CEO will monitor the drought or water emergency and promptly recommend that the President/CEO request the Mayor declare the drought or water emergency to be concluded.

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The termination of the declaration of a drought or water emergency lasting more than five (5) days shall be by the City Council resolution after receiving and reviewing a report from the President/CEO of El Paso Water Utilities.

SECTION V DROUGHT AND WATER EMERGENCY RESPONSE MANAGEMENT RULE STAGES

A. STAGE I

When EI Paso County Water Improvement District No. 1 declares a surface water allotment that is less than 0.5 acre foot per acre on or before April 1 of any year, or water demand is projected to exceed available capacity as determined by EI Paso Water Utilities, Stage I. will be implemented as follows:

EPWU will ask customers for a voluntary reduction in water usage and do the following:

- 1. Request customers to reach a voluntary reduced water use goal of 25% in indoor and outdoor use.
- 2. Increase public education and outreach regarding water use reduction.
- Request all restaurants to voluntarily discontinue serving water except upon customer request.
- Urge hotels and motels to implement water conservation measures, including the reduction of laundry water usage.
- Request manufacturing industries using water provided by EPWU to reduce their consumption by 25%.
- Request all other water purveyors to comply voluntarily with all drought management response measures as set forth by EPWU. However, if such have contracts, wholesale or retail, with EPWU and if such contracts have drought and water emergency provisions, they are exempt from this Stage.
- The President/CEO shall authorize additional personnel to issue citations for violations of the Water Conservation Ordinance and the Drought and Water Emergency Response Rule, consistent with local, state and federal law.

B. STAGE II

When EI Paso County Water Improvement District No. 1 declares a surface water allotment of less than 1.0 acre foot per acre after April 1 but before May 1 of any year, or there is not enough continuous release of surface water, or water demand is projected by EPWU to exceed available capacity Stage II will be implemented as follows:

All Stage I options remain in effect. Additionally:

 Outdoor watering by commercial or residential customers will be limited to once per week in accordance with the following schedule: Watering will be permitted before 9:00 a.m. and after 7:00 p.m. for no more than two hours each day. The last number of the street address will determine the watering days for each customer based on the following schedule:

Day of the Week	Mon	Tue	Wed	Thurs	Fri	Sat	Sun
Last # of Address	No Watering	0	1,3	2,4	5	6,8	7,9

(Outdoor watering performed with a reclaimed water system is exempt. Using a bucket to water trees, shrubs and flowers is permitted. Use of household grey water is encouraged.)

 Parks and schools served by EPWU shall water in accordance with a special permit issued by EPWU and shall reduce water consumption by a specific amount per month based on reduction targets as set by EPWU to meet basic demands. (Parks and schools irrigating with reclaimed

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water are exempt.)

- 3. Private and municipal golf courses irrigating with potable water supplied by EPWU shall water in accordance with a special permit issued by EPWU and will reduce consumption by a specific amount per month based on reduction targets set by EPWU to meet basic demands. (Golf courses irrigating with reclaimed water are exempt.)
- Plant, grass or tree nurseries shall water plant stock in accordance with the special permit issued by EPWU.
- 5. No new landscaping shall be installed or planted in the City and no new landscape watering permits will be issued except for Xeriscapes that are irrigated with reclaimed water or brackish groundwater. New landscaping watering permits shall be granted for a 7-day period for landscaping that incorporates compost in the area at the rate of 5 cubic yards per 1,000 square feet of turf.
- All evaporative coolers that require a bleed-off system must have a restricted bleed-off line or an automatic drainage system.
- All Water Conservation Ordinance variances are automatically suspended and no new variances will be issued.
- 8. Routine fire hydrant flushing and testing shall cease.
- Existing swimming pools cannot be drained and filled with potable water supplied by EPWU after May 1, Single-family residential swimming pools must be covered when not in use.
- 10. Upon the second violation of any part of the Drought and Water Emergency Management Response Rule, the President/CEO may order the installation of a restriction device or downsizing of the water line or water meter at the customer's cost.
- 11. Restaurants shall only serve water upon request.
- 12. Water misters shall not be operated except by special permit for health and safety reasons.
- Water can be used for aesthetic purposes, such as ornamental fountains, in accordance with a special permit issued by EPWU.
- 14. Impervious surface cleaning with potable water shall be prohibited, except where conducted by order of the City Department of Public Health, Police or Fire Department.
- 15. Hotels and motels must implement water conservation measures, including the reduction of laundry water usage.
- Apartment complexes and large turf water users shall water in accordance with a special permit issued by EPWU and will reduce water consumption based on reduction targets as set by EPWU.
- C. STAGE III

When EI Paso County Water Improvement District No. 1 declares a surface water allotment of less than 1.5 acre foot per acre after May 1 but before May 15 of any year, or there is not a continuous release of surface water, or water demand is projected by EPWU to exceed available capacity, Stage III will be implemented as follows:

All Stage I and Stage II drought management response options shall remain in effect. Additionally:

- All outdoor watering is prohibited, except when performed with a bucket or where reclaimed water or brackish groundwater is used.
- 2. The irrigation of golf courses with potable water supplied by EPWU is prohibited.

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- All car, trailer, truck or boat washing is prohibited, except in facilities certified by EPWU and displaying approved signage.
- 4. No swimming pools shall be filled.
- All water use for construction, dust control and/or compaction is prohibited, except with reclaimed or brackish groundwater.
- 6. New water meters shall be approved for connection to the water system only as required for military expansion or use and/or high priority economic development projects, as determined by President/CEO and the Public Service Board in consultation with the Mayor and City Manager.
- All street sweeping shall be discontinued, except that performed with reclaimed or brackish groundwater.

SECTION VI VARIANCES

Customer-specific variances may be granted in cases of hardship or special conditions. After recommendation by the Water Conservation Manager, an EPWU review board will consider a hardship or special conditions case to determine whether a particular circumstance warrants a variance. A variance shall be granted only for reasons of severe economic hardship, medical hardship or for a legitimate public health concern. A fee of \$50.00 shall be assessed per application to defray administrative costs. The fee may be waived by the review board upon the execution of an affidavit that the applicant for the variance is unable to pay any fee or is indigent.

SECTION VII WHOLESALE WATER CUSTOMERS

In accordance with Texas Water Code Section 11.039, when necessary as determined by the EPWU, water deliveries to wholesale water customers shall be curtailed on a pro-rata basis. Every wholesale water contract entered into or renewed after adoption of this Rule, including contract extensions, shall include a provision that in the case of a drought or water emergency declaration, water to be distributed shall be divided in accordance with Texas Water Code Section 11.039.

SECTION VIII ENFORCEMENT

Any person violating any provision of this Rule and Regulation No. 17 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine as prescribed in Section 15.13.080 of the El Paso City Code.

SECTION IX DEFINITIONS

All words shall have their usual meaning unless otherwise provided for herein.

Acre-Feet or Acre-Foot:

The amount of water required to cover an acre of land to a depth of one foot and equivalent to 325,850 gallons of water.

Aesthetic Use:

The use of water for fountains, waterfalls, golf course water hazards, and landscape lakes or ponds where such use is predominately ornamental and serves no other purpose.

Automatic Drainage System:

An electric water pump driven system that periodically (every 6, 8 or 12 hours) pumps all water from an air-conditioner tank, thereby allowing the tank to be replenished with fresh water.

Available Capacity:

The projected firm capacity of the EPWU system to deliver water based on the number of wells in service,

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water treatment plant production capacity and available river supplies and/or allotments, in-service booster pumping capacity impacted by equipment outages and/or other factors. The capacity is usually expressed in available million gallons per day and shall be as stated or expressed by the EPWU Water Systems Division Manager.

Bucket:

A container which holds no more than five gallons to be used singly by one person.

Existing Landscaping Plant:

A landscaping plant existing in an area after such period of time as to accomplish an establishment and maintenance of plant growth.

Greywater:

Wastewater that has not been contaminated by fecal material; examples of such include wastewater from lavatories, bathtubs, showers and other plumbing fixtures.

Impervious Surface Area:

Any structure, street, driveway, sidewalk, patio or other surface area covered with brick, asphalt paving, tile or other impervious or nonporous material.

Landscaping Plant:

Any member of the horticultural kingdom Plantae, including any tree, shrub, vine, herb, flower, succulent, ground cover or grass species that grows or has been planted outdoors for such purpose.

Landscape Watering:

The application of water to landscape trees, shrubs, plants or grass to promote the health and/or growth of existing landscape plants.

New Landscape Plant:

Any landscaping plant, shrub or tree which has been planted in or transplanted to an area after a Drought or Water Emergency has been declared.

Restriction Device:

A pipe or valve which has an orifice designed to restrict the flow of water from a water supply line through a water meter serving a customer.

Swimming Pool:

Any structure, basin, chamber, tank or large tub, including hot tubs, containing water for swimming purposes, diving or recreational bathing and having a depth of two feet or more at any point.

Water Emergency:

A water system failure due to weather, electrical or mechanical failure, contamination of source, extremely low river water allotment, or act of God or force majeure.

Xeriscape:

A landscape design concept that uses the implementation of drought-tolerant plant material or trees, efficient irrigation utilizing drip or subsurface irrigation, limited turf area with adequate soil depth, mulching of all plant beds and proper maintenance.

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SECTION X APPEALS

The Property Owner or applicant for a new development has the right of appeal Pursuant to the El Paso Water Utilities Public Service Board Rules and Regulations No. 8 of any adverse determination.

SECTION XI SEVERABILITY

If any provision, paragraph, word or section of this Rules and Regulations No. 17 is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words or sections shall remain in full force and effect and shall be read or interpreted so as to give effect to the purpose of this Rules and Regulations as set forth in Section II.

SECTION XII SAVINGS

This Rules and Regulations No. 17 is a part of the other Rules and Regulations adopted by the El Paso Water Utilities Public Service Board, and, save and except as amended hereby, the remaining provisions of the El Paso Water Utilities Public Service Board's Rules and Regulations shall remain in full force and effect.

SECTION XIII EFFECTIVE DATE

This Rules and Regulations No. 17 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the EI Paso Water Utilities Public Service Board or operation of law.

PASSED, APPROVED and ADOPTED RULES AND REGULATIONS NUMBER 17 CONCERNING DROUGHT AND WATER EMERGENCY RESPONSE RULE at a regularly scheduled meeting of the El Paso Water Utilities Public Service Board, this 14th day of March, 2012, at which meeting a quorum was present, said meeting being held in accordance with the provisions of V.T.C.A., Government Code, Sections 551.001 et. seq.

> EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Edward Escudero, Chair

ATTEST:

APPROVED AS TO FORM:

Richard T. Schoephoerster, P.E., PhD. Secretary-Treasurer

Robert D. Andron General Counsei

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Attachment F

El Paso, TX Code of Ordinances, Title 15 - Public Services; Chapter 15.13 - Water Conservation

El Paso, Texas, Code of Ordinances >> Title 15 - PUBLIC SERVICES >> Chapter 15.13 - WATER CONSERVATION >>

Chapter 15.13 - WATER CONSERVATION

Sections:

15.13.005 - Definitions. 15.13.010 - Water conservation compliance. 15.13.020 - Mandatory compliance—Lawn and landscape watering. 15.13.030 - Nonessential water use restrictions. 15.13.040 - Declaring of nuisance of exist. 15.13.040 - Declaring of nuisance of exist. 15.13.050 - Large and very large users. 15.13.060 - Variances and permits. 15.13.060 - Variances and permits. 15.13.070 - Appeal to public service board and city council. 15.13.080 - Penalty. 15.13.080 - Other enforcement action. 15.13.100 - Exceptions to enforcement. 15.13.110 - Issuance of citations. 15.13.120 - Water emergency—Restriction of water use. 15.13.130 - Turf grass prohibited. 15.13.140 - Drought and water emergency management response plan.

15.13.005 - Definitions. 🖉

All definitions contained in Section <u>15.12.005</u>, Definitions, of <u>Chapter 15.12</u> "Water and Sewer System" are incorporated into this chapter by reference.

(Ord. 14805 (part), 2001)

15.13.010 - Water conservation compliance. 🦿

No person who uses water from the city water supply system, the management and control of which the city council delegated to the EI Paso water utilities public service board (public service board) by Ordinance No. 752, shall make, cause, use or permit the use of water received from the public service board for residential, commercial, industrial, agricultural, governmental or any other purposes in a manner contrary to any provisions of this chapter. Provided further, that no person shall make, cause, use or permit the use of water in a manner contrary to Section <u>15.12.075</u> of the city code or Section <u>15.13.040</u> of this chapter, regardless of whether that water is received from the EI Paso water utilities public service board. When used in this chapter, the terms "commercial," "industrial," and "residential" shall have the meaning and usage consistent with the usage of those terms under <u>Title 20</u>, Zoning, of the city code.

(Ord. 14805 (parl), 2001: Ord. 10503 § 2 (parl), 1991)

15.13.020 - Mandatory compliance—Lawn and landscape watering.

The following mandatory restrictions shall apply to all customers of, or persons who use or receive water from the public service board:

- A. All outdoor irrigation of grass, trees, plants or other vegetation on residential and commercial property on the side of the street on which building addresses are even numbered, may be done only Tuesdays, Thursdays and Saturdays; and on the side of the street on which buildings are odd numbered, such vegetation may be irrigated only on Wednesdays, Fridays and Sundays. In case of corner buildings having both odd and even numbers, the number carried on the books of the public service board shall control.
- B. All outdoor irrigation of grass, trees, plants or other vegetation on industrial properties, parks, golf

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courses, schools and cemeteries may be permitted only on Mondays, Wednesdays and Fridays. All other properties, not falling within the industrial classifications described in this subsection, shall be considered residential and shall be watered in accordance with the requirements of subsection A of this section.

- C. From April 1st to September 30th, all outdoor irrigation of vegetation is prohibited between the hours of ten a.m. and six p.m.
- D. The review board of the public service board shall have the authority to review special situations and hardship cases upon application of any person in accordance with the procedures set forth in Section <u>15.13.060</u> of this chapter.

(Ord. 14805 (part), 2001: Ord. 10942 § 2, 1992; Ord. 10503 § 2 (part), 1991)

15.13.030 - Nonessential water use restrictions.

The following restrictions shall apply to all customers of or persons who use or receive water from the public service board:

- A. 1. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment shall be done only with a hand-held bucket or a hand-held hose equipped with a shut-off nozzle that completely shuts off the flow of water, even if left unattended. This restriction does not apply to the washing of the above-listed vehicles or mobile equipment when conducted on the premises of a commercial car wash or a commercial service station. When used in this chapter, "bucket" means a bucket or other container holding five gallons or less;
 - The washing of automobiles, trucks, trailers, boats, and other types of mobile equipment for fund-raising purposes must be conducted at a commercial car wash.
 - 3. Prior to connection of water service to any commercial car wash issued building permits for construction after June 1, 2002, a certification shall be provided to the EI Paso Water Utilities that the car wash uses no more than fifty gallons of water per vehicle washed. Absent such certification, no water service will be provided.
- B. The following uses of water are defined as 'wasting water' and are absolutely prohibited:
 - Irrigating any turf grass, tree, plant, or other vegetation, or otherwise utilizing the city water supply system to permit or cause water to pond, or to flow, spray or otherwise move or be discharged from the premises of any person responsible for any property within the corporate limits of the city, or which receives water from the public service board to or upon any street, alley, gutter or ditch, or other public right-of-way, or into a storm water drainage system or facility;
 - 2. Failing to repair a leak within five working days of the discovery of same;
 - 3. Washing sidewalks, driveways, parking areas, tennis courts, patios or other impervious surface areas with a hose, except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare. "Impervious surface area" means any structure, street, driveway, sidewalk, patio or other surface area covered with brick, paving, tile or other impervious or nonporous material.
- C. When referred to in this subsection, "swimming pool" shall mean any portable or permanent structure containing a body of water twenty-four inches or more in depth and containing one thousand one hundred twenty-two gallons or more of water and intended for recreational purposes, including a wading pool and as more fully defined under Sections 20.02.1064 and 20.02.1066 of the City Code. All swimming pools, which are constructed after the effective date of the ordinance codified in this chapter, must be equipped with filtration, pumping and recirculation systems. All existing swimming pools not equipped with such shall, within five years of April 1, 1991, be converted to filtration, pumping and recirculation systems, unless the review board, upon application of the pool owner or operator for a variance under Section <u>15.13.060</u> of this chapter, grants such a variance or extension of time. It is unlawful to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. Swimming pools may be drained into the sanitary sever system only in coordination with El Paso Water Utilities' Wastewater System Division Manager.
 - D. New or replacement bleeder lines from evaporative coolers shall not be larger than one eighth-inch

inside diameter. Bleeder lines shall be conducted outside and discharged so that the effluent can be used for water landscaping and other outdoor vegetation, except where this would be impractical or unfeasible.

E. No person shall use water for non-residential single pass cooling or heating purposes unless the water is reused for other purposes. "Single pass cooling or heating" means the use of water without recirculation to increase or decrease the temperature of equipment, a stored liquid or a confined airspace.

(Ord. 15106 § 1, 2002; Ord. 14805 (part), 2001: Ord. 10505 § 2 (part), 1991) (Ord. No. 17393, § 9, 8-24-2010, eff. 9-1-2010)

15.13.040 - Declaring of nuisance of exist.

The flow of produced water from property into streets, alleys, gutters, and other public rights-of-way, ditches, or into a stormwater drainage system or facility is contrary to the public health, safety and welfare of the citizens of EI Paso and is therefore declared to be a nuisance. "Produced water" shall have the same meaning as set forth in Section <u>15.12.005</u> (A) of the City Code. Both the city attorney's office and the attorney for the public service board are authorized to take legal action to abate such a nuisance, including but not limited to seeking injunctive relief. This authorization to seek injunctive relief, or other legal action to abate such a nuisance shall not preclude prosecution for a violation of this chapter.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991) (Ord. No. 17393, § 10, 8-24-2010, eff. 9-1-2010)

15.13.050 - Large and very large users.

- A. For the purpose of this section, a large water user is defined as "any person who uses an average of ten thousand gallons per day or more from the water supply system under the management and control of the public service board." A very large water user is defined as "any person who uses an average of one hundred thousand gallons per day or more from the water supply system under the management and control of the public service board."
- B. All new very large water users, or existing very large water users, who apply for new service or an expansion of an existing service shall obtain approval from the public service board before being permitted to connect to the system or to expand within the system. Such large water users shall submit a water conservation plan to the Water Conservation Manager which contains a water use justification report that relates the water consumption to recycling potential and meets the requirements of subsection C of this section. The water conservation manager shall submit a recommendation, based upon this submittal to the public service board which shall render its decision within thirty days of the receipt of the recommendation from the water conservation manager. The water conservation manager shall review all water conservation plans submitted to determine whether the plan meets the requirements of this section. The public service board may approve the application for service with or without conditions, deny the application, or take any other action consistent with the policies expressed in this chapter.
- C. All large water users who use more than an average of twenty-five thousand gallons per day shall prepare and submit to the water conservation manager, within six months of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. All large water users, who use more than an average of the thousand gallons per day but less than twenty-five thousand gallons per day, shall prepare and submit to the water conservation manager, within one year of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. All large water users, who use more than an average of the thousand gallons per day but less than twenty-five thousand gallons per day, shall prepare and submit to the water conservation manager, within one year of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. The water conservation plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation. The water conservation plan shall include techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water. All conversion to recycling and reuse of water, if required, shall be accomplished within five years from the date of submittal of the water conservation plan. The water conservation manager may require additional information to be submitted which he/she deems necessary. If the water conservation plan demonstrates that the large water user will use reasonable diligence to avoid

waste and achieve water conservation, the water conservation manager shall approve the plan. All approved water conservation plans shall be revised every five years. A fee of twenty-five dollars per plan submittal shall be assessed to defray administrative costs.

- D. In considering approval of a water conservation plan, the water conservation manager and the public service board shall consider the climatic conditions, best management practices, best available techniques and technologies, the financial capacity of the applicant, and any other such factors which affect the policy of the city as expressed in the water resource management plan or the conservation policy of the State of Texas, as expressed in Section 1.003 of the Texas Water Code or applicable water conservation regulations providing for the conservation and development of the state's water resources adopted by the Texas Commission on Environmental Quality.
- E. Any person whose water conservation plan is disapproved by the water conservation manager may appeal the decision to the review board, the public service board and the city council in accordance with the procedure set forth in Sections <u>15.13.060</u> and <u>15.13.070</u> of this chapter.
- (Ord. 16822 § 1 (part), 2008; Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.060 - Variances and permits.

- A. Owners of newly seeded or sodded turf grass and landscaping and new residential and commercial developments may receive a landscape watering permit upon application and approval by the water conservation manager allowing for daily watering of the same until the turf grass and landscaping are established, which shall not exceed thirty days.
- В. The planning and development manager, water supply manager and general manager of the public service board, or his designee, shall be immediately established as a review board to review hardship and special cases which cannot fully comply with the provisions of this chapter after recommendation by the water conservation manager. The review board will review hardship or special cases to determine whether a particular case warrants a variance or permit and shall hear appeals from any person whose water conservation plan is rejected by the water conservation manager. The review board shall consider the facts of each case separately and decide whether to grant a variance or permit within ten working days of the receipt of a properly completed "Application for Variance/Permit" form which shall be developed by the water conservation manager. A variance shall be granted only for reasons of economic hardship, medical hardship, or if there is a legitimate public health or safety concern that will be promoted or fulfilled as a result of granting the permit or variance. An "economic hardship" is defined as a threat to an individual's or business' primary source of income, and where not granting the variance would result in material structural damage to the person's property. A "medical hardship" is defined as a situation where it is determined that a person's ill health or medical condition requires a dependency upon others to water or irrigate. Under no circumstances shall inconvenience or the potential for damages of landscaping be considered an economic hardship or significant damage to property which justifies a variance. The review board shall authorize only the implementation of equitable water use restrictions which further the intent of the public service board's water conservation plan. Any special water use restrictions authorized by the review board in each hardship or special case shall be set forth on the face of the variance or the permit. A fee of twenty-five dollars shall be assessed per application to defray administrative costs. The fee may be waived upon the execution of an affidavit stating that applicant for the variance is unable to pay the fee and such affidavit shall be sworn before a notary public. Final determination of an applicant's inability to pay shall be made by the water conservation manager.
- C. A variance or permit issued under this section expires under its own terms and conditions, but in no event shall a variance or permit be issued for a period of more than five years from the date of issuance. Any person issued a variance or permit must fully comply with all the provisions of this chapter as an express condition of that person's variance or permit.
- D. Any person who is issued a variance or permit and uses water supplied or delivered by the public service board shall provide proof of such variance or permit upon demand by any person authorized to enforce this chapter. Upon conviction of violating any provision of this chapter, the review board may revoke or suspend any permit or variance previously granted. Provided, however, the review board shall notify the permittee of the proposed revocation five working days before taking such action, and if within that time the permittee

requests a hearing in writing, the permittee shall be given an opportunity to be heard by the review board prior to taking such action.

E. No prosecution for a violation of any provision of this chapter may be suspended for the sole purpose of allowing a person to obtain a variance or permit.

(Ord. 14805 (parl), 2001: Ord. 10942 § 3, 1992; Ord. 10503 § 2 (parl), 1991)

15.13.070 - Appeal to public service board and city council.

- A. Any person who applies for a permit or variance under Section.<u>15.13.060</u> and is denied such permit or variance by the review board, or whose permit or variance is revoked or suspended by the review board, or whose water conservation plan is disapproved by the review board, may appeal the decision of the review board by filing an intention to appeal in writing with the general manager of the public service board within five working days of the review board's decision. If a proper appeal is timely filed, the public service board will hear the appeal within thirty days of the time the appeal is field with the general manager. The public service board may take any action it deems necessary with regard to the appeal including denying same, granting same, or granting the review board shall be final and binding if there is no timely filing of an appeal in accordance with this section.
- B. Any person, whose appeal to the public service board is denied, may appeal the decision of the public service board by filing an intention to appeal in writing with the city clerk within five working days of the public service board's decision. If a proper appeal is timely filed, the city council will hear the appeal within thirty days of the time the appeal is filed with the city clerk. The city council will hear the appeal within thirty days of the to the appeal including denying same, granting same or granting the requested permit or variance with conditions, or approving the water conservation plan. The decision of the city council shall be final and binding. The decision of the public service board shall be final and binding if there is no timely filing of an appeal in accordance with this section.
- (Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.080 - Penalty. 🔗

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. The violation of each provision of this chapter, and each separate violation thereof, shall be deemed a separate offense and shall be punished accordingly.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.090 - Other enforcement action.

Nothing contained in Section <u>15.13.080</u>, or any other provision of this chapter, shall prevent either the public service board or the city from seeking compliance with or enforcement of this chapter, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce the provisions of this chapter. Both the city attorney's office and the public service board's attorney are authorized to institute injunctive relief or any other civil action deemed necessary to enforce compliance with the provisions of this chapter. The public service board's attorney has no authority for criminal enforcement under this chapter.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.100 - Exceptions to enforcement.

The following shall constitute exceptions from compliance with the provisions of this chapter:

- A. The water is a result of natural events such as rain or snow;
- B. The flow is a result of temporary failures or malfunctions of the water supply system;
- C. The flow is a result of water used for firefighting purposes including the inspection and pressure testing

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of fire hydrants or the use of water for firefighting training activities;

- D. The use of water is required for the control of dust or the compaction of soil as may be required by this code;
- E. The water is used to wash down areas where flammable or otherwise hazardous material has been spilled and creates a dangerous condition;
- F. The water is used to prevent or abate public health, safety or accident hazards when alternate methods are not available;
- G. The water is used for routine inspection or maintenance of the water supply system;
- The water is used to facilitate construction within public right-of-way in accordance with the requirements of the city and good construction practices;
- The use of water is permitted under the terms of a variance, permit or compliance agreement granted by the review board or the public service board;
- The water that is used for street sweeping, sewer maintenance or other established utility and public works practices;
- K. Watering contrary to the even/odd watering requirements, under Sections <u>15.13.020</u>(A) and <u>15.13.020</u>(B), and from the time of day watering requirements under Section <u>15.13.020</u>(C), may be permissible for one day only where application of chemicals requires immediate watering to preserve an existing lawn. In cases of commercial application, a receipt from a commercial lawn treatment company indicating the date of treatment, the address of the property treated, the name and address of the commercial contractor, and the chemical treatment required shall constitute evidence that the owner or person responsible for the property is entitled to this exception. Where treatment with a noncommercial application of chemicals requires immediate watering to preserve an existing lawn, the owner or person responsible for the property must contact the water conservation department prior to the application of chemicals and provide evidence satisfactory to the water conservation manager for approval of this exception;
- L. Outdoor irrigation necessary for the establishment of newly seeded or sodded turf grass and landscaping in new residential and commercial developments;
- M. Plants which cannot be kept alive without daily watering may be permitted to be watered from a bucket but not from the use of a hose on the days when watering is prohibited.

(Ord. 14085 (part), 2001: Ord. 10942 § 4, 1992; Ord. 10503 § 2 (part), 1991)

15.13.110 - Issuance of citations.

The water conservation manager or designee, or any other personnel authorized to issue class C misdemeanor citations are authorized to issue citations for violations of this chapter.

(Ord. 14805 (part), 2001: Ord. 13152 § 129, 1997: Ord. 10503 § 2 (part), 1991)

15.13.120 - Water emergency—Restriction of water use.

The general manager may implement the following additional restrictions and regulations curtailing water use upon the declaration of a water emergency by the mayor upon recommendation of the public service board:

- A. Prohibit all restaurants from serving water to their customers except when specifically requested by the customer:
- B. Prohibit the operation of any ornamental fountain or similar structure;
- C. Suspend the issuance of all variances or permits hereunder;
- D. Prohibit the filling, refilling or adding of water to all swimming pools;
- Prohibit the washing of all vehicles and equipment except upon the premises of a commercial car wash;
- F. Require that the washing of motor vehicles, airplanes, boats or other types of mobile equipment, upon the immediate premises of a commercial car wash or a commercial service station, shall occur only

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between the hours of twelve noon and five p.m.

The mayor may declare a water emergency in case of a severe drought, in the event of any condition which interrupts the ability of the public service board to supply water, where curtailment of the use of water is necessary due to war, a natural disaster, to protect the public health, safety or welfare, or to preserve the water supply. In the event such water emergency is to continue for more than five days, such measures must be passed by resolution by majority of city council in order for the declaration of emergency to continue beyond the initial five day period. During such a water emergency, the general manager may impose any additional restrictions on the use of water from the city's water supply system in all or in any part of the city as the city council may authorize.

(Ord. 15106 § 3, 2002: Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.130 - Turf grass prohibited.

- A. Turf grass is prohibited in all parkways, narrow strips of land and sloped areas within new residential or commercial sites for which a building permit is issued after June 1, 2002, unless irrigated with sub-surface irrigation. For purposes of this section, "sloped areas" means an area with a slope ratio of one to three or greater from the horizontal. "Sub-surface irrigation" means a low pressure irrigation system installed below the surface of the ground or mulch, consisting of a water distribution system equipped with pre-installed water emitters that are rated by gallons per hour, and that is suitable for turf grass irrigation.
- B. Turf grass for residential sites after June 1, 2002, shall not be used for more than fifty percent of the total area to be landscaped (front and back yard).
- C. Turf grass for commercial sites after June 1, 2002, shall not be used for more than thirty-three and one-third of the total area to be landscaped (front and back yard).
- (Ord. 15106 § 2, 2002: Ord. 14805 (part), 2001)

15.13.140 - Drought and water emergency management response plan. 🦪

It shall be unlawful to violate the imposed provisions of the drought and water emergency management response plan, dated November, 2002, after the declaration of a drought or water emergency and imposition of restrictions in accordance with the plan.

(Ord. 15375, 2003: Ord. 14805 (part), 2001)

Attachment G

El Paso, TX Code of Ordinances, Title 15 - Public Services; Chapter 15.12 - Water and Sewer System

Chapter 15.12 - WATER AND SEWER SYSTEM

Sections:

15. 12.005 - Definitions.
15. 12.010 - Rules and regulations.
15. 12.020 - Unauthorized interference with mains.
15. 12.020 - Storm drain work—Permit required.
15. 12.040 - Storm drain work—Permit required.
15. 12.040 - Storm drain work or construction permit—Application—Contents—Fee—Issuance.
15. 12.050 - Discharge to storm sever system from treatment of petroleum fuel contaminated waters.
15. 12.006 - Ordering removal or alteration of unauthorized work,
15. 12.070 - Water contamination in vicinity of water treatment plant.
15. 12.070 - Permiting flow of water onto public rights-of-way unlawful.
15. 12.120 - Permiting.
15. 12.120 - Lendity.
15. 12.120 - Enforcement by public service board.
15. 12.120 - Enforcement by public service board.
15. 12.120 - Issuance of citations.

15.12.005 - Definitions.

For the purpose of this chapter, and Chapter 15.13, the following definitions apply:

A. "Produced water" means any water that is supplied by a public or private water system or that is pumped from the ground or diverted from the flows of the Rio Grande.

B. "Public right-of-way" means a paved or unpaved street, alley or other public easement, including the sidewalk, parkway, curb, gutter or ditch of any street, alley or other public easement.

C. "Responsible party" means the owner, manager, supervisor, person whose name is on the water bill, person whose signature is on the water service contract, person who receives the water bill, or person in charge of the property, facility or operation during the period of time the violation is observed.

D. "Water flowing" from a property means and includes:

1. Water applied for irrigation of landscaping when the application of the water or the device used for applying the water is such that allows a portion of the water to leave the property and enter a public right-of-way;

2. When water used for washing of hard surfaces, vehicles or other objects is used in such a manner that all or a portion of the water so used flows from the property into such public right-of-way; and

3. When water is used on a property for any other purpose in such a manner that a portion or all of the water leaves the property and enters a public right-of-way.

E. "Public service board rules and regulations" means rules and regulations promulgated by the public service board pursuant to Section 15.12.010, a certified copy of which shall be authenticated by the signature of the mayor and the city clerk and made a public record by resolution of city council and on file in the city clerk's office as provided for in Section 3.13 of the city charter.

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F. "Shut-off nozzle" means a device attached to the end of a hose that completely shuts off the flow of water, even if left unattended.

G. "Fugitive water" means the pumping, flow, release, escape or leakage of any water from any pipe, valve, faucet, connection, diversion, well or any facility for the purposes of water supply, transport, storage, disposal or delivery onto adjacent property or the public right-of-way.

H. "Turf grass" means a surface of earth containing mowed grass with its roots. Examples are: Annual bluegrass, Kentucky bluegrass, Perennial rye grass, Red fescue, and Tall fescue are cool-season grasses. Common Bermuda grass, Bermuda Hybrids, St. Augustine grass, Zoysia grass and Buffalo grass warm-season grasses.

(Ord. 14805 (part), 2001: Ord. 10240 § 1, 1990; Ord. 8391 (part), 1985: prior code § 23-32)

15.12.010 - Rules and regulations.

The public service board is authorized to promulgate rules and regulations on all subjects relevant to the operation of the city's water and sewer systems, which rules and regulations shall have like effect as if adopted by ordinance.

(Ord. 14805 (part), 2001: prior code § 23-1)

15.12.020 - Unauthorized interference with mains.

Any person, except an employee or agent of the department of water and sewerage of the city, who shall cut, damage or make any connection with any city water main or sewer main shall be deemed guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030.

(Ord. 14805 (part), 2001: prior code § 23-2)

15.12.030 - Storm drain work—Permit required.

No person shall fill, improve or create any obstruction to, or interference with, any ditch or natural drainage channel that will in any manner obstruct the flow of water or change the direction, volume or force of water discharged through such ditch or drainage channel carrying stormwater, except upon the issuance of a permit from the city engineer.

(Ord. 14805 (part), 2001: Ord. 13152 § 125, 1997: prior code § 23-3)

(Ord. No. 17393, § 7, 8-24-2010, eff. 9-1-2010)

15.12.040 - Storm drain construction-Permit required.

No person shall construct, reconstruct, alter, repair or install any drainage structure in any ditch or natural drainage channel carrying stormwaters except on the issuance of a permit by the city engineer.

(Ord. 14805 (part), 2001: prior code § 23-4)

(Ord. No. 17393, § 7, 8-24-2010, eff. 9-1-2010)

15.12.050 - Storm drain work or construction permit—Application—Contents—Fee—Issuance.

A. Any person desiring to obtain a permit required under Sections 15.12.030 or 15.12.040 shall file

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with the city engineer a written application containing the following information:

1. The name and address of the applicant;

2. The place where such construction, reconstruction, repair, alteration or installation of a structure is to take place; or where a drainage course is to be obstructed, filled, improved or changed;

3. The type of construction and materials to be used in such construction, reconstruction, repair, alteration or installation of the proposed drainage structure, or the manner in which the drainage channel or ditch is to be filled, obstructed or improved;

4. A plan of the proposed work prepared by a professional engineer registered in the state;

5. A verification number confirming that the applicant has contacted a "one call" notification system servicing the area as required by this chapter. Applicant shall pay a filing fee of twenty dollars, which is assessed to pay part of the cost of enforcing Sections 15.12.030 through 15.12.060

B. If the city engineer finds that the proposed structure, fill, obstruction, alteration or improvement will not interfere with the natural flow of stormwaters so as to damage other property, and will not create or increase any hazard thereto, he shall issue a permit to do the proposed work in the manner specified in the application and plan, or amendments thereto which he may require in the interest of safety; otherwise he shall refuse the permit. A permit may be denied for the failure of the applicant to contact a "one call" notification system servicing the area and to provide a verification number confirming that such a "one call" notification system has been contacted by the applicant. This requirement however, shall create no duty, express or implied, on the part of the city to verify that such a "one call" has been made by the applicant.

(Ord. 15654 § 1, 2004; Ord. 14805 (part), 2001: Ord. 13152 § 126, 1997; Ord. 11708 § 1, 1993: prior code § 23-5)

(Ord. No. 17393, § 7, 8-24-2010, eff. 9-1-2010)

15.12.055 - Discharge to storm sewer system from treatment of petroleum fuel contaminated waters.

A. Permit Required. Where discharge of petroleum-contaminated water to the city storm sewer system is proposed, a petroleum-contaminated water discharge permit (discharge permit) shall be required. A petroleum-contaminated water discharge permit shall be required for each discharge location. If additional discharges are requested for the same location subsequent to a permit having been issued, a new discharge permit application shall be required.

B. Period of Validity of Permit. A discharge permit issued under the provisions of this section shall expire within twelve months of the date of issuance of the permit. Two twelve-month extensions for completion of the work may be granted by the city engineer, provided that a written request for extension is submitted no later than thirty days before the expiration of the permit. The permit shall become void and a new permit application shall be required after expiration of the permit or permit extension.

C. Permit Fee.

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1. A petroleum-contaminated water discharge permit application shall be accompanied by a one hundred twenty-five dollar application fee. Such fee shall be to defray the costs of processing such applications and shall be nonrefundable. The application fee shall be paid to the city cashier through the city engineering department.

2. If any person discharges petroleum-fuel contaminated waters into the city storm sewer system without first having obtained a discharge permit, a discharge permit shall be required subject to a late application fee of two thousand seventy-five dollars. In cases where an emergency is declared by a competent authority, and where the city is properly notified through the emergency 911 system or through a facsimile to the city engineer, a late application fee shall not be assessed for work commenced prior to issuance of a discharge permit.

D. Permit Contents. The discharge permit application shall be submitted to the city engineer and shall include the following information:

- 1. A copy of the discharge approval by the Texas Commission on Environmental Quality;
- 2. A site map of the proposed discharge location;
- 3. A narrative to include the following:
 - a. Description of the need for the discharge,
 - b. Rate of discharge in cubic feet per second, and
 - c. Duration of discharge;
- 4. A detailed construction plan to include splash pads;

5. Effluence limitations and water analysis, to include the minimum monitoring requirements as specified in Title 31 Texas Administrative Code Section 321.135. The applicant shall be required to provide copies of the discharge permit application and accompanying information to the director of the department of environmental services.

E. Permit Issuance.

1. Upon verification by the applicant that the above-described information has been provided to the director of the department of environmental services, the application shall be accepted for processing.

2. When the discharge requires construction, it shall be the responsibility of the applicant to obtain clearance from all affected utility agencies prior to start of construction. When construction is to be within public right-of-way, the applicant shall meet the insurance requirements of Section 13.16.010 and the bond requirements of Section 13.08.030 of this code.

F. Exception to Permit Requirement. A petroleum-contaminated water discharge permit shall not be required where discharges of petroleum-contaminated water into the city storm sewer system is associated with a city public works project under the direction of the director of public works. Provided, however, that all other requirements of this section and of other city, state and federal regulations shall be observed, expressly including the notification procedures to the Texas Commission on Environmental Quality and the city-county health district.

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(Ord. 16822 §§ 1 (part), 2, 2008; Ord. 15657, 2004; Ord. 14805 (part), 2001: Ord. 13152 § 127, 1997; Ord. 11144 § 1, 1992)

(Ord. No. 17393, § 8, 8-24-2010, eff. 9-1-2010)

15.12.060 - Ordering removal or alteration of unauthorized work.

If any work for which a permit is required under Sections 15.12.030, 15.12.040 and 15.12.050 is done without such permit, and is of such design or nature that a permit would have been refused under Section 15.12.050, the city council may, after five days' notice to the owner and opportunity to be heard, order such work removed, or so altered as to avoid damage or hazard to other property. The city council shall fix a reasonable time for compliance with such order and give the owner written notice thereof.

(Ord. 14805 (part), 2001: prior code § 23-6)

15.12.070 - Water contamination in vicinity of water treatment plant.

Within the area between a line directly across the irrigation canal and the Rio Grande at the downstream end of the intakes into the city water treatment plant and a line directly across the canal and the river one-half mile upstream therefrom, no person shall:

A. Bathe, swim or wade in the river or canal; or

B. Throw or place in the river or the canal any waste or refuse, or any substance or thing which may contaminate the water; or

C. Throw or place such waste, refuse, substance or thing within one hundred fifty feet of the banks of the canal or within one hundred fifty feet of the normal high water mark of the river; or

D. Keep or bring any animal within such distance from the banks of the canal or the normal high water mark of the river (except animals passing over a public road or in transit on any railroad), or wash or clean within such distance thereof any vehicle which has been used for the transportation of any animal.

(Ord. 14805 (part), 2001: prior code § 23-7)

15.12.075 - Permitting flow of water onto public rights-of-way unlawful.

It is unlawful for any party responsible for any property within the corporate limits of the city to permit or cause water to flow, spray or otherwise move or be discharged from the premises of such responsible party to or upon any street, alley, gutter or ditch, or other public right-of-way, or into a stormwater drainage system or facility.

(Ord. 14805 (part), 2001: Ord. 8391 (part), 1985: prior code § 23-31)

15.12.120 - Penalty.

Any person violating any provisions of this chapter or any provision of the public service board rules and regulations shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand dollars per violation, and if such violation is a continuous one, each day's violation shall constitute a separate offense. In addition to any penalty provided for in

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this section, this chapter and the public service board rules and regulations are enforceable by injunction or any other legally available means.

(Ord. 14805 (part), 2001: Ord. 10240 § 2, 1990: Ord. 9975 § 1, 1990: Ord. 8391 (part), 1985: prior code § 23-34)

15.12.120-1 - Civil penalty.

Any person who violates any provision of the public service board rules and regulations shall be subject to a civil penalty up to a maximum of two thousand dollars per violation. Provided, however, if a different penalty is specifically provided for, such penalty shall apply. Any person who violates a provision of public service board rules and regulations the relating to point source effluent limitations or the discharge of a pollutant, other than from a nonpoint source, into a sewer system, including a sanitary or stormwater sewer system, owned or controlled by the city, shall be subject to a civil penalty up to a maximum of five thousand dollars per violation. If the violation is a continuous one, each day's violation shall constitute a separate offense.

(Ord. 14805 (part), 2001: Ord. 11531 § 1, 1993: Ord. 10240 § 3, 1990)

15.12.120-2 - Enforcement by public service board.

Whenever it appears there is a violation of any of the public service board rules and regulations, the public service board may institute suit, through its own attorney, for the recovery of civil penalties, as provided for in this chapter, or injunctive relief, or the public service board may pursue any other legally available remedy or any combination of the foregoing.

(Ord. 14805 (part), 2001: Ord. 10240 § 4, 1990)

15.12.130 - Issuance of citations.

Any water and sewerage inspector or any other personnel authorized to issue class C misdemeanor citations is authorized to issue citations for violations of this chapter.

(Ord. 14805 (part), 2001: Ord. 13152 § 128, 1997: Ord. 9975 § 2, 1990: Ord. 8429, 1985: prior code § 23-35)

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Attachment H

El Paso, TX Code of Ordinances, Title 18 - Building and Construction; Chapter 18.20 - Plumbing Code

Chapter 18.20 PLUMBING CODE

Chapter 18.20 PLUMBING CODE ^[6] Sections:

18.20.010 Short title.

18.20.020 Adoption.

18.20.030 Section 312.10.3 Backflow Inspection Records, added.

18.20.040 Section 403.3 Required public toilet facilities, exception added.

18.20.050 Section 412.5 Floor drains in mechanical rooms and boiler rooms, added.

18.20.060 Section 417.5.3 Shower receptor, added.

18.20.070 Section 604.8.3 Accessibility, added.

18.20.080 Table 605.3 Water Service Pipe, amended.

18.20.090 Table 605.4 Water Distribution Pipe, amended.

18.20.100 Section 605.4 Water Distribution Pipe, amended.

18.20.110 Section 608.16.5 Connections to lawn irrigation systems, amended.

18.20.120 Section 701.2 Sewer required, amended.

18.20.130 Table 702.2 Underground building drainage and vent pipe, amended.

18.20.140 Table 702.3 Building Sewer Pipe, amended.

18.20.150 Section 705.3, Asbestos cement, deleted.

18.20.160 Section 708.3.5 Building drain and building sewer junction, amended.

18.20.170 Section 802.1.9 Condensate and Evaporative Cooler Waste, added.

18.20.180 Section 1003.2.1 No water-jacketed grease trap, added.

18.20.190 Table 1003.3.4.1 Capacity of Grease Interceptors, amended.

18.20.200 Section 1003.5 Sand interceptors in commercial establishments, amended.

18.20.210 Appendix C, Gray Water Recycling Systems, adopted.

18.20.220 Appendices.

18.20.230 Conflicting ordinances.

18.20.240 Section 603.1.1 Protection of Water Service Entrance, added.

18.20.250 Section 603.1.2 Plumbing within exterior walls, added.

18.20.010 Short title.

This chapter may be cited as the "Plumbing Code." (Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

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Chapter 18.20 PLUMBING CODE

18.20.020 Adoption.

The book entitled "International Plumbing Code," 2009 Edition, a copy of which authenticated by the city clerk is on file in the city clerk's office, is adopted as the Plumbing Code of the city, as fully as if copied at length in this chapter, but with the changes set forth in this chapter and Chapter 18.02, the Building and Administrative Code of the City of El Paso.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.030 Section 312.10.3 Backflow Inspection Records, added.

International Plumbing Code, 2009 Edition, Section 312.10.3 Backflow Inspection Records, is hereby added to read as follows:

312.10.3 Backflow Inspection Records. Records of inspections, tests and maintenance of the backflow assemblies shall be kept and made available to the building official upon request and to the EI Paso Water Utilities in accordance with the rules and regulations of the public service board. Records shall indicate the procedure performed (inspection, test or maintenance), the organization that performed the work, the results and the date. Records shall be maintained by the owner, tenant or responsible person.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.040 Section 403.3 Required public toilet facilities, exception added.

International Plumbing Code, 2009 Edition, Section 403.3 Required public toilet facilities, is hereby amended to add the following exception at the end of the section:

Exception: Small tenancies and areas located in stand-alone buildings or tenancies. Customers, patrons, visitors and employees need not be provided with public toilet facilities in small tenancies located in stand-alone buildings, structures or facilities when all of the following conditions are met:

1. The gross floor area of the tenancy does not exceed 200 square feet; and

2. The building, or structure is not used for the preparation, storage handling and sale of potentially hazardous food as defined in the Texas Food Establishment Rules of the Texas Department of State Health Services; and

3. Toilet facilities are provided elsewhere on the same site within 200 lineal feet of travel distance from the exempted tenancy; and

4. The site is provided with the minimum number of facilities required by International Plumbing Code, 2009 Edition, Section 403 and Table 403.1, and the owner or tenant in control of the toilet facilities required in condition 3, shall furnish to the building official a written and notarized statement that customers, visitors, patrons and employees of the exempted tenancy will have access to and use of these facilities; and

5. Except for "outdoor markets" as defined in Title 9.12 of the City Code, building and structures used for the preparation, storage, handling and sale of food shall be connected to a water supply and provided with utensil and hand washing facilities as required by Title 9.12 of the City Code.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

Chapter 18.20 PLUMBING CODE

18.20.050 Section 412.5 Floor drains in mechanical rooms and boiler rooms, added.

International Plumbing Code, 2009 Edition, Section 412.5 Floor drains in mechanical rooms and boiler rooms is hereby added to read as follows:

412.5 Floor drains in mechanical rooms and boiler rooms. Mechanical equipment rooms, boiler rooms and all similar equipment rooms shall have an approved floor drain for disposing of accumulation of liquid wastes incident to cleaning or recharging such equipment. Such floor drains shall be equipped with an approved automatic priming device as required in Section 1002.4.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.060 Section 417.5.3 Shower receptor, added.

International Plumbing Code, 2009 Edition, Section 417.5.3 Shower Receptor, is hereby added to read as follows:

417.5.3 Shower Receptor. Shower receptors shall have a finished curb, dam or threshold not less than one (1) inch below the sides and back of the receptor. The curb shall be not less than two (2) inches nor more than nine (9) inches in depth when measured from the top of the curb to the top of the drain. The finished floor shall slope uniformly toward the drain not less than one-fourth (1/4) inch per foot nor more than one-half (½) inch, and floor drains shall be flanged to provide a watertight joint in the floor.

417.5.3.1 Receptor Linings. All shower receptors shall be provided with an approved lining, except as noted herein. The adjoining walls and floors, enclosing field-constructed shower receptors shall be lined with copper or other approved materials listed in this Code, extending not less than three (3) inches beyond or around the rough jambs and not less than three (3) inches above finished thresholds. Recessed shower compartments need not be lined, provided the compartment is formed of concrete, is recessed a minimum of four (4) inches below the adjacent floor level, and the concrete is not less than three and one-half (3½) inches thick with an ultimate compressive strength of not less than two thousand (2000) pounds per square inch.

417.5.3.2 Liner Materials. Plasticized polyvinyl chloride (PVC) sheets shall be a minimum of 0.040 inch (1.02 mm) thick and shall meet the requirements of ASTM D4551. Non-plasticized chlorinated polyethylene sheets shall be a minimum 0.040 inch (102 mm) thick, and shall meet the requirements of ASTM D 4068. Sheet copper shall conform to ASTM B 152 and shall not weigh less than 12 ounces per square foot. Copper linings shall be isolated from conducting substances other than the connecting drain by fifteen (15) pound asphalt felt or its equivalent. Joints in copper pans or liners shall be silver brazed. Joints in PVC and CPE liner materials shall be jointed per the manufacturer's recommendations.

417.5.3.3 Receptor Drains. An approved flanged drain shall be installed with shower subpans or linings. The flange shall be flush with the sub-base and be equipped with a clamping ring or other device to make a water-tight connection between the lining and the drain. The flange shall have weep holes to insure constant drainage of water to sanitary drainage system. Shower receptacle waste outlets shall be not less than two (2) inches in diameter and shall have a removable strainer.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.070 Section 604.8.3 Accessibility, added.

International Plumbing Code, 2009 Edition, Section 604.8.3 Accessibility, is hereby added to read as follows:

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604.8.3 Accessibility. Installation shall be such as to make the regulator accessible without excavating or removing permanent structural or finished portions of the structure.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.080 Table 605.3 Water Service Pipe, amended.

International Plumbing Code, 2009 Edition, Table 605.3, Water Service Pipe, is hereby amended to delete all references to asbestos-cement pipe and polybutylene (PB) plastic pipe and tubing.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.090 Table 605.4 Water Distribution Pipe, amended.

International Plumbing Code, 2009 Edition, Table 605.4, Water Distribution Pipe, is hereby amended to delete all references to polybutylene (PB) plastic pipe and tubing.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.100 Section 605.4 Water Distribution Pipe, amended.

International Plumbing Code, 2009 Edition, Section 605.4 Water distribution pipe, is hereby amended to read as follows:

605.4 Water distribution pipe. Water distribution pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.5. Copper or copper alloy tubing used in inaccessible water distribution piping under slabs shall be minimum Type L. Any material subject to corrosion shall be protected when used in corrosive soils. All hot water distribution pipe and tubing shall have a minimum pressure rating of 100 psi at 180°F.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.110 Section 608.16.5 Connections to lawn irrigation systems, amended.

International Plumbing Code, 2009 Edition, Section 608.16.5, Connections to lawn irrigation systems, is hereby amended to read as follows:

608.16.5 Connections to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by a pressure-type vacuum breaker or a reduced pressure principle backflow-preventer. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow-preventer.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.120 Section 701.2 Sewer required, amended.

International Plumbing Code, 2009 Edition, Section 701.2, Sewer required, is hereby amended to read as follows:

701.2 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer.

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Exception: When a public sewer is not available within 300 feet of the building for use, an individual or private sewage disposal system may be utilized provided that such system is designed, installed and maintained in accordance with the requirements of Chapter 18.21 of the City Code.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.130 Table 702.2 Underground building drainage and vent pipe, amended.

International Plumbing Code, 2009 Edition, Table 702.2, Underground building drainage and vent pipe, is hereby amended to delete all references to asbestos-cement pipe, cellular core pipe and composite wall pipe.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.140 Table 702.3 Building Sewer Pipe, amended.

International Plumbing Code, 2009 Edition, Table 702.3, Building Sewer Pipe, is hereby amended to delete all references to asbestos-cement pipe, cellular core pipe and composite wall pipe.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.150 Section 705.3, Asbestos cement, deleted.

International Plumbing Code, 2009 Edition, Section 705.3, Asbestos cement, is hereby deleted in its entirety.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.160 Section 708.3.5 Building drain and building sewer junction, amended.

International Plumbing Code, 2009 Edition, Section 708.3.5, Building drain and building sewer junction, is hereby amended to read as follows:

708.3.5 Building drain and building sewer junction. There shall be a cleanout near the junction of the building drain and the building sewer. The cleanout shall be outside the building and shall be brought up to the finished ground level within ten (10) feet of the structure. An approved two-way cleanout is allowed as an alternative at this location to serve as a required cleanout for both the building drain and building sewer.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.170 Section 802.1.9 Condensate and Evaporative Cooler Waste, added.

International Plumbing Code, 2009 Edition, Section 802.1.9 Condensate and Evaporative Cooler Waste, is hereby added to read as follows:

802.1.9 Condensate and Evaporative Cooler Waste. Waste from evaporative cooler's automatic water draining systems and condensate from air conditioner units, when approved by the building official, shall discharge into the building drainage system through an indirect waste line, except such waste may be directly connected to a lavatory tailpiece or to an approved accessible inlet on a bath tub overflow when the connection is located in an area controlled by the same person or entity controlling the space served by the evaporative cooler or discharged so that the effluent is used for watering landscaping or other vegetation.

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(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.180 Section 1003.2.1 No water-jacketed grease trap, added.

International Plumbing Code, 2009 Edition, Section 1003.2.1 No water-jacketed grease trap, is hereby added to read as follows:

1003.2.1 No water-jacketed grease trap. No water-jacketed grease trap or grease interceptor shall be approved or installed.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.190 Table 1003.3.4.1 Capacity of Grease Interceptors, amended.

International Plumbing Code, 2009 Edition, Table 1003.3.4.1 Capacity of Grease Interceptors, is hereby amended to read as follows:

Total Flow-Through Rating (gpm)	Grease-Retention Capacity (pounds)	
20 or less	40	
25	50	
35	70	
50	100	

Table 1003.3.4.1 Capacity of Grease Traps

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.200 Section 1003.5 Sand interceptors in commercial establishments, amended.

International Plumbing Code, 2009 Edition, Section 1003.5 Sand interceptors in commercial establishments, is hereby amended to read as follows:

1003.5 Sand Interceptors in Commercial Establishments. Sand and similar Interceptors or traps for heavy solids shall have a water seal of not less than six (6) inches. Traps shall have a minimum of two compartments. Each compartment shall be a minimum of 30 inches by 30 inches with a minimum depth of three (3) feet, covered with a removable grating that will allow the free entrance of waste. Trap walls and bottom shall be of concrete made watertight.

Exception: Sand traps are not required in commercial facilities containing less than 4 washing machines.

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1003.5.1. Waste Line shall be a minimum of four (4) inches for uses other than residential swimming pools in which case the waste line may be three (3) inches. Outlet pipe shall leave the trap at a point not less than six (6) inches nor more than twelve (12) inches above the bottom and must rise vertically outside to the top of the trap where a properly sized cleanout shall be provided and formed by an inverted wye (y) so installed that the point of intersection of the wye (y) branches shall form the seal. Such seal shall be no less than twelve (12) inches in depth.

1003.5.2. Sand Traps installed within thirty (30) feet from a 3 or 4 inch stack shall have a two (2) inch vent; sand traps installed over thirty (30) feet from a 3 or 4 inch stack shall have a three (3) inch vent.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.210 Appendix C, Gray Water Recycling Systems, adopted.

International Plumbing Code, 2009 Edition, Appendix C, Gray Water Recycling Systems, is hereby adopted in its entirety.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.220 Appendices.

International Plumbing Code, 2009 Edition, Appendices, unless specifically adopted or referenced, are retained as administrative guidance aids.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.230 Conflicting ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this chapter are hereby repealed as follows: Ordinance No. 014730 dated 12-12-2000 and Ordinance No. 15966 dated 12-14-2004.

(Ord. No. 17418, § B, 9-21-2010, eff. 1-1-2011)

18.20.240 Section 603.1.1 Protection of Water Service Entrance, added.

International Plumbing Code, 2009 Edition, Section 603.1.1 Protection of Water Service Entrance is hereby added to read as follows:

603.1.1 Protection of Water Service Entrance. Water service entrance and risers to all structures shall be on the heated side of a conditioned space.

(Ord. No. 17660, § 1, 10-18-2011)

Editor's note-

Section 3 of Ord. No. 17660 states that this ordinance shall be applicable to all permit applications received on and after October 18, 2011.

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18.20.250 Section 603.1.2 Plumbing within exterior walls, added.

International Plumbing Code, 2009 Edition, Section 603.1.2 Plumbing within exterior walls is hereby added to read as follows:

603.1.2 Plumbing within exterior walls. Placement of plumbing within exterior walls is prohibited unless the walls are at minimum, 2 by 6 walls and adequate provision is made to protect such pipes from freezing in accordance with Section 305.6 of the International Plumbing Code. Placement of water lines in ceiling areas is prohibited unless the water lines are placed on the warm side with a minimum of 10 inch insulation on the exterior/roof side of the structure.

Exceptions:

- a. A service entrance may enter a non-conditioned space provided that the riser/service entrance is within an approved, heated valve protective enclosure also know as a "hot box", or
- b. Cross linked polyethylene, also known as PEX, or approved equal, is used as the service entrance material, and
- c. Any hose bibs installed shall be freeze proof.

(Ord. No. 17660, § 1, 10-18-2011)

Editor's note—

Section 3 of Ord. No. 17660 states that this ordinance shall be applicable to all permit applications received on and after October 18, 2011.

FOOTNOTE(S):

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Editor's note— Ord. No. 17418, § B, adopted September 21, 2010, effective January 1, 2011, amended chapter 18.20 in its entirety to read as herein set out. Former chapter 18.20, §§ 18.20.010—18.20.300, pertained to similar subject matter. See Ordinance List, Code Comparative Table and Disposition List for history. (Back)

Note— Section C of Ord. No. 17418 states all references to the NEC, National Electrical Code, shall be construed to mean the Electrical Code of the City of El Paso. (Back)

Attachment I

El Paso, TX Code of Ordinances, Title 18 - Building and Construction; Chapter 18.46 - Landscape

Chapter 18.46 - LANDSCAPE*

Sections: Article I. - General Provisions Article II. - Design Requirements Article III. - Standards Article IV. - Stret Trees Article V. - Administration

Article I. - General Provisions

18.46.010 - Title. 18.46.020 - Purpose. 18.46.030 - Rules of construction. 18.48.040 - Interpretation. 18.46.050 - Definitions. 18.46.060 - Application.

18.46.010 - Title.

This chapter shall be known as the landscape ordinance for the City of El Paso, Texas.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.020 - Purpose.

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A. The purpose of this chapter is to set forth the minimum requirements for irrigation and landscape for both residential and commercial property development within the corporate limits of the city. The regulations herein are designed to enhance the quality of life, increase property values and aesthetics of the city; while helping to improve air purification, reduce stormwater run-off, noise reduction and heat abatement while conserving energy, water and other natural resources.

B. In addition, landscape designers and property owners are encouraged to design and place landscaping materials in a good, economically viable, and environmentally sensitive manner as to improve the aesthetics of development, construction, and the quality of life for all citizens. This chapter encourages the use of quantifiable, generally recognized, scientific standards and methods as well as local and state regulations and manufacturer's recommendations in evaluating all designs. This chapter shall be used to stimulate creativity and innovation in such design.

C. This chapter is also designed to prevent soil erosion, reduce the hazards of flooding, enhance the absorption of carbon dioxide and supply of oxygen; reduce the effects of noise, glare, dust and other

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Comment [A3P3]: The new landscape ordinance It does include residential for residential lines, the summarized requirement is as follow: Reidential indiscape is required on all new homes that are built after Jan. J. 2012 unless vested. For every new home one tree for every 20 fact of Irontsge is required with the minimum on one tree and an automatic inguiton system. The system can be battery, solar or electric powered but nut menual. The minimum infragiona system consist of one drip emitter, backflow and a valve. Turi's not required under this officiance only trees, shrubs and ground cover. However It can be used as a subsitue.



objectionable activities generated by some land uses; promote the pleasant appearance and character of neighborhoods and high intensity commercial and industrial corridors; provide shade; to cool superheated urban areas, and thus reduce water consumption in cooling units, as well as other energy consumption related to environmental cooling; and facilitate the safe movement of traffic in vehicular

Title 18 - BUILDING AND CONSTRUCTION Chapter 18.46 - LANDSCAPE* Article V - Administration

D. [This chapter is also designed to promote water conservation and water efficiency by requiring the planting of water-thrifty plants and other landscape materials. To assist in ensuring adequate supplies of water exist for EI Paso's future, it is important that water conservation be promoted in landscape watering policies. Water conservation should be promoted through techniques such as the proper design of landscaped areas and plant selection, education of the public, and the proper use of irrigation of systems.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.030 - Rules of construction.

use areas.

The following rules of construction shall apply:

A. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary;

B. Words used in the present tense include the past and future tenses, and the future the present;

C. The word "shall" is always mandatory. The word "may" is permissive.

D. Words and terms not defined herein shall be interpreted in accord with Webster's Third New International Dictionary, Copyright 1986.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.040 - Interpretation.

A. The provisions of this chapter shall be interpreted and applied, as the minimum requirements for landscaping and irrigation in the city and shall control over all other landscape requirements in any other ordinance in the EI Paso City Code, except Chapter 15.13 (Water Conservation) of this Code.

B. It is not intended that this chapter shall interfere with, abrogate or annul any restrictive covenants or other agreements between individual parties. When there is a conflict between the requirements of this chapter and any restrictive covenant, agreements or other requirements imposed on the property, the more stringent requirement shall apply.

C. The provisions of this chapter shall be subordinate to the provisions of the El Paso City Code pertaining to traffic and pedestrian traffic.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.050 - Definitions.

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The following terms as used in this chapter shall be defined as follows:

"Approved irrigator" means a Texas licensed irrigator.

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Comment [AJP3]: The ordinance does not supersedes the Water Conservation Ordinance which is the "control"

Comment [AJP2]: The ordinance promotes the use of water efficient plants and techniques. Only plants found on approved list can be used.

"Approved plant list" means the list of plants and shrubs prepared by the tree board or its successor the board of parks and recreation, and the building official, and on file with the building official, and as may be amended from time to time.

"Automatic controller" means a mechanical, electrical or hybrid solid state timing device, capable of operating valve stations by set days of the week and the length of time of water application.

"Backflow prevention device" means a safety device used to prevent pollution or contamination of the potable water supply due to the reverse flow of water from the irrigation system.

"Berm, earthen" means an earthen mound designed to provide visual interest or screen undesirable views and decrease noise.

"Caliper" means the measurement of the thickness of a tree; the minimum diameter of a tree as measured six inches above the grade for trees under four inches in diameter and twelve inches above grade for trees four inches in diameter and larger. For multiple trunk trees, the diameter shall be based on the caliper of the largest trunk plus half the caliper of the next three largest trunks.

"Deciduous" means a plant that sheds its foliage annually.

"Development - Commercial" means all developments zoned or used for commercial uses as described under Title 20 (Zoning).

"Director" means the city manager or designee.

"Evergreen" means a plant with foliage that persists and remains green year round.

"Finish grade" means the ground elevation in its final and finished state before any landscape is installed.

"Frontage" means the property line where a parcel of land, lot, or site abuts a public right-of-way.

"Grass". See "turf or turf grass."

"Gross building area" means the total enclosed area of a building exterior dimensions, excluding covered walkways or exterior fire escapes.

"Ground covering" means organic or inorganic material such as mulches and/or gravel used as ground covering.

"Ground cover organic" means low growing plant material, other than turf grasses, installed in such a manner as to provide continuous cover of the ground surface.

"Hardscape" means the use of solid non-organic materials such as rock or stone, concrete, asphalt, brick, or other similar type material.

"Impervious soil" means soil which is extremely dense (cementitious sedimentary soil) through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of .95 pursuant to the Drainage Design Manual.

"Impervious surfaces" means any surface such as roofing, solid surface plastic materials, solid surface oil-impregnated materials, concrete, asphalt, etc. through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of 1.0 pursuant to the Drainage

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Design Manual.

"Landscapable area" means that area of the lot that is required by this chapter to be landscaped, to include the frontage landscape buffer used to meet the landscape requirements specified in this chapter. It does not include the parkway or the parking lot trees.

"Landscaping" means the improvement of a section of ground by contouring the land and planting any combination of living plants, such as trees, shrubs, vines, groundcover or grass, natural features such as rock, stone, bark chips or shavings.

"Median" means the area within the public right-of-way, which separates two opposite directions of traffic.

"Mulch" means organic and/or inorganic material, which is placed, to prevent erosion, lower soil temperature and maintain soil moisture levels.

"Official" means the building official or his designee.

"Palm" means a long-lived plant of the family Palmae having a minimum eight feet unbranched clear trunk crowned by large pinnate or palmate leaves.

"Parking lot" for the purposes of this chapter, "parking lot" means any paved or unpaved area, not including a street or alley right-of-way, containing one or more parking spaces for motor vehicles, designed in accordance with the requirements of Chapter 20.14, and intended as an accommodation for patrons, customers, and employees, either with or without a charge for such accommodation.

"Parking spaces" means those spaces for the parking of any vehicle excluding eighteen-wheel tractors and their trailers.

"Parkway" means that area of street right-of-way between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.

"Permeable surfacing" means materials with a permeable base.

"Plant, native or adapted" means a commercially grown or legally harvested plant material hardy to the natural conditions of the region, which once established is capable of sustaining growth without supplemental watering.

"Plant material" means the required trees and other plants that are required to be installed.

"Pond" means a depression in the soil intended to retain and/or detain both stormwater and all excess irrigation water.

"Project" means a specific development which is subject the requirements as stated herein.

"Shrub" means a woody plant, deciduous or evergreen, generally multi-stemmed with small branches near the ground, and smaller growing than a tree.

"Street oriented building" means the placement of a building on a lot such that its principal orientation is toward the street and the principal entrance is from the sidewalk. Street oriented buildings prohibit parking in any space between the sidewalk and the building.

"Stormwater" means a build up of naturally occurring precipitation (water), which falls on any parcel of

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land (site or watershed) of any given size.

"Structure" for the purposes of this chapter, "structure" means that which is built or constructed, an edifice or building of any kind, with four walls and a roof that encloses the interior space from the outside elements, or other artificially built or constructed work.

"Swale" means a landscape design using raised or depressed earthen channel of any depth or width designed to direct or move water to or from ponds, other swales, channels, arroyos or other drainage conveyance.

"Texas Licensed Irrigator" means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

"Tree, parking lot" means a deciduous tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy, spread of twenty feet at maturity. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk; which is installed and located in a parking lot.

"Tree, project" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy spread of twenty feet at maturity that is required based on calculations determined by the provisions of this chapter. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk. Such trees shall be healthy and vigorous at time of planting.

"Tree, frontage" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height which is planted within the front landscape buffer or within twenty feet of the property line along the street frontage.

"Tree grate" means a barrier with parallel or crossed bars blocking a passage but allows for tree trunk diameter growth.

"Tree, street" means a deciduous tree growing within the parkway of a street having a minimum of two inches caliper and ten feet in height, except that a street tree shall be three inches caliper and ten feet in height for development along any arterial.

"Tree well" means the basin where the root ball of the tree is planted.

"Turf or turf grass" means a surface layer of soil bound by grass and its roots into a thick mat that requires regular maintenance, mowing and watering.

"Unmanned facility" means a structure which does not require a certificate of occupancy and is not occupied by any persons.

"Vehicular loading area" means a paved area designed to accommodate the maneuvering, loading and unloading and parking of commercial vehicles having a length of less than twenty-seven feet.

"Vehicular use area" means any area, excluding public rights-of-way, used for the purpose of driving, maneuvering, parking, storing or display of motor vehicles, boats, trailers, mobile homes and recreational vehicles, including new and used automobile lots, and other parking lot uses.

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"Visibility triangle" means the area formed by the intersecting property lines and a diagonal line joining the property lines at the points twenty feet from their intersection on the corner lot at the intersecting corner.

"Water harvesting" means the process of intercepting irrigation or stormwater from a surface such as a roof, parking area or land surface and putting it to beneficial use thereby reducing runoff and making maximum use of irrigation and rain water.

"Weed barrier" means a porous overlay material used beneath mulch materials to reduce the germination and growth of unwanted plant material while allowing the percolation of water.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-2011; Ord. No. 17656, § 1, 10-18-2011, eff. 11-7-2011)

18.46.060 - Application.

A. Except as provided herein, this chapter shall apply to the incorporated area of the City of El Paso, Texas, and to all projects listed below. All projects listed below shall provide landscaping in accordance with the requirements of this chapter, and an underground automatic irrigation system, shall be provided for all required landscapable areas in compliance with the requirements of this chapter, and shall comply with the requirements of 30 Texas Administrative Code, Chapter 344, §§ 344.72—344.77, and as may be amended.

 The construction or erection of any new development, building, or structure, for which a building permit is required and zoned for a commercial use as defined under Title 20 (Zoning) of this Code.

a. For all sites, except zero lot line street frontage sites, the landscaping shall be located in the area between the street frontage and the building wall furthest from the street. Landscaping behind the building wall furthest from the street shall count towards the landscapable area provided that the area is not screened from view or enclosed by a wall or fence, such as a private yard.

b. In addition to the required landscapable area, the parkway shall be landscaped per Section 18.46.060 and street trees must be provided as required by Section 18.46.200

c. On zero lot line street frontage lots the landscaping shall be located within and throughout the site.

d. In order to be considered as landscapable area there shall be at least a ten feet distance between the walls of buildings. Trees planted in areas less than twenty feet between structures will not be given credit in satisfaction of the landscape requirements.

2. The expansion of an existing building or parking lot, regardless of the amount of the increase in size.

a. Landscaping shall be calculated based on the square footage of the new development or structure at a rate of fifteen percent per square foot. A minimum of one unit of plant material and street trees within the parkway shall be required.

b. If the site satisfied the code requirements prior to the enactment of this chapter and is deemed legal nonconforming, and if expanded in use as permitted by Title 20 (Zoning), then,

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only the additional square footage of expansion of landscapable area shall be required to satisfy the requirements of this chapter at a rate of fifteen percent per square foot.

3. Off-street parking.

a. Any construction of off-street parking or a new parking lot is required to install one tree per ten parking spaces or portion thereof (within and throughout), whether they are required parking spaces or not. Tractor trailer parking lots require one tree for every ten parking spaces. (See Section 18.46.090). This is in addition to the required landscapable area.

b. Any expansion of an existing parking lot is required to install one tree per ten spaces. The number of trees required shall be based on the calculation of the total of all spaces both new and existing (within and throughout) the site, whether they are required parking spaces or not.

c. No parking space shall be more than one hundred feet from a tree.

4. Unmanned facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

5. Parkways.

a. Parkway area ground treatment shall include permeable surfacing, not to include raw soil. With the exception of street trees, plant material shall be maintained in the parkway so that it does not exceed three feet. Landscaping of the parkway, including any frontage landscape buffers, shall not count towards the required landscape buffers.

b. Parkways shall contain street trees as required by Section 18.46.200

6. Frontage landscape buffers.

a. Frontage landscaping. The frontage along any street shall consist of a minimum ten foot landscape buffer, except as provided in paragraph c. below. The frontage landscape buffer may be crossed by driveways and pedestrian walkways connecting to adjacent land; however, no parking is permitted within a required frontage landscaping buffer. The frontage area buffer shall also include the entire area within the visibility triangle at the intersection of any roadways. Along freeways or any frontage roads, the frontage landscaping buffer shall be fitteen feet.

b. The frontage landscape buffer shall contain the required plant units based on Section 18.46.090 and the required frontage trees as required by Section 18.46.200. Ground treatment shall include decomposed granite, or other permeable surfacing, not to include raw soil.

c. A building may be located within the required ten foot frontage landscape buffer and any

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remaining portion within the ten-foot landscape buffer not occupied by [any] of the building shall be landscaped.

d. For shopping centers on properties with a lot depth of less than two hundred feet, the frontage buffer area may be reduced to seven feet on an arterial street. This provision does not apply to the following circumstances:

1. A shopping center where platted lots are further divided by metes and bounds.

2. A shopping center that is located on more than one lot, whether the lots are platted or divided by metes and bounds.

 A shopping center that has detached buildings, whether those buildings are on the same building as the main shopping center building or whether the detached buildings are on separate lots that are plated or divided by metes and bounds.

7. Residential development shall comply with the street trees requirement under Article IV of this chapter.

B. Exemptions. The following projects are exempt from the requirements of this chapter:

1. Building restoration projects for historic structures as defined under Title 20 (Zoning);

2. Projects on land owned by the federal or State of Texas governments;

3. Any existing development, which changes its use from an approved use to any other, approved use within the same zoning category;

4. Expansion of an existing structure or parking lot if the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new protect.

 Projects which are zoned or used for residential use as defined under Title 20 (Zoning) of this Code; if such residential use single-family, duplex, triplex, quadraplex or condominium, except that street trees are required and cannot be exempted for new development based on Section 18.46.200

6. Existing buildings or parking lot areas that add a delivery or loading area, ramp or dock, or trailer storage area to an existing asphalt or concrete surface.

7. The addition of a building or buildings on a commercial lot when the additional building or buildings have a combined square footage of less than one thousand two hundred square feet of floor area.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11; Ord. No. 17656, § 1, 10-18-2011, eff. 11-7-2011)

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Article II. - Design Requirements

18.46.070 - Plans required. 18.46.080 - Required landscapable areas. 18.46.090 - Required plants.

18.46.070 - Plans required.

Projects that are subject to the requirements of this chapter, shall require the submission of a separate landscape plan and an irrigation plan sealed by a landscape architect registered in the State of Texas, or a landscape contractor registered with the city. In order to register with the city, a landscape contractor shall comply with the following:

 Contractor shall be a licensed by the state as a landscape irrigator or shall employ at least one licensed landscape irrigator full time. The license number shall be submitted at the time of permit apolication:

2. Contractor shall have a valid d/b/a registered with the county;

3. Contactor shall have general liability insurance of fifty thousand dollars with the City of El Paso as a certificate holder;

4. Contractor shall also obtain a construction blanket bond of ten thousand dollars.

Each plan shall be at a minimum scale of one-inch equals forty feet, preferably one inch equals twenty feet. No architectural scaling shall be allowed. Plan size shall be on paper size twenty-four by thirty-six inches.

A. Landscape plan. The landscape plan shall include the following information:

1. Date, scale, north arrow, project title and project address; and landscape designer with their address, phone number;

2. Name, address and telephone number of the property owner(s) representative;

3. Botanical name and common name, plant tag showing plant type, legend reference, size, height, quantity and location of proposed landscape materials to be used;

4. Landscape calculations, minimum required square footage of the landscapable area, total square footage of the landscapable area, parking provided, vehicular loading area, minimum required quantity of landscape materials, provided quantity of landscape materials;

5. Landscape master plan (long-term) with phasing plan;

 Location of existing and proposed structures, signs, project trees, plant material, swales, berms, frontage trees, parking lot trees, street trees, and fire hydrants existing at the time of plan submission;

7. Show all curb cuts ingress and egress and distances to plant material; and

8. Show a five-foot clearance at maturity for all landscape material adjacent to any utility box, hydrant, meter or access point.

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B. Irrigation plan. The irrigation plan shall be designed and sealed by an irrigator licensed by or recognized by the State of Texas, and shall include the following information:

- 1. Type, size and location of piping and sleeving;
- 2. Type, size, radius, gpm, precipitation rate, design pressure and location of irrigation heads;

3. Type, size, gph, details of installation, design pressure and the location of emitters or subsurface equipment;

- 4. Drip and/or subsurface installation detail;
- 5. Type, size and location of backflow prevention devices, valves, wiring and controllers;
- 6. Backflow installation detail; and
- 7. Arc spray pattern for all turf areas.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.080 - Required landscapable areas.

A. New commercial development. All new commercial development shall be required to comply with the landscapable area requirements, the parkway landscaping requirements, the frontage landscape buffer requirements and the parking lot tree requirements.

1. The required landscapable area shall be calculated as follows:

 The square footage of the entire lot(s) in which the project is located on, multiplied by 15.0 percent equals the required landscapable area;

b. If required area is 0.5 of a unit of plant material or less, fees in lieu of installation may be paid as provided herein;

c. If required area is 0.51 to 0.99 it must comply by providing one unit of plant material or four trees;

d. Required area over 0.99 of a unit shall comply at a rate of one unit of plant material for each thousand square feet of required landscapable area or portion thereof;

e. The number of frontage trees required shall be one tree per every thirty linear feet of all street frontages, including any easements. The frontage trees are required to be located within the frontage landscape buffer or within twenty feet of the property line along the street frontage. A minimum of one frontage street tree shall be installed if the property has less than fifty feet of frontage. If street trees are being placed within property along the street frontage based on the requirements of Section 18.46.200, then the required frontage trees may be distributed within and throughout the property.

f. The parkway and frontage landscape buffer combined shall not count towards the required 15.0 percent landscapable area.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

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18.46.090 - Required plants.

A. The following plant materials shall be installed within the required landscapable area as follows:

1. For every one thousand square feet, or portion thereof, of landscapable area, the following plant material shall be required:

a. Two project deciduous or evergreen trees having a minimum caliper size of two inches and a minimum height of ten feet to twelve feet;

b. A minimum of forty plant material of five-gallon size, which are a minimum of eighteen inches in height.

c. A minimum of ten plant material of one-gallon size;

d. For project trees, two one inch caliper trees at a height of eight feet to twelve feet may be substituted for a two inch caliper project tree.

e. Substitution of plant materials may be allowed for the preservation or relocation of existing healthy trees and shrubs based on equivalent size and type of plant material and shall be subject to review by the landscape plan reviewer on a one-to-one basis.

f. Palms may be installed on the property but will only count toward the fifty percent of the required five gallon plant material.

g. For every five-gallon plant required, one project tree may be substituted for up to fifty percent of the required five gallon plant materials.

2. Parking lots and vehicular use areas.

a. Shading shall be required for parking lots and vehicular use areas that are located within the project, with ten parking spaces or more shall be provided with at least one parking lot tree for every ten parking spaces.

b. Truck courts and truck-trailer parking lots shall be required to have parking lot trees placed within the parking lot.

c. Parking lot trees may be placed within the parking area or vehicular use area with due consideration for vehicle movement and maneuvering or directly adjacent to the vehicular use area.

d. Parking lot trees shall be located with respect to the location of parking lot light fixtures in such a manner as to not impede the distribution of light throughout the parking lot, unless the lighting is placed in the canopy of the trees.

3. Street-oriented buildings.

a. In cases where a building is oriented toward the street, the required landscapable area shall be reduced by sixty percent if the building meets the following standards:

1. The building spans is eighty percent of the width of the lot at the street.

2. The principal entrance is from the sidewalk that is the recipient of eighty percent

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span coverage.

3. That no parking is located between the street and the building along any portion of the eighty percent span.

4. That at least thirty percent of the building facade is glass.

b. Any side off-street parking abutting the property line shall have the required frontage landscape buffer area and applicable frontage trees and plant units.

4. Designated landscape infill development area.

 The designated landscape infill development area is shown as Appendix A attached to Ordinance Number 17656. [A copy of Ordinance 17656, Exh. A can be found in the city offices.]

b. For a property within the designated landscape infill development area, the required landscapable area may be reduced up to thirty percent.

c. The property shall comply with all other provisions of this chapter.

5. Plant coverage option. The following plant coverage option may be utilized in lieu of the requirements specified under Section 18.46.090 A.1.

a. Plant material shall be provided on all required landscapable area and will cover at least seventy-five percent of area.

b. Plant material used in the coverage calculation shall be shrubs or ground cover from the required the approved tree and plant list of the City of El Paso. The required coverage shall be achieved within two years of the date of planting. In no instance shall the number of plants provided fall below forty percent of the total required under Section 18.46.090 A.1.

c. In addition to the required plant material, two project deciduous or evergreen trees having a caliper size of two inches and a minimum height of ten feet to twelve feet shall be required for every one thousand square feet, or portion thereof. For project trees, two one inch caliper trees at a height of eight feet to twelve feet may be substituted for a two inch caliper project tree. Project trees shall not be used in the calculation of the coverage area.

d. A required weather-based smart controller shall be required in order to utilize the plant _____ coverage option.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-2011; Ord. No. 17656, § 1, 10-18-2011, eff. 11-7-2011)

Article III. - Standards

18.46.100 - Landscape standards. 18.46.110 - Irrigation standards.

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Comment [A]P4]: This is the section where a smart controller can be used as an alternative. There are some models that can be preprogramed to follow our 3 watering day schedule but many others don't. Knain to send me a study done by A&M regarding the use of these controllers in drought prome areas (on our favor)

18.46.120 - Installation standards. 18.46.130 - Maintenance standards. 18.46.140 - Fees in lieu of installation.

18.46.100 - Landscape standards.

A. Water harvesting. The landscapable area shall be designed to ensure the most beneficial design for surface collection of water to include swales, parking lot islands, bar ditches, detention or retention ponds and constructed wetlands.

B. Plants. Seventy-five percent of all plants to be used in the landscape design shall be selected from the approved plant list on file and maintained in the department. No artificial plant materials shall be used to satisfy the requirements of this chapter. All plants and trees shall be healthy and vigorous at the time of planting. At least fifty percent of the plants installed shall be plant material of low water, drought-tolerant variety.

C. Turf. Turf shall not be installed on slopes exceeding twenty percent, unless approved by the city engineer or designee to match existing conditions or surrounding development. Turf grass is specifically prohibited in parkways. Turf shall have an amended soil base of a minimum of six inches.

D. Trees. Trees in pedestrian areas shall be planted and maintained, with the mature branching structure having a minimum of seven feet clearance from ground level within three feet from the trunk. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of thirty-six square feet of surface area with no interior dimension less than four feet measured at ninety degrees to the interior edges.

E. Shrubs. Shrubs shall be a minimum size of a five-gallon container and a minimum plant height of eighteen inches (except for dwarf species and low growing species). Existing shrubs should be preserved and incorporated into the site landscaping.

F. Organic/inorganic ground covering/permeable paving.

1. Inorganic coverings such as gravel, river rock, shell, recycled glass (polished with rounded edges) and similar materials may be used as a landscape groundcover.

2. Organic ground covering such as organic mulch, wood chips or bark may be used as a landscape ground covering.

3. Nonporous materials shall not be installed under organic or inorganic ground covering.

4. Any weed barrier materials used must allow the percolation of standing water within seventy-two hours.

G. Plant material shall be installed to ensure that at maturity there is a five-foot clearance adjacent to any utility box, fire hydrant, utility meter or access point.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.110 - Irrigation standards.

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A. All irrigation plans shall be designed and sealed by an irrigator licensed in the State of Texas.

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B. Irrigation systems shall be installed in accordance with the standards and requirements of the irrigation equipment manufacturer, the Texas Commission on Environmental Quality, and the International Plumbing Code, and as may be amended, and all applicable regulations and laws.

C. The source of irrigation water, whether potable or reclaimed, as provided by the City of El Paso water utilities, shall be indicated on the irrigation plans.

D. When using a potable irrigation water source, an approved backflow prevention device shall be installed in accordance with the City of El Paso Plumbing Code.

E. Such device shall be a pressure vacuum breaker or a reduced pressure assembly as appropriate for the project location. No other type of backflow prevention device shall be permitted.

F. All backflows shall be protected from freezing with an enclosure that is ASSE certified or equal and shall be screened or concealed from street view with plants or other landscaping.

G. All irrigation systems shall include:

1. An automatic controller with multiple programs, multiple repeat cycle capabilities and a flexible calendar program. Power may be provided by either electricity or solar;

- 2. Spray head type irrigation systems may be used in planting beds when:
 - i. Plant material spaced less than eighteen inches center to center.
 - ii. Spray head system has head to head coverage.
- H. Spray heads shall not be used in the following locations:
 - 1. Parkways;
 - 2. Medians;
 - 3. In areas less than ten feet in any dimension; and
 - 4. On slopes exceeding twenty percent.
- I. Drip and spray systems shall:
 - 1. Be placed on separate valves;
 - 2. All components on drip systems shall be measured in gallons per hour.
- J. Wiring and sleeving:

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- 1. All wire shall be direct burial. Multi-strand shall not be allowed for direct burial;
- 2. Hard wire installations shall have a cutoff switch installed within sight of the controller;
- 3. Irrigation piping and wiring installed under any hardscaped areas shall be within sleeving.

K. Storm retention pond areas that are irrigated shall incorporate, in the design, separate valves for the basin and slope areas. A moisture sensor shall be installed in the basin.

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L. Flood irrigation water from a water improvement district is not an approved method of irrigation, and shall not satisfy the requirements of this chapter.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.120 - Installation standards.

Landscape and irrigation systems shall be installed in accordance with the approved plan.

A. Minor modifications may be made to the landscape design (plant materials and irrigation system), by the landscape architect or designer, so long as the changes comply with the minimum standards applicable to this chapter.

B. Minor modifications shall be allowed within the landscape area as long as those changes do not affect the plant size, landscapable area, or required quantity and that the irrigation changes do not affect the hydraulic integrity of the system.

C. Installation shall be completed prior to the building final inspection.

D. Reserved.

E. An individual with a state irrigator, installer [only allowed through December 31, 2009], irrigation technician, master plumber, or journeyman plumber license shall be on the project site during all irrigation installation work to review and inspect all progress and aspects of the installation.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.130 - Maintenance standards.

A. Landscaping and irrigation shall be regularly and properly maintained to ensure healthy and vigorous plant material. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pest prevention, pruning, and other maintenance of all plantings as needed. Trees may not be trimmed beyond national nursery standards for any reason.

B. Landscaping which dies shall be replaced by the owner with another living plant that is comparable to the existing plant or plant materials specified in the approved landscape plan as expeditiously as possible, but in any event no later than sixty days after notification from the director. The director may extend this time period up to an additional thirty days due to weather or due to events outside of the control of the property owner.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.140 - Fees in lieu of installation.

A. When applicable. The following projects may pay fees in lieu of installation of the required landscaping material and irrigation system, and shall not be subject to the requirements of this chapter if such fees are paid in accordance with the following provisions.

1. Unmanned facilities.

2. Manned facilities, if the required landscapable area requires 0.5 of a unit of plant material or less.

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B. Fee calculation. Where the city accepts payment of cash in lieu of the installation of landscape material and irrigation system, such payment shall be equivalent to the following:

Unmanned facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less, shall pay fees in the amount of five thousand dollars per site.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may pay fees based on five thousand dollars per unit of plant material required.

2. Manned facilities. Any manned facility with a calculated landscapable area requiring 0.5 of a unit of plant material or less, may pay fees based on five thousand dollars per unit of plant material required.

C. Form tendered. A cash payment made pursuant to this section shall be tendered in the form of a cashier's check, payable to the City of El Paso. The cashier's check shall be submitted to the director and shall accompany the building permit application.

D. Special fund.

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1. Special fund established. The city shall establish a special fund for the deposit of all sums paid in lieu of installation pursuant to this chapter. The city shall account for all sums paid with reference to the individual property involved, and all sums received shall be committed by the city to be dedicated to the installation and planting of landscaping and plant material. In no case shall the funds be used for routine park, landscaping maintenance or other recreational facility maintenance. The fees shall be spent in locations as reasonably close as possible to the project which elected to pay such fees; however, the city shall not be restricted to spending the funds throughout the city so long as visible by the general public and in conformance with the purposes set forth in this chapter.

2. Accountability. The city engineer or designee shall maintain a written record of all moneys received in lieu of installation, including, at a minimum, the total amount of fees received, the property address generating the fees and the date the fees were received. The city engineer or designee shall maintain a record of all expenditures incurred from these funds and shall also perform a periodic reconciliation to the general ledger system of the city to ensure accountability of these funds.

3. Return of monies paid. Any monies not used as stated above within one year of payment to the city may be returned to the original individual or group that made payment upon application by said individual or group for a refund. Monies shall be returned upon refund application after one year unless said monies have been encumbered for use prior to application.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

Article IV. - Street Trees

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18.46.200 - Required street trees, 18.46.210 - Street tree standards,

18.46.200 - Required street trees.

A. Street trees are required on all city streets and arterials based on the requirements of this section. Maintenance and trimming of street trees and replacement of dead trees are the responsibility of the owner of the lot adjacent to or on which the trees are located. Street trees shall be maintained alive and healthy by the property owner of the lot adjacent parkway or on which the tree is located.

B. Street trees shall be selected from the approved tree and plant list of the City of El Paso maintained by the parks and recreation department. The street trees to be installed must be designated as a preferred (x) or allowed (o) medium or large deciduous tree from the approved tree or plant list.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.210 - Street tree standards.

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A. Street trees shall be installed for commercial development per this chapter when any landscape is required per Chapter 18.46. For new residential development, street trees shall be installed by the property owner prior to the issuance of a certificate of occupancy. The required street trees indiridiate shall be shown on all building permit applications on the site plan. If the developer elects to install the street trees, then the street trees and irrigation system shall be shown on the use blan. If the developer elects to install the street trees, then the street trees and irrigation system shall be required for new residential developments for the subdivision. An underground automatic irrigation system shall be required for new residential development and must comply with the standard specified in this chapter.

B. The spacing for all street trees shall be at thirty feet or less for all streets. Every lot over twenty feet wide shall have at least one street tree.

C. Adequate vertical clearance below the branches must be maintained for pedestrians, cars, and bicyclists. The minimum height to the lowest branch overhanging a sidewalk shall be seven feet, the lowest height overhanging a street shall be fourteen feet.

D. Street trees shall be a minimum of two inches caliper and ten feet in height, except that a street tree shall be a minimum of three inches caliper and ten feet in height for development along any arterial.

E. Street trees shall be placed in the parkway of the street, unless the department of transportation director and the deputy director for planning, requires different locations of trees based on topography or a uniquely shaped lot.

F. The standard setback of trees located between the curb and the sidewalk shall be based on the following standards:

 Where more than four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted with their centerline equal distance from the curb and sidewalk.

2. Where three to four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted two feet from tree centerline to back of curb.

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 Where less than three feet of space exists between the back of curb and the sidewalk, street tree placement will vary depending on the space available. A solution shall be selected from the following criteria:

a. The minimum distance between the back of curb and centerline of the tree shall be two feet;

b. The minimum distance between the centerline of the tree and the property-side edge of the sidewalk shall be four feet;

c. If items one and two cannot be met, then street trees shall be planted at least two feet beyond the property-side edge of the sidewalk.

4. Where the sidewalk is at the curb, a solution shall be selected from the following criteria:

a. If the sidewalk is less than six feet wide, the tree shall be planted at least two feet beyond the property-side edge of the sidewalk; or

b. If the sidewalk is six feet wide or wider, street trees shall be planted in cutouts in the sidewalk. The centerline of the tree shall be at least two feet from the back of cuto, and at least four feet from the property-side edge of the sidewalk is less than four feet, a grate shall be used to cover the planting hole. The grate shall be of a size and design approved by the department of transportation. In all cases, the minimum effective clear sidewalk width shall be five feet.

G. On sites where evenly-spaced street trees are not possible due to topography or a uniquely shaped lot, random clustering of street trees may be acceptable, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly-spaced. Such arrangement must be approved by the department of transportation director and the deputy director for planning.

H. A tree well shall be as deep as the root ball and at least twice as wide as the root ball. The bottom of the tree well should be convex and a minimum of four inches of mulch should be placed on the top of the well.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

Article V. - Administration

18.46.300 - Enforcement. 18.46.310 - Appeals. 18.46.320 - Violations-Penalty. 18.46.340 - Severability.

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18.46.300 - Enforcement.

A. Revocation of permit. Permits may be revoked in accordance with the provisions in Chapter 18.02 of this Code.

B. Citations. The city engineer and any person designated by the city engineer, to include but not be limited to the building official and the code enforcement division, are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.310 - Appeals.

A. When the director does not approve a landscape or irrigation plan, or the installation of these improvements, the owner or duly authorized representative may appeal in writing that decision to the construction board of appeals.

Where topography or the unique characteristics of a particular lot are such that the landscape requirements cannot be met, the city engineer or designee may waive up ten percent of the parking requirement below the minimum so that the minimum landscape requirement can be met or alternatively the missing landscape percentage can be waived up to ten percent of the total square footage required. In cases where the property owner disagrees with the determination of the city engineer or designee, the decision may be appealed to the construction board of appeals.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.320 - Violations-Penalty.

A. Civil and criminal penalties. The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this Code, or fails to comply therewith, or with any of the requirements thereof, or who shall has erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

B. Criminal prosecution. Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars. Each day that a provision of this chapter is violated shall constitute a separate offense.

C. Civil remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

1. Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and

 A civil penalty up to five hundred dollars a day when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and

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Comment [AJP5]: David Kanla explained that it is the "combo" inspectors from building services that enforce the ordinance. The inspectors are the ones that sign the building permit before the certificate of occupancy is granted.

3. Other available relief.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

18.46.340 - Severability.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

(Ord. No. 17575, § 1, 6-7-2011, eff. 11-7-2011; Ord. No. 17650, 9-27-11)

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APPENDIX I

RULES AND REGULATIONS NO.5

RULES AND REGULATIONS ESTABLISHING A RATE FOR THE FURNISHING OF WATER SERVICE BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952 NOW THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING WATER RATES SUPERSEDE ALL RATES HERETOFORE FIXED AND ALL ORDINANCES HERETO PASSED WITH REFERENCE TO THE FIXING OF RATES FOR THE FURNISHING OF WATER SERVICE: (KNOWN AS RULES AND REGULATIONS NO.5).

SECTION I

There shall be collected from the users of each and every water service connected to the water system of the El Paso Water Utilities of the City of El Paso, Texas, for use thereof, a monthly charge consisting of a minimum charge plus a commodity charge for water used. For residential customers only, a volume of 4 hundred cubic feet (4 Ccf) will be included in the minimum charge. The following charges shall apply:

A. MONTHLY MINIMUM CHARGES FOR WATER SERVICE. BASED ON SIZE OF METER

Meter Size	Minimum Monthly Bill		
Less than 1"	\$5.18		
1"	\$8.06		
11/2"	\$13.82		
2" 3"	\$16.63 \$33.21		
4"	\$49.58		
6"	\$75.18		
8"	\$128.77		

B. Water used in excess of the volume allowance (4 Ccf) included in the minimum charge shall be billed at the following rates:

Block	Volume	Charge per Ccf
Block 1	Over 4 Ccf to 150% of AWC*	\$1.56
Block 2	Over 150% to 250% of AWC	\$3.68
Block 3	Over 250% of AWC	\$5.27

C. AVERAGE WINTER CONSUMPTION

*Average Winter Consumption (AWC) is the average amount of water used during the most recent December, January, and February billing periods. Any Customer that at the time of service has not established an AWC will be assigned the class average AWC by meter size for their customer classification. If the customer's calculated AWC is lower than the class average then the customer will be assigned the class average AWC by meter size of their customer classification. REPLACEMENT CHARGE

There shall be collected from the users of each and every service connected to the water system, including Local Government Turf Accounts and Very Large Water Users, a monthly Replacement Charge as follows:

Meter Size	Monthly Charge
Less than 1"	\$6.39
1"	\$15.97
1 1⁄2"	\$31.94
2"	\$51.10
3"	\$102.18
4"	\$159.67
6"	\$319.34
8"	\$593.95

E. Charges for services less than the normal 30-day reading cycle shall be calculated in the same manner as a full reading cycle.

F. LOCAL GOVERNMENT TURF IRRIGATION ACCOUNTS

A uniform rate of \$2.01 per Ccf is hereby established for local government turf irrigation accounts serving only an associated turf area of local governments for all usage per acre that does not exceed a per month Ccf usage based on the evapotranspiration information set forth in the following table:

MaximumCcf			Maximum Ccf		
Month	Per Acre	Month	Per Acre		
Jan.	40	July	280		
Feb.	40	Aug.	200		
March	50	Sep.	180		
April	180	Oct.	120		
May	200	Nov.	50		
June	280	Dec.	40		

"Turf irrigation accounts" shall mean an account established for applying water for irrigation and landscaping only, as determined by the PSB's General Manager or his designee.

"Local government" shall mean any county, municipality, village, town, a common or independent school district, hospital district or political subdivision of the State of Texas; excluding from this definition, however, any department, board, or agency of the State of Texas; including, without limitation, any of the following local governmental entities: the City of El Paso, Texas; the County of El Paso, Texas; the El Paso Independent School District; and the El Paso Community College District.

Any usage by the local government turf irrigation accounts in excess of the above monthly allotments shall be billed at the Block 3 rates shown in subsection B above.

Those local government turf irrigation accounts participating in this rate shall be billed at this special rate commencing with meter readings t a k e n after March 31, 1995. Those local

governments that wish to continue participating in this rate shall provide the Water Conservation Department the total acres served by each irrigation only meter, excluding the total areas for parking lots, building, hard surface courts, streets, and any other impervious areas. This information shall be provided to the Water Conservation Department office no later than September 1, 1995. If such information is not provided by this date by those local governments participating on this date, water use for those local governments will be billed in accordance with the procedures and rates shown in subsection B above. Provided, however, any local government participating in the parks and recreation rate on the effective date of this Resolution shall not be required to comply with this paragraph and will continue to be billed under their established allotment, as that allotment may be adjusted in the future. Provided further, this exception shall not exempt any new account for such local government participating in the parks and recreation rate from fully complying with this paragraph.

In the case of multiple yard meters serving one location, the total acreage served must be divided in such a manner as to represent the acreage served per/by each yard meter. If the General Manager, or his designee, after an investigation, determines that an equitable adjustment is required due to pressure variations and other factors, total consumption f or meters looped at a single location must not exceed maximum Ccfs per acre allocated for the location.

No local government non-irrigation usage will be included in this special rate, including, without limitation, the use of water for swimming pools, fountains, and for human and animal consumption.

All local government turf irrigation accounts that modify the size of their landscape or turf area must provide the Water Conservation Department with written notice of the modification to allow the Water Conservation Department to recalculate new allotments.

Where reclaimed water is available, and an irrigation customer does not connect to the reclaimed water system, that customer shall pay the rate established in Section 1-K.

Reclaimed water is considered available if the property abuts on an easement or street with a reclaimed water line capable of providing service.

G. VERY LARGE WATER USERS

Section 15.13.05 of the El Paso Municipal Code, also known as The Water Conservation Ordinance, defines a "Very Large Water User" as a person who uses an average of 100,000 gallons per day or more. Monthly metered water consumption for any person or account having daily water use of 100,000 or more gallons shall be charged in accordance with the following table:

Block 1	0 Ccf to 5,000 Ccf	\$1.95
Block 2	5,001 Ccf to 15,000 Ccf	\$2.45
Block 3	15,001 Ccf to 30,000 Ccf	\$2.94
Block 4	Over 30,000 Ccf	\$3.69

The Monthly Minimum Charge based on the size of the meter and contained in Section I A shall also apply to all Very Large Water Users. No minimum v o I u m e will be included in the Monthly Minimum Charge; all metered use will be charged at the rates noted above.

For existing accounts served by the El Paso Water Utilities Public Service Board, daily water use shall be determined each year based on metered water consumption for the twelve month period ending December 31. Annual water use (in gallons) will be divided by 365 to determine daily water use. Any account determined to have used an average of 100,000 or more gallons per day shall be classified as a Very Large Water User, and the rates contained in Section I G of this Rule and Regulation shall apply for the t w e I v e month period beginning March 1 and ending at the end of February of the following fiscal year. This classification shall apply for the full twelve month period regardless of actual water use. The procedure for determining a Very Large Water User shall be repeated each year based on annual metered water use per account for the twelve months ending Rules & Regulations No. 5 – Amended December 11, 2013 – Page - 3

December 31.

New accounts with an anticipated water use in excess of 100,000 gallons per day will be charged the rates for Very Large Water Users until sufficient data is available for a consecutive twelve month period. This data shall then be used to calculate average daily water consumption and determine whether an account meets the definition of a Very Large Water User.

Local Government Turf Irrigation accounts will be charged in accordance with Section 1-F of this Rule and Regulation, regardless of average daily water use.

H. INCENTIVES FOR RECYCLING

1. All Customers

In order to encourage the use of recycled water by Very Large Water Users, the Utility will assist industries in evaluating alternatives to potable water use by providing water reuse technology seminars, providing water conservation audits, and assisting in providing water application techniques. Industries who recycle at least 25% of their potable water use or who connect to the Utility's reuse water system will be publicly acknowledged for their conservation efforts.

2. Existing Customers (served prior to July 1. 1995)

Very Large Water Users receiving service on July 1, 1995, who recycle a percentage of potable water, either purchased from the PSB and/or produced by the users from wells, as verified by Utility staff, will receive a recycling rebate as follows:

Percent of Potable Water Recycled	Amount of Recycling Reba		
25% to 29%	5% of water bill only		
30% to 50%	10% of water bill only		
>50%	15% of water bill only		

Recycling rebates will be based on the percentage of recycled water used in comparison with the total potable water usage from January through December of each year. Recycling rebates for 1995 will be based on potable water usage and recycling from July through December, 1995. Rebates to qualifying customers will be paid in February for the prior year's recycled water usage. This program only applies to industries in existence as of July 1, 1995.

Very Large Water Users must complete a recycling rebate program application providing the company name, address, telephone and fax numbers, the names and telephone numbers of the plant manager and the person supervising the daily operation of the water recycling system, and a schematic diagram of the potable water and recycled water systems. The Utility will inspect the system and determine eligibility in accordance with these Rules and Regulations, and certify eligibility in writing. Participation will begin with the receipt of the first flow report submitted by the industry. Applications may be submitted to: Water Reclamation and Biosolids Manager-ElPaso Water Utilities.

The following conditions must be met in order to be eligible for recycling rebates:

- a. The account must have been an active account as of July 1, 1995.
- b. Recycle rebates will not apply for new or additional accounts or metered service as a result of expansion or addition of new facilities.
- c. Industries must, at their own expense, purchase and install recycle flow meters and wastewater flow meters. Meters and installation must be Utility approved.

- d. Effluent water, recycle water, and wastewater flow meters must be read each production day and the information recorded in a bound log book and shall be entered into a spreadsheet format. The information in the form of the spreadsheet printouts must be faxed and hand-delivered to the Utility's Water Reclamation and Biosolids Manager ever Friday by 5:00pm.
- e. The hydraulic capacity of all treatment equipment will be assessed by Utility staff. The maximum theoretical recycle percentage will be developed from this flow. No higher percentage will be considered unless the equipment capacity is increased.
- f. Recycled water is intended to be used for production of finished products. Wash water, landscape irrigation, and other similar uses will not count toward the recycle percentage unless they are a minor constituent of overall recycle water usage for production purposes.
- g. The type of recycle equipment will be assessed by Utility staff. Equipment designed only to remove solids will not be counted towards the recycle percentage unless such equipment is integral pretreatment for more advanced treatment. The final product of an approved recycle system must be suitable for actual process use.
- h. By participating in the program, customers agree to allow complete access during normal production hours to Utility employees for the purpose of inspecting equipment, water usage, and records. Water recycling records hall be verified a random by Utility staff.
- i. Participating in the recycling rebate program may be terminated under any of the following conditions: falsification of meter readings, tampering with or bypassing meters, violations of the Rules and Regulations of the Public Service Board, refusal of entry to authorized Utility personnel on official business, failure to keep adequate records, failure to properly operate and maintain equipment.
- I. CITY OF EL PASO LANDSCAPE AND TURF IRRIGATION RATE

A uniform rate equal to the rate established for Block 1, found in Section I(B) is hereby established for the City of ElPaso's landscape and turf irrigation accounts.

"Landscape and turf irrigation accounts" shall mean an account established for applying water for irrigation and landscaping only, as determined by the PSB's General Manager or his designee.

No non-irrigation usage will be included in this special rate, including, without limitation, the use of water for swimming pools, fountains, and for human and animal consumption.

Where reclaimed water is available, and an irrigation customer does not connect to the reclaimed water system, that customer shall pay the rate established in Section 1-K.

Reclaimed water is considered available if the property abuts on an easement or street with a reclaimed water line capable of providing service.

J. <u>BRACKISH WATER RATE</u> -Water containing 1000 mg/L or more of Total Dissolved Solids (TDS) and/or300 mg/L or more of chlorides. The Utility will supply brackish water at a rate of \$1.09 per ccf (advanced secondary treatment reclaimed water rate).

K. <u>NON-GOVERNMENT LANDSCAPE AND TURF IRRIGATION RATE</u> A uniform rate of \$3.68 per hundred cubic feet (Ccf) is hereby established for all nongovernment landscape and turf irrigation accounts.

"Landscape and turf irrigation accounts" shall mean an account established for applying water for landscaping and turf irrigation only, as determined by the PSB's General Manager or his designee.

Non-irrigation usage will not be included in this special rate, including, without limitation, the use of water for swimming pools, fountains, and for human and animal consumption.

L. CONSTRUCTION METER RATES

A uniform rate equal to the rate established in Section 1-K is hereby established for all construction meter accounts. Reclaimed water used for construction purposes will be billed at the rates established in Rules and Regulations No. 6, Section X-A

M. ANNEXATION FEES -1999

For property subject to annexation fees pursuant to a contract, a water connection fee shall be paid at the time of application for meter installation, including fireline and irrigation/yard services, for each three-quarter inch (3/4") equivalent water meter that is connected to the City of EI Paso's water system as follows:

Meter Size	Eastside Annexation Fee	Westside Annexation Fee	
Less than 1"	\$ 621	\$ 897	
1"	\$ 1,553	\$ 2,243	
1 1/2"	\$ 3,105	\$ 4,485	
2"	\$ 4,968	\$ 7,176	
3"	\$ 9,936	\$ 14,352	
4"	\$15,525	\$ 22,425	
6"	\$31,050	\$ 44,850	
8"	\$57,753	\$ 83,421	
10"	\$82,593	\$119,301	

Based on gallons-per-minute (gpm) water flow, El Paso Water Utilities Public Service Board Rules a nd Regulations No. 1, Section VII-J.

The water connection fee for the Eastside shall be increased by three percent (3%) on December 1, 2000, and each year thereafter, compounded annually, rounded to the nearest dollar, in accordance with City of El Paso Ordinances 014262 and any amendments thereto. The water connection fee for the Westside shall be increased by three percent (3%) on September 1, 2000, and each year thereafter, in accordance with City of El Paso Ordinances 014200 and any amendments thereto. Payment of the water connection fee shall be due at the time of application for water connection to the system.

N. EASTSIDE ANNEXATION FEES- 2005

For property subject to annexation fees pursuant to a contract, a water connection fee shall be paid at the time of application for meter installation, including fireline and irrigation/yard services, for each three-quarter inch (3/4") equivalent water meter that is connected to the City of El Paso's water system as follows:

Meter Size	EASTSIDE Annexation Fee
	Water(\$)
Less than 1"	\$ 566
1"	\$ 1,396
11/2 "	\$ 2,830
2"	\$ 4,528
3"	\$ 9,056
4"	\$14,150
6"	\$28,300

EASTSIDE Annexation Fee
Water(\$)
\$52,827
\$75,467

The Annexation Fee shall be increased by three (3) percent on March 1, 2006, and each year thereafter, compounded annually, rounded to the nearest dollar. Payment of the water connection fee shall be due at the time of application for water connection to the system.

SECTION II

There shall be collected from each and every user of a connection to the water system for the purpose of providing Standby Fire Protection a monthly standby charge based on the size of the service as follows:

Size of Service	Monthly Charge			
1/2"	\$6.60			
2"	\$9.22			
3"	\$13.09			
4"	\$17.01			
6"	\$23.60			
8"	\$39.32			

When any water is used through a standby fire service, the charge shall be the Monthly Charge plus \$1.56 for each 100 cubic feet for the first 1000 cubic feet as measured by the detector meter. Registration of flow in excess of 1000 cubic feet in any billing cycle shall because to indicate that large volumes of water are being used that are only partially indicated by the detector meter and the excess volume shall be determined by multiplying the volume measured by the detector meter less 1000 cubic feet, by two times the ratio of the area of the fire line to the area of the by-pass line, both in inches, and this volume billed at \$1.56 per estimated 100 cubic feet.

If consumption through the fire line is determined to have been caused by an underground leak which the customer could not have reasonably detected, then the Utility shall allow relief to the customer under PSB <u>Rules and</u> Regulations No. 5, Section VII, and the Utility will waive the two times ratio calculation charge. If consumption through the fire line is incurred due to an actual fire on the premises, then only the fixed meter charge will be assessed to the customer.

SECTION III

All of the aforementioned charges apply to water service to property within the City of El Paso. Where the water connection provides service to property outside the City Limits of El Paso, the charge for such service shall be 1.15 times the rates for similar service to customers, whose property is inside the city limits, including the monthly Water Supply Replacement Charge.

SECTION IV

There shall be collected from the City of El Paso for each fire hydrant installed on the lines and systems of the El Paso Water Utilities-Public Service Board of the City of El Paso, Texas, a monthly charge of \$5.92 for hydrants located on public right-of-way or at other locations approved by the City's Fire Chief.

SECTION V

Payment of the monthly service charges is due 14 days after the date of billing. A termination notice will be generated on the 15th day, allowing an additional 7 days from the billing due date. Services will be scheduled for disconnection the following work day unless the billed amount has been paid.

A charge of \$12.00 per \$100 of the delinquent amount or any part thereof will be assessed when the "past due" amount of a bill is not paid before a Field Service Worker is dispatched to disconnect the Rules & Regulations No. 5 – Amended December 11, 2013 – Page - 7

service for non-payment. If payment is made at the service location prior to the service being disconnected, no other charge shall be made. If the service is turned off for non-payment, an additional charge of \$20.00 will be made to restore the service if the service is restored or the request to restore service is received between 7:00 A.M. and 4:00 P.M. on a normal working day. A charge of \$25.00 will be made for restoration of service under all other circumstances. In the event that service is not restored until after the customer's bill has been finaled out, a new guarantee deposit and customer account fee must be paid.

A disconnection charge of \$3.00 per dwelling or business unit, in addition to the charges stated above, will be assessed when the service connection provides water to a building or buildings occupied by two or more individuals, families, or businesses who receive water service from one metered connection. Said special charge, in addition to any delinquent amount or other delinquency charges shall be paid prior to the restoration of service to the premises.

A separate charge of \$100.00 will be made when water service to a property is restored by someone other than an authorized representative of the EL PASO WATER UTILITIES.

A charge of \$25.00 will be added to each customer's account that is affected when the customer makes payment by check and said check has been returned for insufficient funds or other reasons by a financial institution.

SECTION VI

No customer or person shall use water from the City system except from a metered connection installed by the Utility. All meters are the property of the Utility and shall not be damaged, removed or altered by the customer or non-utility personnel. A charge of \$15.00 plus the cost of correcting any such damage and the estimated cost of the water used shall be paid before water is reconnected to any customer or property that has or has permitted the meter or service connection to be altered in such a way as to not accurately meter all of the water that flowed through the service connection.

SECTION VII

The Utility shall allow an adjustment on all leaks which the customer could not have reasonably detected. The adjustment will only be allowed on the highest billing (one month consumption) when the Utility, in its sole discretion, determines that the loss of water could not have been reasonably detected by the customer using the service, such as a leak beneath a cement floor and/or running commodes. All other water lost through other causes is the responsibility of the customer using the service. Nothing herein shall relieve the customer from repairing such leaks when the customer has an obligation to do so under the Water Conservation Ordinance, Chapter 15.13. of the City code. The Utility will bear 50% and the customer the other 50% of the water lost. The amount of water lost will be determined by comparing the usage when the leak occurred and the previous year's usage during the same billing cycle. If the customer does not have a previous usage, a monthly average usage before the leak occurred will be considered in determining the adjustment. If such an adjustment is granted, no such adjustment of this nature will be made on the same property for a period of 24 months from the month in which the adjustment ed.

SECTION VIII

These regulations and charges shall become effective on meter readings after March 31, 1994 and shall remain in effect until amended or changed by the Public Service Board.

SECTION IX

This Rule and Regulation is a part of the other Rules and Regulations of the Public Service Board and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any part of the Rules and Regulations be held void, such part shall be deemed severable and invalidity thereof shall not affect the remaining parts of these <u>Rules and</u> <u>Regulations</u>.

PASSED, APPROVED and ADOPTED the 27th day of March, 1991 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTION II REVISED, APPROVED and ADOPTED the 25th of September, 1991 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-D REVISED, APPROVED and ADOPTED the 12th of February, 1992 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-F PASSED, APPROVED and ADOPTED the 24th of February, 1993 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-A, 1-B, 1-F AND SECTION III REVISED, APPROVED and ADOPTED the 23rd of February, 1994 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTION 1-F AND SECTION II REVISED, APPROVED and ADOPTED the 8th of March, 1995 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION G AND SECTION H PASSED, APPROVED and ADOPTED the 14th of June, 1995 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A), I(B), I(C),I(D),and SECTION III REVISED, APPROVED, and ADOPTED the 28th of February, 1996, by the Public Service Board of the City of EI Paso.

RULES & REGULATIONS NO.5, SECTION IPASSED, APPROVED and ADOPTED the ϑ^{th} of May, 1996 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION J PASSED, APPROVED and ADOPTED the 11th of December, 1996 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTION I(D) and SECTION V, REVISED, APPROVED and ADOPTED the 18th of December, 1997 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I (B), I(F), I(G), 1(1), I(J), and V REVISED, APPROVED and ADOPTED the 8th of December, 1999 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(K) and I(L) PASSED, APPROVED and ADOPTED the 8th of December, 1999 by the Public Service Board of the City of EI Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A), I(B), I(F), I(G), I(J), and II REVISED, APPROVED and ADOPTED the 24th of January, 2001 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A), I(B), I(D), I(F), I(G), I(J), and II REVISED, APPROVED and ADOPTED the 23rd of January, 2002 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(L) REVISED, APPROVED and ADOPTED the 13th of February, 2002 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (A,B,D,F,G,I,J,& K), and Section II, REVISED, APPROVED and ADOPTED the 8th day of January, 2003 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A,B,D,F,G,I,J,& K), and Section II, REVISED, APPROVED and ADOPTED the 14th day of January, 2004 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTION VII, REVISED, APPROVED and ADOPTED the

12th day of January, 2005 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (J,K,L,M,N), REVISED, APPROVED and ADOPTED the 12th day of January, 2005 by the Public Service Board *of* the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(J,K,L,M,N), ADDED, REVISED, APPROVED and ADOPTED the 25th day of January, 2006 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (A,B,D,F,G,J,K), SECTION II, ADDED, REVISED, APPROVED and ADOPTED the 13th day of December, 2006, by the El Paso Water Utilities Public Service Board *of* the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (A,B,F,G,I,J,L) AND SECTION II, ADDED, REVISED, APPROVED and ADOPTED the 9th day of January, 2008, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (A,B,C,D,F,G,J,&K), Section II, Section V and Section VIREVISED, APPROVED and ADOPTED the 14th day of December, 2011 by the Public Service Board of the City of ElPaso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I (A,B,D,F,G,J,K,M,N), Section II and Section V REVISED, APPROVED and ADOPTED the 12th day of December, 2012 by the Public Service Board of the City of ElPaso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(C, J, M, N) REVISED, APPROVED and ADOPTED the 11th day of December, 2013 by the Public Service Board *of* the City of ElPaso, Texas.

PUBLIC SERVICE BOARD:

APPROVED AS TO FORM:

Richard Schoephoerster, Chair

ATTEST:

and the state of the second

David Nemir, Secretary-Treasurer

Robert D. Andron, General Counsel

El Paso, Texas, Code of Ordinances >> Title 15 - PUBLIC SERVICES >> Chapter 15.13 - WATER CONSERVATION >>

Chapter 15.13 - WATER CONSERVATION

Sections:

15.13.005 - Definitions. 15.13.010 - Water conservation compliance. 15.13.020 - Mandatory compliance—Lawn and landscape watering. 15.13.030 - Nonessential water use restrictions. 15.13.040 - Declaring of nuisance of exist. 15.13.040 - Declaring of nuisance of exist. 15.13.060 - Variances and permits. 15.13.060 - Variances and permits. 15.13.080 - Penalty. 15.13.080 - Dene reforcement action. 15.13.100 - Exceptions to enforcement. 15.13.110 - Issuance of citations. 15.13.120 - Water emergency—Restriction of water use. 15.13.100 - Turf grass prohibited. 15.13.100 - Drought and water emergency management response plan.



15.13.005 - Definitions.

All definitions contained in Section <u>15.12.005</u>, Definitions, of <u>Chapter 15.12</u> "Water and Sewer System" are incorporated into this chapter by reference.

(Ord. 14805 (part), 2001)

15.13.010 - Water conservation compliance.

No person who uses water from the city water supply system, the management and control of which the city council delegated to the El Paso water utilities public service board (public service board) by Ordinance No. 752, shall make, cause, use or permit the use of water received from the public service board for residential, commercial, industrial, agricultural, governmental or any other purposes in a manner contrary to any provisions of this chapter. Provided further, that no person shall make, cause, use or permit the use of water in a manner contrary to Section 15.12.075 of the city code or Section 15.13.040 of this chapter, regardless of whether that water is received from the El Paso water utilities public service board. When used in this chapter, the terms "commercial," "industrial," and "residential" shall have the meaning and usage consistent with the usage of those terms under_Title 20, Zoning, of the city code.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.020 - Mandatory compliance—Lawn and landscape watering.

The following mandatory restrictions shall apply to all customers of, or persons who use or receive water from the public service board:

- A. All outdoor irrigation of grass, trees, plants or other vegetation on residential and commercial property on the side of the street on which building addresses are even numbered, may be done only Tuesdays, Thursdays and Saturdays; and on the side of the street on which buildings are odd numbered, such vegetation may be irrigated only on Wednesdays, Fridays and Sundays. In case of corner buildings having both odd and even numbers, the number carried on the books of the public service board shall control.
- B. All outdoor irrigation of grass, trees, plants or other vegetation on industrial properties, parks, golf

courses, schools and cemeteries may be permitted only on Mondays, Wednesdays and Fridays. All other properties, not falling within the industrial classifications described in this subsection, shall be considered residential and shall be watered in accordance with the requirements of subsection A of this section.

- C. From April 1st to September 30th, all outdoor irrigation of vegetation is prohibited between the hours of ten a.m. and six p.m.
- D. The review board of the public service board shall have the authority to review special situations and hardship cases upon application of any person in accordance with the procedures set forth in Section <u>15.13.060</u> of this chapter.

(Ord. 14805 (part). 2001: Ord. 10942 § 2, 1992: Ord. 10503 § 2 (part), 1991)

15.13.030 - Nonessential water use restrictions.

The following restrictions shall apply to all customers of or persons who use or receive water from the public service board:

- A. 1. The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment shall be done only with a hand-held bucket or a hand-held hose equipped with a shut-off nozzle that completely shuts off the flow of water, even if left unattended. This restriction does not apply to the washing of the above-listed vehicles or mobile equipment when conducted on the premises of a commercial car wash or a commercial service station. When used in this chapter, "bucket" means a bucket or other container holding five gallons or less;
 - The washing of automobiles, trucks, trailers, boats, and other types of mobile equipment for fund-raising purposes must be conducted at a commercial car wash.
 - 3. Prior to connection of water service to any commercial car wash issued building permits for construction after June 1, 2002, a certification shall be provided to the El Paso Water Utilities that the car wash uses no more than fifty gallons of water per vehicle washed. Absent such certification, no water service will be provided.
- B. The following uses of water are defined as "wasting water" and are absolutely prohibited:
 - Irrigating any turf grass, tree, plant, or other vegetation, or otherwise utilizing the city water supply system to permit or cause water to pond, or to flow, spray or otherwise move or be discharged from the premises of any person responsible for any property within the corporate limits of the city, or which receives water from the public service board to or upon any street, alley, gutter or ditch, or other public right-of-way, or into a storm water drainage system or facility;
 - 2. Failing to repair a leak within five working days of the discovery of same;
 - 3. Washing sidewalks, driveways, parking areas, tennis courts, patios or other impervious surface areas with a hose, except in emergencies to remove spills of hazardous materials or to eliminate dangerous conditions which threaten the public health, safety, or welfare. "Impervious surface area" means any structure, street, driveway, sidewalk, patio or other surface area covered with brick, paving, tile or other impervious or nonporous material.
- C. When referred to in this subsection, "swimming pool" shall mean any portable or permanent structure containing a body of water twenty-four inches or more in depth and containing one thousand one hundred twenty-two gallons or more of water and intended for recreational purposes, including a wading pool and as more fully defined under Sections 20.02.1064 and 20.02.1066 of the City Code. All swimming pools, which are constructed after the effective date of the ordinance codified in this chapter, must be equipped with filtration, pumping and recirculation systems. All existing swimming pools not equipped with such shall, within five years of April 1, 1991, be converted to filtration, pumping and recirculation of the pool owner or operator for a variance under Section <u>15.13.060</u> of this chapter, grants such a variance or extension of time. It is unlawful to drain swimming pools into the street, alley, gutter or other public right-of-way, ditch, or storm water drainage system or facility. Swimming pools may be drained into the sanitary sewer system only in coordination with El Paso Water Utilities' Wastewater System Division Manager.
 - D. New or replacement bleeder lines from evaporative coolers shall not be larger than one eighth-inch

inside diameter. Bleeder lines shall be conducted outside and discharged so that the effluent can be used for water landscaping and other outdoor vegetation, except where this would be impractical or unfeasible.

E. No person shall use water for non-residential single pass cooling or heating purposes unless the water is reused for other purposes. "Single pass cooling or heating" means the use of water without recirculation to increase or decrease the temperature of equipment, a stored liquid or a confined airspace.

(Ord. 15106 § 1, 2002; Ord. 14805 (part), 2001: Ord. 10505 § 2 (part), 1991) (Ord. No. 17393, § 9, 8-24-2010, eff. 9-1-2010)

15.13.040 - Declaring of nuisance of exist.

The flow of produced water from property into streets, alleys, gutters, and other public rights-of-way, ditches, or into a stormwater drainage system or facility is contrary to the public health, safety and welfare of the citizens of El Paso and is therefore declared to be a nuisance. "Produced water" shall have the same meaning as set forth in Section <u>15.12.005</u> (A) of the City Code. Both the city attorney's office and the attorney for the public service board are authorized to take legal action to abate such a nuisance, including but not limited to seeking injunctive relief. This authorization to seek injunctive relief, or other legal action to abate such a nuisance shall not preclude prosecution for a violation of this chapter.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991) (Ord. No. 17393, § 10, 8-24-2010, eff. 9-1-2010)

15.13.050 - Large and very large users.

- A. For the purpose of this section, a large water user is defined as "any person who uses an average of ten thousand gallons per day or more from the water supply system under the management and control of the public service board." A very large water user is defined as "any person who uses an average of one hundred thousand gallons per day or more from the water supply system under the management and control of the public service board."
- B. All new very large water users, or existing very large water users, who apply for new service or an expansion of an existing service shall obtain approval from the public service board before being permitted to connect to the system or to expand within the system. Such large water users shall submit a water conservation plan to the Water Conservation Manager which contains a water use justification report that relates the water consumption to recycling potential and meets the requirements of subsection C of this section. The water conservation manager shall submit a recommendation, based upon this submittal to the public service board which shall render its decision within thirty days of the receipt of the recommendation from the water conservation manager. The water conservation manager shall review all water conservation plans submitted to determine whether the plan meets the requirements of this section. The public service board may approve the application for service with or without conditions, deny the application, or take any other action consistent with the policies expressed in this chapter.
- C. All large water users who use more than an average of twenty-five thousand gallons per day shall prepare and submit to the water conservation manager, within six months of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. All large water users, who use more than an average of ten thousand gallons per day but less than twenty-five thousand gallons per day, shall prepare and submit to the water conservation manager, within one year of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. All large water users, who use more than an average of ten thousand gallons per day but less than twenty-five thousand gallons per day, shall prepare and submit to the water conservation manager, within one year of April 1, 1991, a water conservation plan, in accordance with this section as a condition for continued use or new service. The water conservation plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water. All conversion to recycling and reuse of water, if required, shall be accomplished within five years from the date of submittal of the water conservation plan. The water conservation manager may require additional information to be submitted which he/she deems necessary. If the water conservation plan demonstrates that the large water user will use reasonable diligence to avoid

waste and achieve water conservation, the water conservation manager shall approve the plan. All approved water conservation plans shall be revised every five years. A fee of twenty-five dollars per plan submittal shall be assessed to defray administrative costs.

- D. In considering approval of a water conservation plan, the water conservation manager and the public service board shall consider the climatic conditions, best management practices, best available techniques and technologies, the financial capacity of the applicant, and any other such factors which affect the policy of the city as expressed in the water resource management plan or the conservation policy of the State of Texas, as expressed in Section 1.003 of the Texas Water Code or applicable water conservation regulations providing for the conservation and development of the state's water resources adopted by the Texas Commission on Environmental Quality.
- E. Any person whose water conservation plan is disapproved by the water conservation manager may appeal the decision to the review board, the public service board and the city council in accordance with the procedure set forth in Sections <u>15,13,060</u> and <u>15,13,070</u> of this chapter.
- (Ord. 16822 § 1 (part), 2008; Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.060 - Variances and permits.

- A. Owners of newly seeded or sodded turf grass and landscaping and new residential and commercial developments may receive a landscape watering permit upon application and approval by the water conservation manager allowing for daily watering of the same until the turf grass and landscaping are established, which shall not exceed thirty days.
- B. The planning and development manager, water supply manager and general manager of the public service board, or his designee, shall be immediately established as a review board to review hardship and special cases which cannot fully comply with the provisions of this chapter after recommendation by the water conservation manager. The review board will review hardship or special cases to determine whether a particular case warrants a variance or permit and shall hear appeals from any person whose water conservation plan is rejected by the water conservation manager. The review board shall consider the facts of each case separately and decide whether to grant a variance or permit within ten working days of the receipt of a properly completed "Application for Variance/Permit" form which shall be developed by the water conservation manager. A variance shall be granted only for reasons of economic hardship, medical hardship, or if there is a legitimate public health or safety concern that will be promoted or fulfilled as a result of granting the permit or variance. An "economic hardship" is defined as a threat to an individual's or business' primary source of income, and where not granting the variance would result in material structural damage to the person's property. A "medical hardship" is defined as a situation where it is determined that a person's ill health or medical condition requires a dependency upon others to water or irrigate. Under no circumstances shall inconvenience or the potential for damages of landscaping be considered an economic hardship or significant damage to property which justifies a variance. The review board shall authorize only the implementation of equitable water use restrictions which further the intent of the public service board's water conservation plan. Any special water use restrictions authorized by the review board in each hardship or special case shall be set forth on the face of the variance or the permit. A fee of twenty-five dollars shall be assessed per application to defray administrative costs. The fee may be waived upon the execution of an affidavit stating that applicant for the variance is unable to pay the fee and such affidavit shall be sworn before a notary public. Final determination of an applicant's inability to pay shall be made by the water conservation manager.
- C. A variance or permit issued under this section expires under its own terms and conditions, but in no event shall a variance or permit be issued for a period of more than five years from the date of issuance. Any person issued a variance or permit must fully comply with all the provisions of this chapter as an express condition of that person's variance or permit.
- D. Any person who is issued a variance or permit and uses water supplied or delivered by the public service board shall provide proof of such variance or permit upon demand by any person authorized to enforce this chapter. Upon conviction of violating any provision of this chapter, the review board may revoke or suspend any permit or variance previously granted. Provided, however, the review board shall notify the permittee of the proposed revocation five working days before taking such action, and if within that time the permittee

requests a hearing in writing, the permittee shall be given an opportunity to be heard by the review board prior to taking such action.

E. No prosecution for a violation of any provision of this chapter may be suspended for the sole purpose of allowing a person to obtain a variance or permit.

(Ord. 14805 (part), 2001: Ord. 10942 § 3, 1992; Ord. 10503 § 2 (part), 1991)

15.13.070 - Appeal to public service board and city council.

- A. Any person who applies for a permit or variance under Section <u>15,13,060</u> and is denied such permit or variance by the review board, or whose permit or variance is revoked or suspended by the review board, or whose water conservation plan is disapproved by the review board, may appeal the decision of the review board by filing an intention to appeal in writing with the general manager of the public service board within five working days of the review board's decision. If a proper appeal is timely filed, the public service board will hear the appeal within thirty days of the time the appeal is filed with the general manager. The public service board may take any action it deems necessary with regard to the appeal including denying same, granting same, or granting the review board shall be final and binding if there is no timely filing of an appeal in accordance with this section.
- B. Any person, whose appeal to the public service board is denied, may appeal the decision of the public service board by filing an intention to appeal in writing with the city clerk within five working days of the public service board's decision. If a proper appeal is timely filed, the city council will hear the appeal within thirty days of the time the appeal is filed with the city clerk. The city council may take any action it deems necessary with regard to the appeal including denying same, granting same or granting the requested permit or variance with conditions, or approving the water conservation plan. The decision of the city council shall be final and binding. The decision of the public service board shall be final and binding if there is no timely filing of an appeal in accordance with this section.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.080 - Penalty.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. The violation of each provision of this chapter, and each separate violation thereof, shall be deemed a separate offense and shall be punished accordingly.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.090 - Other enforcement action.

Nothing contained in Section <u>15.13.080</u>, or any other provision of this chapter, shall prevent either the public service board or the city from seeking compliance with or enforcement of this chapter, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce the provisions of this chapter. Both the city attorney's office and the public service board's attorney are authorized to institute injunctive relief or any other civil action deemed necessary to enforce compliance with the provisions of this chapter. The public service board's attorney has no authority for criminal enforcement under this chapter.

(Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.100 - Exceptions to enforcement.

The following shall constitute exceptions from compliance with the provisions of this chapter:

- A. The water is a result of natural events such as rain or snow;
- B. The flow is a result of temporary failures or malfunctions of the water supply system;
- C. The flow is a result of water used for firefighting purposes including the inspection and pressure testing

of fire hydrants or the use of water for firefighting training activities;

- D. The use of water is required for the control of dust or the compaction of soil as may be required by this code;
- E. The water is used to wash down areas where flammable or otherwise hazardous material has been spilled and creates a dangerous condition;
- F. The water is used to prevent or abate public health, safety or accident hazards when alternate methods are not available;
- G. The water is used for routine inspection or maintenance of the water supply system;
- H. The water is used to facilitate construction within public right-of-way in accordance with the requirements of the city and good construction practices;
- The use of water is permitted under the terms of a variance, permit or compliance agreement granted by the review board or the public service board;
- J. The water that is used for street sweeping, sewer maintenance or other established utility and public works practices;
- K. Watering contrary to the even/odd watering requirements, under Sections <u>15.13.020</u>(A) and <u>15.13.020</u>(B), and from the time of day watering requirements under Section <u>15.13.020</u>(C), may be permissible for one day only where application of chemicals requires immediate watering to preserve an existing lawn. In cases of commercial application, a receipt from a commercial lawn treatment company indicating the date of treatment, the address of the property treated, the name and address of the commercial contractor, and the chemical treatment required shall constitute evidence that the owner or person responsible for the property is entitled to this exception. Where treatment with a noncommercial application of chemicals requires immediate watering to preserve an existing lawn, the owner or person responsible for the property must contact the water conservation department prior to the application of chemicals and provide evidence satisfactory to the water conservation manager for approval of this exception;
- Outdoor irrigation necessary for the establishment of newly seeded or sodded turf grass and landscaping in new residential and commercial developments;
- M. Plants which cannot be kept alive without daily watering may be permitted to be watered from a bucket but not from the use of a hose on the days when watering is prohibited.

(Ord. 14085 (part), 2001: Ord. 10942 § 4, 1992; Ord. 10503 § 2 (part), 1991)

15.13.110 - Issuance of citations.

The water conservation manager or designee, or any other personnel authorized to issue class C misdemeanor citations are authorized to issue citations for violations of this chapter.

(Ord. 14805 (part), 2001: Ord. 13152 § 129, 1997: Ord. 10503 § 2 (part), 1991)

15.13.120 - Water emergency—Restriction of water use.

The general manager may implement the following additional restrictions and regulations curtailing water use upon the declaration of a water emergency by the mayor upon recommendation of the public service board:

- A. Prohibit all restaurants from serving water to their customers except when specifically requested by the customer:
- B. Prohibit the operation of any ornamental fountain or similar structure;
- C. Suspend the issuance of all variances or permits hereunder;
- D. Prohibit the filling, refilling or adding of water to all swimming pools;
- Prohibit the washing of all vehicles and equipment except upon the premises of a commercial car wash;
- F. Require that the washing of motor vehicles, airplanes, boats or other types of mobile equipment, upon the immediate premises of a commercial car wash or a commercial service station, shall occur only

between the hours of twelve noon and five p.m.

The mayor may declare a water emergency in case of a severe drought, in the event of any condition which interrupts the ability of the public service board to supply water, where curtailment of the use of water is necessary due to war, a natural disaster, to protect the public health, safety or welfare, or to preserve the water supply. In the event such water emergency is to continue for more than five days, such measures must be passed by resolution by majority of city council in order for the declaration of emergency to continue beyond the initial five day period. During such a water emergency, the general manager may impose any additional restrictions on the use of water from the city's water supply system in all or in any part of the city as the city council may authorize.

(Ord. 15106 § 3, 2002: Ord. 14805 (part), 2001: Ord. 10503 § 2 (part), 1991)

15.13.130 - Turf grass prohibited.

- A. Turf grass is prohibited in all parkways, narrow strips of land and sloped areas within new residential or commercial sites for which a building permit is issued after June 1, 2002, unless irrigated with sub-surface irrigation. For purposes of this section, "sloped areas" means an area with a slope ratio of one to three or greater from the horizontal. "Sub-surface irrigation" means a low pressure irrigation system installed below the surface of the ground or mulch, consisting of a water distribution system equipped with pre-installed water emitters that are rated by gallons per hour, and that is suitable for turf grass irrigation.
- B. Turf grass for residential sites after June 1, 2002, shall not be used for more than fifty percent of the total area to be landscaped (front and back yard).
- C. Turf grass for commercial sites after June 1, 2002, shall not be used for more than thirty-three and one-third of the total area to be landscaped (front and back yard).

(Ord. 15106 § 2, 2002: Ord. 14805 (part), 2001)

15.13.140 - Drought and water emergency management response plan. 🦑

It shall be unlawful to violate the imposed provisions of the drought and water emergency management response plan, dated November, 2002, after the declaration of a drought or water emergency and imposition of restrictions in accordance with the plan.

(Ord. 15375. 2003: Ord. 14805 (part), 2001)

APPENDIX IV

RULES AND REGULATIONS NO.17 DROUGHT AND WATER EMERGENCY MANAGEMENT RESPONSE RULE

PURSUANT TO THE AUTHORITY VESTED IN THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES, UNDER TEXAS GOVERNMENT CODE SECTION 1502.070, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS MAY 22, 1952, 30 TEXAS ADMINISTRATIVE CODE SECTION 288.20, DROUGHT CONTINGENCY AND CHAPTER 15.13 WATER CONSERVATION OF THE EL PASO MUNICIPAL CODE; BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULE AND REGULATION NO. 17 CONCERNING A DROUGHT AND WATER EMERGENCY MANAGEMENT RESPONSE RULE IS ESTABLISHED AND EFFECTIVE.

SECTION I GENERAL

The Drought and Water Emergency Management Response Rule for the City of El Paso and the El Paso area served by the El Paso Water Utilities Public Service Board (Public Service Board) is an integral part of the overall Water Resources Management Plan for the El Paso area in compliance with State and Local law. The City of El Paso, El Paso Municipal Code Section 15.12.010, sets out that the Public Service Board is authorized to promulgate Rules and Regulations on all subjects relevant to the operation of the City's water and sewer systems, which Rules and Regulations shall have like effect as if adopted by ordinance.

Drought is a naturally occurring climate condition in the West and has occurred in varying severity numerous times and will occur again. The purpose of Rules and Regulations No. 17 is to provide a management framework for dealing with severe drought. In addition, these Rules and Regulations will be used to manage temporary or sudden water emergencies which result in temporary loss or reduction in water or wastewater service due to other non-climate-related factors or conditions.

As El Paso becomes more dependent on the Rio Grande River as a renewable water source, it becomes more vulnerable to long-term, drought-induced water shortages. In the event surface water deliveries to water treatment plants are curtailed, water deliveries to customers may be required to be curtailed. Rules and Regulations No. 17 have as one of its major purposes to provide an equitable management framework to deal with curtailed water deliveries.

The Drought and Water Emergency Management Response Rule is triggered as the result of reductions in surface water allotment from the Rio Grande Federal Reclamation Project or as a result of the inability to satisfy system water demands for any other reason. The Rule sets out response Stages based on allotment of surface water or when demand for water is projected by the Public Service Board to exceed supply. Each Stage is associated with a menu of possible response measures. Each successive Stage being from Stage I to Stage III represents a response to an increasingly severe condition and includes an increasingly stringent list of response measures.

Although the President/CEO of EI Paso Water Utilities (EPWU) may ask at any time he or she deems necessary for a voluntary reduction in water consumption by customers, the Drought and Water Emergency Response Rule is intended to provide a structured framework of responses in Stages that is available and noticed to the public in advance of the need to implement such emergency measures.

SECTION II PURPOSE

The purpose of this Drought and Water Emergency Response Rule is:

1. To provide for measured, contingency plans to manage a drought or water emergency.

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- To continue to deliver to the maximum extent possible during a drought or water emergency a costeffective, adequate, safe and reliable supply of high quality water to the customers.
- To identify successful public information strategies which will inform and motivate the community to reduce normal water consumption to drought allowances.
- To evaluate water emergency and drought management practices in various similar sized cities around the United States and recommend the best practices use in El Paso.
- To identify critical points of change which would result in an acute or long-term water outage in the service area and to establish preemptive measures to address such conditions.
- To recommend a programmed response for each Stage which would most effectively reduce water consumption to the available supply level with the least adverse impact to El Paso Water Utilities customers.
- 7. To comply with local, state and federal laws for drought or water emergency contingencies.

SECTION III PUBLIC SERVICE BOARD WATER RESOURCES MANAGEMENT

Since the beginning of the 20th Century, El Paso County has relied on both surface water and groundwater wells for its municipal water supply. Currently, El Paso Water Utilities supplies approximately 90% of all water used for municipal purposes in El Paso County. Surface water is supplied from the Rio Grande Federal Reclamation Project. The Rio Grande River flows that are diverted to El Paso are primarily derived from snowmelt runoff in southern Colorado and northern New Mexico. Historically, there are also occasional flood surges associated with major storms during the summer monsoon season. Spring runoff is stored in the Elephant Butte Reservoir in southern New Mexico and the El Paso area.

EPWU is a customer of the local irrigation district (El Paso County Water Improvement District No. 1) and obtains water based on its ownership of water rights land in the Rio Grande Federal Reclamation Project area and the leasing of water rights from agricultural irrigation water rights holders in El Paso County.

EPWU surface water treatment plants have a combined capacity of 100 million gallons per day. Under normal river flow conditions, the plants operate seven months during the year, i.e., during the programmed irrigation season. Currently, El Paso has water rights of about 70,000 acre feet per year from the Rio Grande Federal Reclamation Water Project.

Groundwater supplies are pumped by wells from the Mesilla Bolson and the Hueco Bolson. The Mesilla Bolson is an underground water aquifer located in the Canutillo area and is used to provide water for the western part of El Paso. The Hueco Bolson is an underground water aquifer located on the eastern side of the Franklin Mountains and is used as a primary water supply for northeast and east El Paso. Both aquifers are regional in their extent and underlie portions of New Mexico, Texas and Chihuahua, Mexico.

El Paso Water Utilities conjunctively uses surface water and groundwater to meet water demands. Based on a full Rio Grande River allotment, use of surface water will be maximized and pumping from the Hueco Bolson is minimized. Conversely, during times of protracted drought with resulting low Rio Grande River allotment, pumping from the Hueco Bolson must be maximized. This includes maximizing the use of the Kay Bailey Hutchison Desalination Plant. During a severe drought, pumping from the Mesilla Bolson will also increase.

Conjunctive use management of surface water and groundwater resources recognizes that there are limits to surface water supplies and limits to groundwater supplies. The management of local groundwater use requires

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the recognition of limits with respect to the ability of local groundwater basins to supply water readily over the long term, measured in decades.

As the Regional Water Supply Planner, El Paso Water Utilities is a member of the Far West Texas Regional Water Planning Group. As a member of this group and as required by State law, EPWU prepares and updates a 50-year water plan. The plans from the various regions of the State provide an evaluation and projection of current and future populations, water demands, water supply sources, water management strategies and costs. Planning and implementation of future water supply projects will allow the City to meet future water demands. However, such projects will not negate the need for the City to reduce its water usage over time and, in some instances, mandate certain drought contingencies during times of severe drought or water emergencies.

In addition to water supply projects, it may be necessary from time-to-time for EPWU to seek variances from the Texas Commission on Environmental Quality (TCEQ) to utilize groundwater supplies that, while still potable, may not meet maximum contaminant levels for sulfate, chloride, iron, manganese or other total dissolved solids. Such measures will utilize groundwater of secondary drinking water standards, which, although the water will be safe to drink, it may not be as palatable as customers are used to.

SECTION IV NOTIFICATION, INITIATION AND TERMINATION OF DROUGHT AND WATER EMERGENCY ACTION OR STAGES

At the request of the President/CEO of EI Paso Water Utilities and based on his or her assessment of the situation, the Mayor may declare a drought or water emergency in the event of any condition that significantly interrupts the ability of the Public Service Board to supply water to its customers. Initially, actions based on this declaration may include any measure the President/CEO deems necessary to respond to the drought or water emergency, to include any part of the drought and water emergency stages listed herein.

The President/CEO will be responsible for notifying the Director of the Texas Commission on Environmental Quality within five (5) days following the implementation of any mandatory water use restriction. In the event that the drought or water emergency is expected to continue for more than five (5) days, the President/CEO shall make a report to the Chair of the Public Service Board and the Mayor setting out the nature and expected severity of the drought or water emergency. The Mayor shall call a City Council meeting to have the City Council adopt the continuing use of the Rule.

During the period of time covered by the drought or water emergency, the President/CEO will implement and direct such measures as he or she may deem necessary to be taken as set forth herein to include, but not by way of limitation, the implementation of the set out Stages. Such other measures may be implemented as the President/CEO may deem necessary or appropriate to respond to the drought or water emergency to be taken as set forth herein to include, but not by way of limitation, the implementation of the set out Stages. Such other measures may be implemented as the President/CEO may deem necessary or appropriate to respond to the drought or water emergency to find the minimum loss of property and due consideration for the public health and safety. The Public Service Board shall be responsible to see that all public notification and outreach education measures and activities related to the drought or water emergency and such restrictions and Stages as have been implemented shall be taken.

In a declared drought or water emergency, any combination of management response options may be used system-wide or in any section of the region as circumstances may require in the judgment of the President/CEO. Any of the measures provided for in this Rule shall be implemented conditioned that they will not adversely affect public safety, hospitals or sanitary uses.

The Public Service Board through the President/CEO will monitor the drought or water emergency and promptly recommend that the President/CEO request the Mayor declare the drought or water emergency to be concluded.

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The termination of the declaration of a drought or water emergency lasting more than five (5) days shall be by the City Council resolution after receiving and reviewing a report from the President/CEO of El Paso Water Utilities.

SECTION V DROUGHT AND WATER EMERGENCY RESPONSE MANAGEMENT RULE STAGES

A. STAGE I

When EI Paso County Water Improvement District No. 1 declares a surface water allotment that is less than 0.5 acre foot per acre on or before April 1 of any year, or water demand is projected to exceed available capacity as determined by EI Paso Water Utilities, Stage I. will be implemented as follows:

EPWU will ask customers for a voluntary reduction in water usage and do the following:

- Request customers to reach a voluntary reduced water use goal of 25% in indoor and outdoor use.
- 2. Increase public education and outreach regarding water use reduction.
- 3. Request all restaurants to voluntarily discontinue serving water except upon customer request.
- Urge hotels and motels to implement water conservation measures, including the reduction of laundry water usage.
- Request manufacturing industries using water provided by EPWU to reduce their consumption by 25%.
- Request all other water purveyors to comply voluntarily with all drought management response measures as set forth by EPWU. However, if such have contracts, wholesale or retail, with EPWU and if such contracts have drought and water emergency provisions, they are exempt from this Stage.
- The President/CEO shall authorize additional personnel to issue citations for violations of the Water Conservation Ordinance and the Drought and Water Emergency Response Rule, consistent with local, state and federal law.

B. STAGE II

When EI Paso County Water Improvement District No. 1 declares a surface water allotment of less than 1.0 acre foot per acre after April 1 but before May 1 of any year, or there is not enough continuous release of surface water, or water demand is projected by EPWU to exceed available capacity Stage II will be implemented as follows:

All Stage I options remain in effect. Additionally:

1. Outdoor watering by commercial or residential customers will be limited to once per week in accordance with the following schedule: Watering will be permitted before 9:00 a.m. and after 7:00 p.m. for no more than two hours each day. The last number of the street address will determine the watering days for each customer based on the following schedule:

Day of the Week	Mon	Tue	Wed	Thurs	Fri	Sat	Sun
Last # of Address	No Watering	0	1,3	2,4	5	6,8	7,9

(Outdoor watering performed with a reclaimed water system is exempt. Using a bucket to water trees, shrubs and flowers is permitted. Use of household grey water is encouraged.)

 Parks and schools served by EPWU shall water in accordance with a special permit issued by EPWU and shall reduce water consumption by a specific amount per month based on reduction targets as set by EPWU to meet basic demands. (Parks and schools irrigating with reclaimed

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water are exempt.)

- 3. Private and municipal golf courses irrigating with potable water supplied by EPWU shall water in accordance with a special permit issued by EPWU and will reduce consumption by a specific amount per month based on reduction targets set by EPWU to meet basic demands. (Golf courses irrigating with reclaimed water are exempt.)
- Plant, grass or tree nurseries shall water plant stock in accordance with the special permit issued by EPWU.
- 5. No new landscaping shall be installed or planted in the City and no new landscape watering permits will be issued except for Xeriscapes that are irrigated with reclaimed water or brackish groundwater. New landscaping watering permits shall be granted for a 7-day period for landscaping that incorporates compost in the area at the rate of 5 cubic yards per 1,000 square feet of turf.
- All evaporative coolers that require a bleed-off system must have a restricted bleed-off line or an automatic drainage system.
- All Water Conservation Ordinance variances are automatically suspended and no new variances will be issued.
- 8. Routine fire hydrant flushing and testing shall cease.
- Existing swimming pools cannot be drained and filled with potable water supplied by EPWU after May 1. Single-family residential swimming pools must be covered when not in use.
- Upon the second violation of any part of the Drought and Water Emergency Management Response Rule, the President/CEO may order the installation of a restriction device or downsizing of the water line or water meter at the customer's cost.
- 11. Restaurants shall only serve water upon request.
- 12. Water misters shall not be operated except by special permit for health and safety reasons.
- Water can be used for aesthetic purposes, such as ornamental fountains, in accordance with a special permit issued by EPWU.
- 14. Impervious surface cleaning with potable water shall be prohibited, except where conducted by order of the City Department of Public Health, Police or Fire Department.
- 15. Hotels and motels must implement water conservation measures, including the reduction of laundry water usage.
- 16. Apartment complexes and large turf water users shall water in accordance with a special permit issued by EPWU and will reduce water consumption based on reduction targets as set by EPWU.
- C. STAGE III

When El Paso County Water Improvement District No. 1 declares a surface water allotment of less than 1.5 acre foot per acre after May 1 but before May 15 of any year, or there is not a continuous release of surface water, or water demand is projected by EPWU to exceed available capacity, Stage III will be implemented as follows:

All Stage I and Stage II drought management response options shall remain in effect. Additionally:

- All outdoor watering is prohibited, except when performed with a bucket or where reclaimed water or brackish groundwater is used.
- 2. The irrigation of golf courses with potable water supplied by EPWU is prohibited.

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- All car, trailer, truck or boat washing is prohibited, except in facilities certified by EPWU and displaying approved signage.
- 4. No swimming pools shall be filled.
- All water use for construction, dust control and/or compaction is prohibited, except with reclaimed or brackish groundwater.
- 6. New water meters shall be approved for connection to the water system only as required for military expansion or use and/or high priority economic development projects, as determined by President/CEO and the Public Service Board in consultation with the Mayor and City Manager.
- All street sweeping shall be discontinued, except that performed with reclaimed or brackish groundwater.

SECTION VI VARIANCES

Customer-specific variances may be granted in cases of hardship or special conditions. After recommendation by the Water Conservation Manager, an EPWU review board will consider a hardship or special conditions case to determine whether a particular circumstance warrants a variance. A variance shall be granted only for reasons of severe economic hardship, medical hardship or for a legitimate public health concern. A fee of \$50.00 shall be assessed per application to defray administrative costs. The fee may be waived by the review board upon the execution of an affidavit that the applicant for the variance is unable to pay any fee or is indigent.

SECTION VII WHOLESALE WATER CUSTOMERS

In accordance with Texas Water Code Section 11.039, when necessary as determined by the EPWU, water deliveries to wholesale water customers shall be curtailed on a pro-rata basis. Every wholesale water contract entered into or renewed after adoption of this Rule, including contract extensions, shall include a provision that in the case of a drought or water emergency declaration, water to be distributed shall be divided in accordance with Texas Water Code Section 11.039.

SECTION VIII ENFORCEMENT

Any person violating any provision of this Rule and Regulation No. 17 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine as prescribed in Section 15.13.080 of the El Paso City Code.

SECTION IX DEFINITIONS

All words shall have their usual meaning unless otherwise provided for herein.

Acre-Feet or Acre-Foot:

The amount of water required to cover an acre of land to a depth of one foot and equivalent to 325,850 gallons of water.

Aesthetic Use:

The use of water for fountains, waterfalls, golf course water hazards, and landscape lakes or ponds where such use is predominately ornamental and serves no other purpose.

Automatic Drainage System:

An electric water pump driven system that periodically (every 6, 8 or 12 hours) pumps all water from an air-conditioner tank, thereby allowing the tank to be replenished with fresh water.

Available Capacity:

The projected firm capacity of the EPWU system to deliver water based on the number of wells in service,

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water treatment plant production capacity and available river supplies and/or allotments, in-service booster pumping capacity impacted by equipment outages and/or other factors. The capacity is usually expressed in available million gallons per day and shall be as stated or expressed by the EPWU Water Systems Division Manager.

Bucket:

A container which holds no more than five gallons to be used singly by one person.

Existing Landscaping Plant:

A landscaping plant existing in an area after such period of time as to accomplish an establishment and maintenance of plant growth.

Greywater:

Wastewater that has not been contaminated by fecal material; examples of such include wastewater from lavatories, bathtubs, showers and other plumbing fixtures.

Impervious Surface Area:

Any structure, street, driveway, sidewalk, patio or other surface area covered with brick, asphalt paving, tile or other impervious or nonporous material.

Landscaping Plant:

Any member of the horticultural kingdom Plantae, including any tree, shrub, vine, herb, flower, succulent, ground cover or grass species that grows or has been planted outdoors for such purpose.

Landscape Watering:

The application of water to landscape trees, shrubs, plants or grass to promote the health and/or growth of existing landscape plants.

New Landscape Plant:

Any landscaping plant, shrub or tree which has been planted in or transplanted to an area after a Drought or Water Emergency has been declared.

Restriction Device:

A pipe or valve which has an orifice designed to restrict the flow of water from a water supply line through a water meter serving a customer.

Swimming Pool:

Any structure, basin, chamber, tank or large tub, including hot tubs, containing water for swimming purposes, diving or recreational bathing and having a depth of two feet or more at any point.

Water Emergency:

A water system failure due to weather, electrical or mechanical failure, contamination of source, extremely low river water allotment, or act of God or force majeure.

Xeriscape:

A landscape design concept that uses the implementation of drought-tolerant plant material or trees, efficient irrigation utilizing drip or subsurface irrigation, limited turf area with adequate soil depth, mulching of all plant beds and proper maintenance.

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The Property Owner or applicant for a new development has the right of appeal Pursuant to the El Paso Water Utilities Public Service Board Rules and Regulations No. 8 of any adverse determination.

SECTION XI SEVERABILITY

If any provision, paragraph, word or section of this Rules and Regulations No. 17 is invalidated by a court of competent jurisdiction, the remaining provisions, paragraphs, words or sections shall remain in full force and effect and shall be read or interpreted so as to give effect to the purpose of this Rules and Regulations as set forth in Section II.

SECTION XII SAVINGS

This Rules and Regulations No. 17 is a part of the other Rules and Regulations adopted by the El Paso Water Utilities Public Service Board, and, save and except as amended hereby, the remaining provisions of the El Paso Water Utilities Public Service Board's Rules and Regulations shall remain in full force and effect.

SECTION XIII EFFECTIVE DATE

This Rules and Regulations No. 17 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the El Paso Water Utilities Public Service Board or operation of law.

PASSED, APPROVED and ADOPTED RULES AND REGULATIONS NUMBER 17 CONCERNING DROUGHT AND WATER EMERGENCY RESPONSE RULE at a regularly scheduled meeting of the EI Paso Water Utilities Public Service Board, this 14th day of March, 2012, at which meeting a quorum was present, said meeting being held in accordance with the provisions of V.T.C.A., Government Code, Sections 551.001 et. seq.

> EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Edward Escudero, Chair

ATTEST:

Richard T. Schoephoerster, P.E., PhD. Secretary-Treasurer

APPROVED AS TO FORM:

Robert D. Andron General Counsel

survey If yes, has the applicant already submitted to the TWDB the annual water use Does the applicant provide retail water services?: Y

Retail Water Services

đ \succ groundwater and surface water for the last THREE years?:

Potable Water Services

audit to the If yes, has the applicant already submitted a most recently required water loss Is the applicant a retail public utility that provides potable water?: ${\sf Y}$ TWDB?: Y

Services Wastewater Provide

Does the applicant provide wastewater services?: Y
Provide Regional or Wholesale Water Services

Does the applicant provide regional or wholesale water services?: Y

List the top TEN customers of the system by annual usage in gallons and percentage of total usage, including whether any are in bankruptcy.

Customer Name	Annual Usage (gal)	Percent of Usage	Bankruptcy (Y/N)
Lower Valley Water District	1,956,519	5.80%	Ν
Fort Bliss	411,091	1.20%	N
Paseo del Este MUD	387,197	1.10%	N
Haciendas del Norte WID	54,634	0.10%	Ν
Mayfair/Nuway/Schuma n	30,745	0.09%	Ν
Ponderosa/Western Village	24,665	1.07%	Ν
Gaslight Square Mobile Home/RV Park	19,006	0.05%	Ν
Colonia Revolucion	8,674	0.01%	N
NA	0	0.01%	N
NA	0	0.01%	Ν

Comments: in 1000 gallons. EPWU has only 8 wholesale customers.

List the top TEN customers of the system by gross revenues and percent of total revenues, including whether any are in bankruptcy.

Customer Name	Annual Revenue	Percent of Revenue	Bankruptcy (Y/N)
Lower Valley Water District	\$2,544,810	2.10%	Ν
Paseo del Este MUD	\$1,075,799	0.80%	Ν
Fort Bliss	\$461,608	0.38%	Ν
Haciendas del Norte	\$109,184	0.09%	N
Mayfair/Nuway	\$80,480	0.06%	Ν
Ponderosa	\$65,780	0.05%	Ν
Gaslight Square	\$46,766	0.03%	N
Colonia Revolucion	\$8,674	0.01%	N
NA	\$0	0.00%	Ν
NA	\$0	0.00%	N

Provide a summary of the wholesale contracts with customers.

Contract Type	Minimum Annual Amount	Usage Fee Per 1000 Gallons	Annual Operations and Maintenance	Annual Capital Costs	Annual Debt Service	Other
water-LVWD	\$0	\$1.26	\$0	\$0	\$0	
water-Paseo del Este MUD	\$0	\$2.45	\$0	\$0	\$0	
water-East Montana County	\$0	\$1.35	\$O	\$0	\$0	
water- Hacienda del Norte WID	\$0	\$2.02	\$0	\$0	\$0	
water- Ponderosa	\$0	\$2.69	\$0	\$0	\$0	
water- Mayfair/Nuw ay	\$0	\$2.63	\$0	\$0	\$0	
water- Colonia Revolucion	\$0	\$2.45	\$0	\$0	\$0	
water- Gaslight Square	\$0	\$2.45	\$0	\$0	\$0	
water-Ft. Bliss	\$0	\$1.15	\$0	\$0	\$0	

Top Ten Customers of Water System

Top Ten Water Customers

Customer Name	Annual Usage (gal)	Percent of Total Water Revenue	Bankruptcy (Y/N)
Lower Valley Water District Authority	1,956,519	2.60%	Ν
El Paso Electric	1,636,855	2.30%	N
El Paso City	1,584,630	4.80%	N
Western Refining	706,616	2.70%	N
Federal Government	468,845	0.70%	N
El Paso Housing Authority	461,930	1.20%	Ν
El Paso Independent School District	439,122	1.80%	Ν
Paseo del Este MUD	387,197	1.10%	Ν
Ysleta Independent School District	359,335	1.70%	Ν
El Paso County	274,457	0.20%	Ν

Top Ten Water System Customers Comments: Usage in 1000s

Current average Residential Usage and Rate Information

Service	Date of Last Rate Increase	Avg. Monthly Usage (gallons)	Bill (\$)	Avg. Monthly Increase Per Customer (\$)	Monthly	Anticipated Date of Projected Rate Increase (Date)
Water	03-01-2016	12,750	\$28.03	\$3.08	\$2.24	03-01-2017

Top Ten Customers of Wastewater System

Top Ten Wastewater Customers

Customer Name	Annual Usage (gal)	Percent of Total Water Revenue	Bankruptcy (Y/N)
Federal Government	0	3.00%	Ν
El Paso Housing Authority	0	1.50%	Ν
Western Refining	0	1.50%	Ν
Lower Valley Water District Authority	0	1.20%	Ν
Paseo del Este MUD	0	0.90%	Ν
El Paso Independent School District	0	0.80%	Ν
City of El Paso	0	0.70%	Ν
El Paso County	0	0.70%	Ν
Ysleta Independent School Disrict	0	0.60%	Ν
EPT	0	0.60%	Ν

Top Ten Wastewater System Customers Comments: Wastewater usage is not metered.

Current average Residential Usage and Rate Information

Service	Date of Last Rate Increase	Avg. Monthly Usage (gallons)	Bill (\$)	Avg. Monthly Increase Per Customer (\$)	Monthly	Anticipated Date of Projected Rate Increase (Date)
Wastewater	03-01-2016	8,340	\$18.05	\$1.98	\$1.44	03-01-2017

Number of Customers in Past 5 Years

Customers in Past 5 Years

2016: 224,924 2015: 224,656 2014: 224,570 2013: 217,406 2012: 214,254

Debt

Disclose all issues that may affect the project or the applicant's ability to issue and/or repay debt (such as anticipated lawsuits, judgments, bankruptcies, major customer closings, etc).: None

Has the applicant ever defaulted on any debt?: N

Taxing Authority

Does the applicant have taxing authority?: Y Tax Assessed Valuations

Fiscal Year Ending	Net Taxable Assessed Value (\$)	Tax Rate (\$)	General Fund (\$)	Interest & Sinking Fund (\$)	Tax Levy (\$)	Percentage Current Collections (%)	Percentage Total Collections (%)
2016	\$37,687,70 9,457	\$0.73	\$0.47	\$0.25	\$241,701,9 73	94.14%	94.52%
2015	\$36,779,12 9,756	\$0.7	\$0.46	\$0.23	\$228,100,4 19	98.76%	99.78%
2014	\$36,402,00 0,797	\$0.67	\$0.44	\$0.23	\$220,315,5 96	98.60%	99.82%
2013	\$36,009,04 5,266	\$0.65	\$0.44	\$0.21	\$210,991,9 14	97.50%	98.92%
2012	\$34,431,25 6,433	\$0.65	\$0.42	\$0.23	\$206,961,4 09	95.92%	97.94%

Tax Assessed Values Comments:

Overlapping Rate

T axing Jurisdiction		2015/2016 Taxable Assessed Valuation	2	2015/2016 T ax Rat e	Total T ax Debt		Estimated % Applicable		Direct and Overlapping Tax Debt As of 7-6-16	Authorized But Unissued Debt As Of As of 7-6-16
City of El Paso	\$	33,122,336,852	\$	0.729725	\$1,377,945,000	(1)	100.00%	\$	1,377,945,000	\$ 224,274,674
El Paso County		38,086,183,644		0.452694	207,810,000		88.03%		182,935,143	-
El Paso County Hospital Dist.		39,827,011,865		0.220682	363,490,000		88.03%		319,980,247	-
Canutillo ISD		1,678,954,500		1.530000	98,813,346		76.07%		75,167,312	-
El Paso ISD		14,328,628,163		1.235000	349,820,664		99.50%		348,071,561	-
Socorro ISD		8,236,513,052		1.274794	522,544,725		76.11%		397,708,790	-
Ysleta ISD		6,384,343,039		1.360000	402,400,000		99.97%		402,279,280	180,585,998
Total Direct and Overlapping Tax D	ebt							\$3	3,104,087,333	

(1) Includes the 2016 Obligations. Also includes the City's \$120,705,000 General Obligation Refunding Bonds, Series 2016, which will sell on May 18, 2016 and is anticipated to close on June 15, 2016. Excludes the Refunded Obligations in association with the General Obligation Refunding Bonds, Series 2016.

		r unable ripp	raised Value for Fiscal	i i cui Enideu		
	2016		2015		2014	
		% of		% of		% of
Category	Amount	Total	Amount	Total	Amount	Total
Real, Residential, Single-Family \$	21,399,327,029	56.78%	\$ 21,224,572,374	57.71%	\$ 20,854,680,607	57.29%
Real, Residential, Multi-Family	2,134,213,571	5.66%	1,983,408,822	5.39%	1,972,461,457	5.42%
Real, Vacant Lots/Tracts	520,895,868	1.38%	546,161,076	1.48%	642,467,436	1.76%
Real, Acreage (Land Only)	36,054,253	0.10%	36,509,531	0.10%	35,684,991	0.10%
Real, Farm and Ranch Improvements	56,864,374	0.15%	60,402,721	0.16%	66,195,869	0.18%
Real, Commercial	6,863,589,443	18.21%	6,568,090,573	17.86%	6,686,773,495	18.37%
Real, Industrial	825,969,866	2.19%	711,328,323	1.93%	732,591,333	2.01%
Tangible, Non-business Vehicles	124,975,556	0.33%	94,991,145	0,26%	79,981,884	0.22%
Real and Tangible Personal, Utilities	594,650,394	1.58%	619,226,147	1.68%	608,601,865	1.67%
Tangible Personal, Commercial	3,347,441,214	8.88%	3,450,602,325	9.38%	3,296,396,228	9.06%
Tangible Personal, Industrial	1,374,162,860	3.65%	1,101,463,951	2.99%	1,065,830,529	2.93%
Tangible Personal, Other	41,805,215	0.11%	43,237,472	0.12%	43,570,260	0.12%
Special Inventory	161,072,154	0.43%	146,197,584	0.40%	180,540,059	0.50%
Real Property, Inventory	206,687,660	0.55%	192,937,712	0.52%	136,224,784	0.37%
Total Appraised Value Before Exemptions \$	37,687,709,457	100.00%	\$ 36,779,129,756	100.00%	\$ 36,402,000,797	100.00%
Less: Total Exemptions/Reductions	4,565,372,605		4,042,884,422		3,925,181,650	
Taxable Assessed Value \$	33,122,336,852		\$ 32,736,245,334		\$ 32,476,819,147	

	Taxable Appraise	d Value for	Fiscal Year Ended Aug	g. 31,	
	 2013	2012	012		
		% of		% of	
Category	Amount	Total	Amount	Total	
Real, Residential, Single-Family	\$ 20,399,604,883	56.65%	\$ 20,077,878,520	58.31%	
Real, Residential, Multi-Family	1,816,235,489	5.04%	1,715,798,130	4.98%	
Real, Vacant Lots/Tracts	638,026,405	1.77%	615,475,528	1.79%	
Real, Acreage (Land Only)	80,967,402	0.22%	81,705,981	0.24%	
Real, Farm and Ranch Improvements	26,019,839	0.07%	25,881,107	0.08%	
Real, Commercial	6,424,316,556	17.84%	6,158,950,558	17.89%	
Real, Industrial	1,202,325,371	3.34%	691,894,395	2.01%	
Real and Tangible Personal, Utilities	582,079,016	1.62%	586,116,822	1.70%	
Tangible Personal, Commercial	3,321,609,227	9.22%	3,212,931,301	9.33%	
Tangible Personal, Industrial	1,057,931,960	2.94%	903,611,560	2.62%	
Tangible Personal, Other	42,466,560	0.12%	42,457,256	0.12%	
Special Inventory	117,823,385	0.33%	107,821,568	0.31%	
Real Property, Inventory	233,876,578	0.65%	210,733,707	0.61%	
Total Appraised Value Before Exemptions	\$ 36,009,045,266	100.00%	\$ 34,431,256,433	100.00%	
Less: Total Exemptions/Reductions	3,963,080,514		3,626,130,623		
Taxable Assessed Value	\$ 32,045,964,752		\$ 30,805,125,810		

	-	Taxable App	raised Value for Fisca	I Year Ended	August 31,			
-	2016		2015		2014			
-		% of		% of		% of		
Category	Amount	Total	Amount	Amount Total		Total		
Real, Residential, Single-Family \$	21,399,327,029	56.78%	\$ 21,224,572,374	57.71%	\$ 20,854,680,607	57.29%		
Real, Residential, Multi-Family	2,134,213,571	5.66%	1,983,408,822	5.39%	1,972,461,457	5.42%		
Real, Vacant Lots/Tracts	520,895,868	1.38%	546,161,076	1.48%	642,467,436	1.76%		
Real, Acreage (Land Only)	36,054,253	0.10%	36,509,531	0.10%	35,684,991	0.10%		
Real, Farm and Ranch Improvements	56,864,374	0.15%	60,402,721	0.16%	66,195,869	0.18%		
Real, Commercial	6,863,589,443	18.21%	6,568,090,573	17.86%	6,686,773,495	18.37%		
Real, Industrial	825,969,866	2.19%	711,328,323	1.93%	732,591,333	2.01%		
Tangible, Non-business Vehicles	124,975,556	0.33%	94,991,145	0.26%	79,981,884	0.22%		
Real and Tangible Personal, Utilities	594,650,394	1.58%	619,226,147	1.68%	608,601,865	1.67%		
Tangible Personal, Commercial	3,347,441,214	8.88%	3,450,602,325	9.38%	3,296,396,228	9.06%		
Tangible Personal, Industrial	1,374,162,860	3.65%	1,101,463,951	2.99%	1,065,830,529	2.93%		
Tangible Personal, Other	41,805,215	0.11%	43,237,472	0.12%	43,570,260	0.12%		
Special Inventory	161,072,154	0.43%	146,197,584	0.40%	180,540,059	0.50%		
Real Property, Inventory	206,687,660	0.55%	192,937,712	0.52%	136,224,784	0.37%		
Total Appraised Value Before Exemptions \$	37,687,709,457	100.00%	\$ 36,779,129,756	100.00%	\$ 36,402,000,797	100.00%		
Less: Total Exemptions/Reductions	4,565,372,605		4,042,884,422		3,925,181,650			
Taxable Assessed Value	33,122,336,852		\$ 32,736,245,334		\$ 32,476,819,147			

	Taxable Appraise	ed Value for	Fiscal Year Ended Aug	ed Aug. 31,		
	 2013		2012	*******		
		% of		% of		
Category	 Amount	Total	Amount	Total		
Real, Residential, Single-Family	\$ 20,399,604,883	56.65%	\$ 20,077,878,520	58.31%		
Real, Residential, Multi-Family	1,816,235,489	5.04%	1,715,798,130	4.98%		
Real, Vacant Lots/Tracts	638,026,405	1.77%	615,475,528	1.79%		
Real, Acreage (Land Only)	80,967,402	0.22%	81,705,981	0.24%		
Real, Farm and Ranch Improvements	26,019,839	0.07%	25,881,107	0.08%		
Real, Commercial	6,424,316,556	17.84%	6,158,950,558	17.89%		
Real, Industrial	1,202,325,371	3.34%	691,894,395	2.01%		
Real and Tangible Personal, Utilities	582,079,016	1.62%	586,116,822	1.70%		
Tangible Personal, Commercial	3,321,609,227	9.22%	3,212,931,301	9.33%		
Tangible Personal, Industrial	1,057,931,960	2.94%	903,611,560	2.62%		
Tangible Personal, Other	42,466,560	0.12%	42,457,256	0.12%		
Special Inventory	117,823,385	0.33%	107,821,568	0.31%		
Real Property, Inventory	233,876,578	0.65%	210,733,707	0.61%		
Total Appraised Value Before Exemptions	\$ 36,009,045,266	100.00%	\$ 34,431,256,433	100.00%		
Less: Total Exemptions/Reductions	3,963,080,514		3,626,130,623			
Taxable Assessed Value	\$ 32,045,964,752		\$ 30,805,125,810			

	-	Faxable App	oraised Value for Fiscal	Year Ended	August 31,		
	2016		2015		2014		
		% of		% of		% of	
Category	Amount	Total	Amount	Total	Amount	Total	
Real, Residential, Single-Family	21,399,327,029	56.78%	\$ 21,224,572,374	57.71%	\$ 20,854,680,607	57.29%	
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Real, Commercial	6,863,589,443	18.21%	6,568,090,573	17.86%	6,686,773,495	18.37%	
Real, Industrial	825,969,866	2.19%	711,328,323	1.93%	732,591,333	2.01%	
Tangible, Non-business Vehicles	124,975,556	0.33%	94,991,145	0.26%	79,981,884	0.22%	
Real and Tangible Personal, Utilities	594,650,394	1.58%	619,226,147	1.68%	608,601,865	1.67%	
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Taxable Assessed Value	33,122,336,852		\$ 32,736,245,334		\$ 32,476,819,147		

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-		2013		2012	
			% of		% of
Category	Amount Tota		Total	Amount	Total
Real, Residential, Single-Family	\$	20,399,604,883	56.65%	\$ 20,077,878,520	58.31%
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Real, Vacant Lots/Tracts		638,026,405	1.77%	615,475,528	1.79%
Real, Acreage (Land Only)		80,967,402	0.22%	81,705,981	0.24%
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Real, Commercial	6,424,316,556	17.84%	6,158,950,558	17.89%	
Real, Industrial	1,202,325,371	3.34%	691,894,395	2.01%	
Real and Tangible Personal, Utilities	582,079,016	1.62%	586,116,822	1.70%	
Tangible Personal, Commercial	3,321,609,227	9.22%	3,212,931,301	9.33%	
Tangible Personal, Industrial	1,057,931,960	2,94%	903,611,560	2.62%	
Tangible Personal, Other	42,466,560	0.12%	42,457,256	0.12%	
Special Inventory	117,823,385	0.33%	107,821,568	0.31%	
Real Property, Inventory	233,876,578	0.65%	210,733,707	0.61%	
Total Appraised Value Before Exemptions	\$ 36,009,045,266	100.00%	\$ 34,431,256,433	100.00%	
Less: Total Exemptions/Reductions	 3,963,080,514		3,626,130,623		
Taxable Assessed Value	\$ 32,045,964,752		\$ 30,805,125,810		

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		Taxable App	oraised Value for Fisca	I Year Ended	August 31,	gust 31,		
	2016		2015		2014			
-		% of		% of		% of		
Category	Amount	Total	Amount	Total	Amount	Total		
Real, Residential, Single-Family	\$ 21,399,327,029	56.78%	\$ 21,224,572,374	57.71%	\$ 20,854,680,607	57.29%		
Real, Residential, Multi-Family	2,134,213,571	5.66%	1,983,408,822	5.39%	1,972,461,457	5.42%		
Real, Vacant Lots/Tracts	520,895,868	1.38%	546,161,076	1.48%	642,467,436	1.76%		
Real, Acreage (Land Only)	36,054,253	0.10%	36,509,531	0.10%	35,684,991	0.10%		
Real, Farm and Ranch Improvements	56,864,374	0.15%	60,402,721	0.16%	66,195,869	0.18%		
Real, Commercial	6,863,589,443	18.21%	6,568,090,573	17.86%	6,686,773,495	18.37%		
Real, Industrial	825,969,866	2.19%	711,328,323	1.93%	732,591,333	2.01%		
Tangible, Non-business Vehicles	124,975,556	0.33%	94,991,145	0.26%	79,981,884	0.22%		
Real and Tangible Personal, Utilities	594,650,394	1.58%	619,226,147	1.68%	608,601,865	1.67%		
Tangible Personal, Commercial	3,347,441,214	8.88%	3,450,602,325	9.38%	3,296,396,228	9.06%		
Tangible Personal, Industrial	1,374,162,860	3.65%	1,101,463,951	2.99%	1,065,830,529	2.93%		
Tangible Personal, Other	41,805,215	0.11%	43,237,472	0.12%	43,570,260	0.12%		
Special Inventory	161,072,154	0.43%	146,197,584	0.40%	180,540,059	0.50%		
Real Property, Inventory	206,687,660	0.55%	192,937,712	0.52%	136,224,784	0.37%		
Total Appraised Value Before Exemptions	\$ 37,687,709,457	100.00%	\$ 36,779,129,756	100.00%	\$ 36,402,000,797	100.00%		
Less: Total Exemptions/Reductions	4,565,372,605		4,042,884,422		3,925,181,650			
Taxable Assessed Value	\$ 33,122,336,852	-	\$ 32,736,245,334	-	\$ 32,476,819,147			

		Taxable Appraise	ed Value for	Fiscal Year Ended Aug	g. 31,	
		2013		2012		
			% of		% of Total	
Category		Amount	Total	Amount		
Real, Residential, Single-Family	\$	20,399,604,883	56,65%	\$ 20,077,878,520	58.31%	
Real, Residential, Multi-Family		1,816,235,489	5.04%	1,715,798,130	4.98%	
Real, Vacant Lots/Tracts		638,026,405	1.77%	615,475,528	1.79%	
Real, Acreage (Land Only)		80,967,402	0.22%	81,705,981	0.24%	
Real, Farm and Ranch Improvements		26,019,839	0.07%	25,881,107	0.08%	
Real, Commercial		6,424,316,556	17.84%	6,158,950,558	17.89%	
Real, Industrial		1,202,325,371	3.34%	691,894,395	2.01%	
Real and Tangible Personal, Utilities		582,079,016	1.62%	586,116,822	1.70%	
Tangible Personal, Commercial		3,321,609,227	9.22%	3,212,931,301	9.33%	
Tangible Personal, Industrial		1,057,931,960	2.94%	903,611,560	2.62%	
Tangible Personal, Other		42,466,560	0.12%	42,457,256	0.12%	
Special Inventory		117,823,385	0.33%	107,821,568	0.31%	
Real Property, Inventory		233,876,578	0.65%	210,733,707	0.61%	
Total Appraised Value Before Exemptions	\$	36,009,045,266	100.00%	\$ 34,431,256,433	100.00%	
Less: Total Exemptions/Reductions		3,963,080,514		3,626,130,623		
Taxable Assessed Value	\$	32,045,964,752		\$ 30,805,125,810		

Top Ten Taxpayers

Taxpayer Name	Assessed Value	Percent of Total	Bankruptcy (Y/N)
Western Refining Co. LP	\$488,902,139	1.50%	Ν
El Paso Electric Co.	\$246,189,427	0.76%	N
Wal Mart Stores	\$231,367,138	0.71%	Ν
Sierra Providence Physical Rehab	\$223,488,767	0.69%	Ν
Simon Property Group	\$177,170,273	0.54%	Ν
River Oaks Properties, Ltd.	\$159,409,787	0.49%	Ν
Hawkins & I-10 Acquisition Co. LP	\$101,325,248	0.31%	Ν
Texas Gas Service	\$84,200,393	0.26%	N
Union Pacific Railroad Co.	\$72,384,983	0.22%	Ν
Southwestern Bell Telephone Co.	\$68,584,430	0.21%	Ν

Top Ten Taxpayer Comments:

Tax Rate and Sales Tax

Provide the maximum tax rate permitted by law per \$100 of property value.: \$2.5

Does the applicant collect sales tax?: Y

2016: \$59,805,549

2015: \$81,164,514 2014: \$80,361,462

2013: \$76,812,161

2012: \$74,835,025

Sales Tax History Comments: 2016 figure as of 4/30/2016

Is the proposed loan tax-exempt?: Y

El Paso Water Utilities Financial Plan Water, Reuse, and Wastewater Pro Forma - FY 2016-17 through FY 2051-52

ine	Water, Reuse & Wastewater Funds	Adopted Budget	Projected	Projected	Projected	Projected	Projected
lo.		FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
1	Operating Revenues						
2	Water Service (User & Minimum Charges)	106,474	116,890	128,331	138,965	146,306	149,640
3	Water Supply Replacement	23,456	26,018	28,860	31,574	33,583	34,700
4	Fire Protection	809	886	970	1,048	1,100	1,122
5	Reclaimed Water Sales	3,600	4,018	4,472	4,910	5,259	5,480
6	Total Water/Reuse Revenues	134,338	147,812	162,633	176,497	186,249	190,942
7	Rate Increase - Water	11.0%	9.5%	9.5%	8.0%	5.0%	2.0%
8	Rate Increase - Reuse	15.2%	11.6%	11.3%	9.8%	7.1%	4.2%
9	Wastewater Service	69,075	75,651	82,838	89,481	93,992	95,911
10	Pretreatment Surcharges	482	528	578	624	655	668
11	Total Wastewater Revenues	69,557	76,178	83,415	90,105	94,647	96,579
12	Rate Increase - Wastewater	11.0%	9.5%	9.5%	8.0%	5.0%	2.0%
13	Misc. Operating Revenues						
14	Service Charges, Misc. Fees	6,409	6,474	6,538	6,604	6,670	6,736
15	Interest Earnings	90	90	90	90	90	90
16	Total Operating Revenues	210,395	230,554	252,676	273,296	287,656	294,347
17	Less Operating Expenses						
18	O&M Expenses	93,876	94,815	95,763	96,721	97,688	98,665
19	Total Operating Expenses	93,876	94,815	95,763	96,721	97,688	98,665
20	Operating Revenues Available	116,519	135,739	156,913	176,576	189,968	195,683
21	Sale of Assets	70	70	70	70	70	70
22	Interest Revenue on Restricted Funds	228	228	228	228	228	228
23	Build America Bonds (BAB) 35% Tax Credit	195	185	185	175	164	152
24	Revenues Available for Debt Service	117,012	136,223	157,397	177,048	190,429	196,133
25	Existing Debt Service - P & I - Bonds	55,696	55,988	55,859	54,683	55,295	51,672
26	Commercial Paper Annual Interest & Issuance Costs	310	280	321	250	250	250
27	New Debt Service - P & I - Bonds	6,671	14,740	25,014	33,690	39,433	45,454
28	DSC Debt - 1.5x	1.88	1.93	1.95	2.00	2.01	2.02

El Paso Water Utilities Financial Plan Water, Reuse, and Wastewater Pro Forma - FY 2016-17 through FY 2051-52

ne	Water, Reuse & Wastewater Funds	Projected	Projected	Projected	Projected	Projected
lo.		FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
1	Operating Revenues					
2	Water Service (User & Minimum Charges)	150,053	151,978	152,409	152,847	153,292
3	Water Supply Replacement	35,152	35,965	36,432	36,906	37,386
4	Fire Protection	1,122	1,133	1,133	1,133	1,133
5	Reclaimed Water Sales	5,606	5,785	5,907	5,907	5,907
6	Total Water/Reuse Revenues	191,933	194,862	195,882	196,794	197,718
7	Rate Increase - Water	0.0%	1.0%	0.0%	0.0%	0.0%
8	Rate Increase - Reuse	2.3%	3.2%	2.1%	0.0%	0.0%
9	Wastewater Service	95,938	96,883	96,897	96,897	96,897
10	Pretreatment Surcharges	668	675	675	675	675
11	Total Wastewater Revenues	96,606	97,558	97,572	97,572	97,572
12	Rate Increase - Wastewater	0.0%	1.0%	0.0%	0.0%	0.0%
13	Misc. Operating Revenues					
14	Service Charges, Misc. Fees	6,804	6,872	6,941	7,010	7,080
15	Interest Earnings	90	90	90	90	90
16	Total Operating Revenues	295,433	299,382	300,485	301,466	302,460
17	Less Operating Expenses					
18	O&M Expenses	99,651	100,648	101,654	102,671	103,698
19	Total Operating Expenses	99,651	100,648	101,654	102,671	103,698
20	Operating Revenues Available	195,782	198,734	198,830	198,795	198,763
21	Sale of Assets	70	70	70	70	70
22	Interest Revenue on Restricted Funds	228	228	228	228	228
23	Build America Bonds (BAB) 35% Tax Credit	140	127	114	100	85
24	Revenues Available for Debt Service	196,219	199,159	199,242	199,192	199,146
25	Existing Debt Service - P & I - Bonds	48,208	48,197	43,809	43,252	40,662
26	Commercial Paper Annual Interest & Issuance Costs	250	250	250	250	300
27	New Debt Service - P & I - Bonds	48,706	50,433	51,224	51,225	56,552
28	DSC Debt - 1.5x	2.02	2.02	2.10	2.11	2.05

El Paso Water Utilities Financial Plan Water, Reuse, and Wastewater Pro Forma - FY 2016-17 through FY 2051-52

Line	Water, Reuse & Wastewater Funds	Projected	Projected	Projected	Projected	Projected	Projected
No.		FY 2027-28	FY 2028-29	FY 2029-30	FY 2030-31	FY 2031-32	FY 2032-33
1	Operating Revenues						
2	Water Service (User & Minimum Charges)	153,744	155,282	156,834	163,155	171,378	180,015
3	Water Supply Replacement	37,872	38,250	38,633	40,190	42,215	44,343
4	Fire Protection	1,133	1,133	1,133	1,167	1,214	1,263
5	Reclaimed Water Sales	5,907	5,907	5,907	6,084	6,328	6,581
6	Total Water/Reuse Revenues	198,656	200,572	202,508	210,596	221,135	232,202
7	Rate Increase - Water	0.0%	0.0%	0.0%	3.0%	4.0%	4.0%
8	Rate Increase - Reuse	0.0%	0.0%	0.0%	3.0%	4.0%	4.0%
9	Wastewater Service	96,897	97,866	98,845	102,828	108,011	113,455
10	Pretreatment Surcharges	675	682	688	716	752	790
11	Total Wastewater Revenues	97,572	98,548	99,533	103,545	108,763	114,245
12	Rate Increase - Wastewater	0.0%	0.0%	0.0%	3.0%	4.0%	4.0%
13	Misc. Operating Revenues						
14	Service Charges, Misc. Fees	7,151	7,222	7,295	7,589	7,971	8,373
15	Interest Earnings	90	90	90	90	90	90
16	Total Operating Revenues	303,469	306,433	309,426	321,819	337,959	354,909
17	Less Operating Expenses						
18	O&M Expenses	104,734	106,829	108,966	114,479	121,440	128,823
19	Total Operating Expenses	104,734	106,829	108,966	114,479	121,440	128,823
20	Operating Revenues Available	198,735	199,603	200,460	207,340	216,519	226,086
21	Sale of Assets	70	70	70	70	70	70
22	Interest Revenue on Restricted Funds	228	228	228	228	228	228
23	Build America Bonds (BAB) 35% Tax Credit	69	53	36	19	-	-
24	Revenues Available for Debt Service	199,102	199,955	200,794	207,656	216,817	226,384
25	Existing Debt Service - P & I - Bonds	33,755	28,895	22,483	18,761	14,604	14,611
26	Commercial Paper Annual Interest & Issuance Costs	300	300	300	300	300	300
27	New Debt Service - P & I - Bonds	62,658	69,527	76,574	83,798	91,196	98,780
28	DSC Debt - 1.5x	2.07	2.03	2.03	2.02	2.05	2.00

El Paso Water Utilities Financial Plan Water, Reuse, and Wastewater Pro Forma - FY 2016-17 through FY 2051-52

Line	Water. Reuse & Wastewater Funds	Projected	Projected	Projected	Projected	Projected
No.	Water, Reuse & Wastewater Funds	FY 2033-34	FY 2034-35	FY 2035-36	FY 2036-37	FY 2037-38
1	Operating Revenues					
2	Water Service (User & Minimum Charges)	189.088	198.618	200.604	202.610	204,636
3	Water Supply Replacement	46,578	48,925	49,415	49,909	50,408
4	Fire Protection	1,313	1,366	1,366	1,366	1,366
5	Reclaimed Water Sales	6,844	7,118	7,118	7,118	7,118
6	Total Water/Reuse Revenues	243,823	256,027	258,502	261,003	263,528
7	Rate Increase - Water	4.0%	4.0%	0.0%	0.0%	0.0%
8	Rate Increase - Reuse	4.0%	4.0%	0.0%	0.0%	0.0%
9	Wastewater Service	119,173	125,179	126,431	127,695	128,972
10	Pretreatment Surcharges	830	872	880	889	898
11	Total Wastewater Revenues	120,003	126,051	127,311	128,585	129,870
12	Rate Increase - Wastewater	4.0%	4.0%	0.0%	0.0%	0.0%
13	Misc. Operating Revenues					
14	Service Charges, Misc. Fees	8,795	9,238	9,330	9,424	9,518
15	Interest Earnings	90	90	90	90	90
16	Total Operating Revenues	372,711	391,406	395,234	399,101	403,006
17	Less Operating Expenses					
18	O&M Expenses	136,656	144,964	147,864	150,821	153,837
19	Total Operating Expenses	136,656	144,964	147,864	150,821	153,837
20	Operating Revenues Available	236,055	246,441	247,370	248,280	249,169
21	Sale of Assets	70	70	70	70	70
22	Interest Revenue on Restricted Funds	228	228	228	228	228
23	Build America Bonds (BAB) 35% Tax Credit	-	-	-	-	-
24	Revenues Available for Debt Service	236,353	246,739	247,668	248,578	249,467
25	Existing Debt Service - P & I - Bonds	11,125	8,978	-	-	-
26	Commercial Paper Annual Interest & Issuance Costs	300	300	300	300	300
27	New Debt Service - P & I - Bonds	106,555	114,528	103,036	108,419	111,458
28	DSC Debt - 1.5x	2.01	2.00	2.40	2.29	2.24

EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

Part C21-Statement of Operation

	Fiscal Year Ended February 28,					
	2015 ⁽³⁾		2014	2013 ⁽²⁾	2012(1)(2)	2011
Revenues:						
Water & Sewer Services	\$ 172,616,917	\$	172,115,795	\$ 167,469,494	\$ 166,000,534	\$ 158,031,947
Interest Income	420,450		265,915	258,250	357,586	597,158
Billing Fees (Sanitation)	613,286		608,171	599,350	590,750	581,176
Gain on Sale of Assets	646,916		314,473	122,773	142,794	204,578
City of El Paso Franchise fee	1,937,221		-	-	-	-
Other Operating Revenue	3,423,410		3,635,407	3,588,454	3,781,808	3,826,204
Total Revenues	\$ 179,658,200	\$	176,939,761	\$ 172,038,321	\$ 170,873,472	\$ 163,241,063
Expenses:						
Waterworks System	\$ 40,021,691	\$	38,764,590	\$ 40,404,571	\$ 42,203,588	\$ 39,390,294
Sewer System	21,593,006		22,496,822	22,217,013	22,534,849	21,568,553
Administration	20,499,592		19,178,358	20,861,053	19,259,123	17,737,705
Other Post-Employment Benefits Expenses	969,336		833,973	831,429	626,888	868,891
Payment to City of El Paso Franchise fee	1,937,221					
Other Operating Expenses	2,962,829		2,602,114	2,636,117	1,952,763	1,843,985
Total Expenses	\$ 87,983,675	\$	83,875,857	\$ 86,950,183	\$ 86,577,211	\$ 81,409,428
REVENUE AVAILABLE FOR						
DEBT SERVICE	\$ 91,674,525	\$	93,063,904	\$ 85,088,138	\$ 84,296,261	\$ 81,831,635
Water Customers	199,123		196,589	194,347	192,063	189,110
Sewer Customers	189,226		187,003	184,868	182,595	180,204

(1) Fiscal Year Ended February 29.

(2) restated.

(3) Audited

Part C 21

C 22 Management Letter

The Management letter has been included on page 14 in the CAFR 2014-15.

PUBLIC SERVICE BOARD - EL PASO WATER UTILITIES A COMPONENT UNIT OF THE CITY OF EL PASO

WATER AND WASTEWATER UTILITY FUND UNAUDITED

STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION

For Period March 1, 2015 thru February 29, 2016

		2015-16
Operating revenues:	¢	00 770 000
Water	\$	92,772,323
Water supply replacement charge		19,730,741
Reclaimed water		2,742,021
Wastewater		56,583,216
Customer connection fees		7,627,538
Billing fees - City Solid Waste Management		517,832
Rent revenue		1,770,975
City of El Paso Franchise fee		3,073,563
Other operating revenue		25,907
Total operating revenues		184,844,116
Operating expenses:		
Operations and maintenance - water & reclaimed water		37,323,305
Operations and maintenance - wastewater		20,180,973
General, administrative and engineering expenses		18,467,955
Other operating expenses		425,229
Depreciation		47,836,998
Payment to City of El Paso Franchise fee		3,073,563
Payment to City of El Paso per bond covenants		10,670,438
Total operating expenses		137,978,461
Operating income		46,865,655
Nonoperating revenues (expenses):		
Interest earnings and net change in fair value of investments		460,945
IRS tax credit for Build America Bonds		102,507
Gain on land assets converted by sale		2,591,119
Gain on sale of miscellaneous assets		308,483
Interest on long term debt		(19,613,934)
Total nonoperating revenues (expenses)		(16,150,879)
Increase in net position, before capital contributions		30,714,776
Federal grants contributions		69,930
Capital and non-federal grants contributions		11,540,950
Change in net position		42,325,656
Total net position - beginning		809,656,489
Total net position - ending	\$	851,982,145
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PUBLIC SERVICE BOARD - EL PASO WATER UTILITIES

A COMPONENT UNIT OF THE CITY OF EL PASO

WATER AND WASTEWATER UTILITY FUND UNAUDITED

STATEMENTS OF NET POSITION

As February 29, 2016

	2015-16
ASSETS	
Current assets:	
Cash, cash equivalents, and investments	\$ 39,018,451
Accounts receivable - customers	18,356,398
Accounts receivable - other	1,217,541
Accrued interest receivable	338,012
Inventory - materials and supplies	2,084,689
Other current assets	514,032
Prepaid expenses	1,838,449
Restricted current assets:	
Restricted for bond requirements:	
Cash, cash equivalents, and investments	65,628,283
Restricted for construction and improvements:	
Cash, cash equivalents, and investments	123,640,763
Accounts receivable government grants	87,846
Notes receivable	58,998
Total current assets	 252,783,462
Capital assets:	
Water and Wastewater Utility capital assets	1,920,246,091
Land not in service	82,393,525
Construction work in progress	173,455,420
Less accumulated depreciation	(902,002,403)
Total capital assets (net of accumulated depreciation)	 1,274,092,632
Total noncurrent assets	 1,274,092,632
Total assets	1,526,876,094
Deferred outflows of resourses	
Losses on Bond Refunding	 5,232,151
Total assets and deferred outflows of resources	\$ 1,532,108,245

		2015-16
LIABILITIES		
Current liabilities:	¢	105 100
Accounts payable	\$	127,190
Contribution and Solid Waste Management collections		C 1C4 020
due City of El Paso		6,164,929
Customer deposits		8,852,798
Accrued vacation pay Unearned revenue on land leases		1,794,440
Other current liabilities		312,438
		192,697
Land earnest money deposit		33,762
Self insurance worker's compensation and health claims		299,060
Due to Municipal Drainage Utility Other governments payable		991,629
Current liabilities payable from restricted assets:		134,854
Revenue bonds payable		27,345,000
Accrued interest on revenue bonds and commercial paper		8,504,115
Accounts payable		3,147,810
Land notes payable		790,328
Land notes interest payable		29,649
Deferred premiums		2,821,377
Customer advances for construction		11,216,979
Retainage payable on construction contracts		-
Total current liabilities		72,759,055
		12,139,035
Noncurrent liabilities:		
Revenue bonds payable		530,760,000
Deferred premiums		52,550,867
Land notes payable		1,825,738
Other governments payable		2,373,623
Commercial paper notes		10,000,000
Other Post-Employment Benefits		7,689,928
Accrued vacation pay		1,089,319
Self insurance worker's compensation claims		744,207
Total noncurrent liabilities		607,033,682
Total liabilities		679,792,737
Deferred inflows of resourses		
Gains on Bond Refunding		333,363
NET POSITION		
Restricted:		
Restricted for debt service		57,124,168
Restricted for construction and improvements		37,433,050
Total restricted		94,557,218
Invested in capital assets, net of related debt		733,566,731
Unrestricted		23,858,196
Total net position		851,982,145
Total liabilities and net position	\$	1,532,108,245

Outstanding Debt

Yes, General obligation debt: N

Yes, Revenue debt: Y

Yes, Authorized but unissued debt: N

No: N

\$100,000,000 Water & Sewer Revenue Bonds, Series 2016 TWDB SWIFT Loan (Deferred 20 yr. Loan) (Lending Rates as of April 18, 2016: 2.16% TIC)

Net Debt Service Schedule

Net New D/S	Total P+I	Interest	Coupon	Principal	Date
1,074,351.73	1,074,351.73	574,351.73	0.680%	500,000.00	03/01/2017
2,447,228.50	2,447,228.50	1,947,228.50	0.760%	500,000.00	03/01/2018
3,943,428.50	3,943,428.50	1,943,428.50	0.840%	2,000,000.00	03/01/2019
3,926,628.50	3,926,628.50	1,926,628.50	0.930%	2,000,000.00	03/01/2020
3,908,028.50	3,908,028.50	1,908,028.50	1.050%	2,000,000.00	03/01/2021
6,622,028.50	6,622,028.50	1,887,028.50	1.150%	4,735,000.00	03/01/2022
6,627,576.00	6,627,576.00	1,832,576.00	1.250%	4,795,000.00	03/01/2023
6,627,638.50	6,627,638.50	1,772,638.50	1.340%	4,855,000.00	03/01/2024
6,632,581.50	6,632,581.50	1,707,581.50	1.420%	4,925,000.00	03/01/2025
6,632,646.50	6,632,646.50	1,637,646.50	1.500%	4,995,000.00	03/01/2026
6,637,721.50	6,637,721.50	1,562,721.50	1.700%	5,075,000.00	03/01/2027
6,646,446.50	6,646,446.50	1,476,446.50	1.850%	5,170,000.00	03/01/2028
6,650,801.50	6,650,801.50	1,380,801.50	1.980%	5,270,000.00	03/01/2029
6,651,455.50	6,651,455.50	1,276,455.50	2.090%	5,375,000.00	03/01/2030
6,654,118.00	6,654,118.00	1,164,118.00	2.190%	5,490,000.00	03/01/2031
6,658,887.00	6,658,887.00	1,043,887.00	2.270%	5,615,000.00	03/01/2032
6,661,426.50	6,661,426.50	916,426.50	2.350%	5,745,000.00	03/01/2033
6,666,419.00	6,666,419.00	781,419.00	2.420%	5,885,000.00	03/01/2034
6,669,002.00	6,669,002.00	639,002.00	2.480%	6,030,000.00	03/01/2035
6,674,458.00	6,674,458.00	489,458.00	2.530%	6,185,000.00	03/01/2036
6,677,977.50	6,677,977.50	332,977.50	2.570%	6,345,000.00	03/01/2037
6,679,911.00	6,679,911.00	169,911.00	2.610%	6,510,000.00	03/01/2038
\$128,370,760.73	\$128,370,760.73	\$28,370,760.73	-	\$100,000,000.00	Total

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FirstSouthwest (a Division of HilltopSecurities)
Public Finance

\$100,000,000 Water & Sewer Revenue Bonds, Series 2016 TWDB SWIFT Loan (Deferred 20 yr. Loan) (Lending Rates as of April 18, 2016: 2.16% TIC)

Net Debt Service Schedule

Part 1 of 2

Fiscal			• • • •			
Total	Net New D/S	Total P+I	Interest	Coupon	Principal	Date
-	-	-	-	-	-	11/15/2016
-	1,074,351.73	1,074,351.73	574,351.73	0.680%	500,000.00	03/01/2017
-	973,614.25	973,614.25	973,614.25	-	-	09/01/2017
2,047,965.98	-	-	-	-	-	02/28/2018
-	1,473,614.25	1,473,614.25	973,614.25	0.760%	500,000.00	03/01/2018
-	971,714.25	971,714.25	971,714.25	-	-	09/01/2018
2,445,328.50	-	-	-	-	-	02/28/2019
-	2,971,714.25	2,971,714.25	971,714.25	0.840%	2,000,000.00	03/01/2019
-	963,314.25	963,314.25	963,314.25	-	-	09/01/2019
3,935,028.50	-	-	-	-	-	02/29/2020
-	2,963,314.25	2,963,314.25	963,314.25	0.930%	2,000,000.00	03/01/2020
-	954,014.25	954,014.25	954,014.25	-	-	09/01/2020
3,917,328.50	-	-	-	-	-	02/28/2021
-	2,954,014.25	2,954,014.25	954,014.25	1.050%	2,000,000.00	03/01/2021
-	943,514.25	943,514.25	943,514.25	-	_,	09/01/2021
3,897,528.50	-	-	-	-	-	02/28/2022
	5,678,514.25	5,678,514.25	943,514.25	1.150%	4,735,000.00	03/01/2022
-	916,288.00	916,288.00	916,288.00	-		09/01/2022
6,594,802.25	,200.00	,200.00	,200.00	_		02/28/2023
0,574,002.25	5,711,288.00	5,711,288.00	916,288.00	1.250%	4,795,000.00	03/01/2023
	886,319.25	886,319.25	886,319.25	1.23070	4,795,000.00	09/01/2023
6,597,607.25	880,519.25	880,519.25	880,519.25	-	-	02/29/2024
0,397,007.23	5,741,319.25	5,741,319.25	886,319.25	1.340%	4,855,000.00	03/01/2024
-	853,790.75	853,790.75	853,790.75	1.340%	4,855,000.00	09/01/2024
-	855,790.75	855,790.75	855,790.75	-	-	
6,595,110.00	-	-	-	- 1.4200/	4 025 000 00	02/28/2025
-	5,778,790.75	5,778,790.75	853,790.75	1.420%	4,925,000.00	03/01/2025 09/01/2025
-	818,823.25	818,823.25	818,823.25	-	-	
6,597,614.00	-	-	-	-	-	02/28/2026
-	5,813,823.25	5,813,823.25	818,823.25	1.500%	4,995,000.00	03/01/2026
-	781,360.75	781,360.75	781,360.75	-	-	09/01/2026
6,595,184.00	-	-	-	-		02/28/2027
-	5,856,360.75	5,856,360.75	781,360.75	1.700%	5,075,000.00	03/01/2027
-	738,223.25	738,223.25	738,223.25	-	-	09/01/2027
6,594,584.00	-	-	-	-	-	02/29/2028
-	5,908,223.25	5,908,223.25	738,223.25	1.850%	5,170,000.00	03/01/2028
-	690,400.75	690,400.75	690,400.75	-	-	09/01/2028
6,598,624.00	-	-	-	-	-	02/28/2029
-	5,960,400.75	5,960,400.75	690,400.75	1.980%	5,270,000.00	03/01/2029
-	638,227.75	638,227.75	638,227.75	-	-	09/01/2029
6,598,628.50	-	-	-	-	-	02/28/2030
-	6,013,227.75	6,013,227.75	638,227.75	2.090%	5,375,000.00	03/01/2030
-	582,059.00	582,059.00	582,059.00	-	-	09/01/2030
6,595,286.75	-	-	-	-	-	02/28/2031
-	6,072,059.00	6,072,059.00	582,059.00	2.190%	5,490,000.00	03/01/2031

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FirstSouthwest (a Division of HilltopSecurities)
Public Finance

\$100,000,000 Water & Sewer Revenue Bonds, Series 2016 TWDB SWIFT Loan (Deferred 20 yr. Loan) (Lending Rates as of April 18, 2016: 2.16% TIC)

Net Debt Service Schedule

Part 2 of 2

Fiscal						
Total	Net New D/S	Total P+I	Interest	Coupon	Principal	Date
-	521,943.50	521,943.50	521,943.50	-	-	09/01/2031
6,594,002.50	-	-	-	-	-	02/29/2032
	6,136,943.50	6,136,943.50	521,943.50	2.270%	5,615,000.00	03/01/2032
	458,213.25	458,213.25	458,213.25	-	-	09/01/2032
6,595,156.75	-	-	-	-	-	02/28/2033
	6,203,213.25	6,203,213.25	458,213.25	2.350%	5,745,000.00	03/01/2033
	390,709.50	390,709.50	390,709.50	-	-	09/01/2033
6,593,922.75	-	-	-	-	-	02/28/2034
	6,275,709.50	6,275,709.50	390,709.50	2.420%	5,885,000.00	03/01/2034
	319,501.00	319,501.00	319,501.00	-	-	09/01/2034
6,595,210.50	-	-	-	-	-	02/28/2035
	6,349,501.00	6,349,501.00	319,501.00	2.480%	6,030,000.00	03/01/2035
	244,729.00	244,729.00	244,729.00	-	-	09/01/2035
6,594,230.00	-	-	-	-	-	02/29/2036
	6,429,729.00	6,429,729.00	244,729.00	2.530%	6,185,000.00	03/01/2036
	166,488.75	166,488.75	166,488.75	-	-	09/01/2036
6,596,217.75	-	-	-	-	-	02/28/2037
-	6,511,488.75	6,511,488.75	166,488.75	2.570%	6,345,000.00	03/01/2037
	84,955.50	84,955.50	84,955.50	-	-	09/01/2037
6,596,444.25	-	-	-	-	-	02/28/2038
-	6,594,955.50	6,594,955.50	84,955.50	2.610%	6,510,000.00	03/01/2038
6,594,955.50	-	-	-	-	-	02/28/2039
	\$128,370,760.73	\$128,370,760.73	\$28,370,760.73	-	\$100.000.000.00	Total

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FirstSouthwest (a Division of HilltopSecurities)
Public Finance

\$50,000,000 Water & Sewer Revenue Bonds, Series 2017 TWDB SWIFT Loan (Deferred 20 yr. Loan) (20 Years; 2.50% TIC)

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Net New D/S
03/01/2018	250,000.00	1.080%	339,295.69	589,295.69	589,295.69
03/01/2019	250,000.00	1.160%	1,149,625.00	1,399,625.00	1,399,625.00
03/01/2020	1,000,000.00	1.230%	1,146,725.00	2,146,725.00	2,146,725.00
03/01/2021	1,000,000.00	1.330%	1,134,425.00	2,134,425.00	2,134,425.00
03/01/2022	1,000,000.00	1.440%	1,121,125.00	2,121,125.00	2,121,125.00
03/01/2023	2,295,000.00	1.530%	1,106,725.00	3,401,725.00	3,401,725.00
03/01/2024	2,335,000.00	1.620%	1,071,611.50	3,406,611.50	3,406,611.50
03/01/2025	2,375,000.00	1.720%	1,033,784.50	3,408,784.50	3,408,784.50
03/01/2026	2,415,000.00	1.790%	992,934.50	3,407,934.50	3,407,934.50
03/01/2027	2,460,000.00	1.860%	949,706.00	3,409,706.00	3,409,706.00
03/01/2028	2,510,000.00	2.060%	903,950.00	3,413,950.00	3,413,950.00
03/01/2029	2,560,000.00	2.200%	852,244.00	3,412,244.00	3,412,244.00
03/01/2030	2,620,000.00	2.330%	795,924.00	3,415,924.00	3,415,924.00
03/01/2031	2,685,000.00	2.430%	734,878.00	3,419,878.00	3,419,878.00
03/01/2032	2,750,000.00	2.530%	669,632.50	3,419,632.50	3,419,632.50
03/01/2033	2,825,000.00	2.610%	600,057.50	3,425,057.50	3,425,057.50
03/01/2034	2,900,000.00	2.680%	526,325.00	3,426,325.00	3,426,325.00
03/01/2035	2,980,000.00	2.740%	448,605.00	3,428,605.00	3,428,605.00
03/01/2036	3,060,000.00	2.800%	366,953.00	3,426,953.00	3,426,953.00
03/01/2037	3,150,000.00	2.850%	281,273.00	3,431,273.00	3,431,273.00
03/01/2038	3,240,000.00	2.890%	191,498.00	3,431,498.00	3,431,498.00
03/01/2039	3,340,000.00	2.930%	97,862.00	3,437,862.00	3,437,862.00
Total	\$50,000,000.00	-	\$16,515,159.19	\$66,515,159.19	\$66,515,159.19

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FirstSouthwest (a Division of HilltopSecurities)
Public Finance

\$50,000,000 Water & Sewer Revenue Bonds, Series 2017 TWDB SWIFT Loan (Deferred 20 yr. Loan) (20 Years; 2.50% TIC)

Net Debt Service Schedule

Part 1 of 2

Fiscal	Not New D/O	Tetel D.I	Internet	0	D aim aim al	Data
Tota	Net New D/S	Total P+I	Interest	Coupon	Principal	Date
-	-	-	-	-	-	11/15/2017
-	589,295.69	589,295.69	339,295.69	1.080%	250,000.00	03/01/2018
-	574,812.50	574,812.50	574,812.50	-	-	09/01/2018
1,164,108.19	-	-	-	-	-	02/28/2019
-	824,812.50	824,812.50	574,812.50	1.160%	250,000.00	03/01/2019
-	573,362.50	573,362.50	573,362.50	-	-	09/01/2019
1,398,175.00	-	-	-	-	-	02/28/2020
-	1,573,362.50	1,573,362.50	573,362.50	1.230%	1,000,000.00	03/01/2020
-	567,212.50	567,212.50	567,212.50	-	-	09/01/2020
2,140,575.00	-	-	-	-	-	02/28/2021
-	1,567,212.50	1,567,212.50	567,212.50	1.330%	1,000,000.00	03/01/2021
-	560,562.50	560,562.50	560,562.50	-	-	09/01/2021
2,127,775.00	-	-	-	-	-	02/28/2022
	1,560,562.50	1,560,562.50	560,562.50	1.440%	1,000,000.00	03/01/2022
	553,362.50	553,362.50	553,362.50	-	-	09/01/2022
2,113,925.00	-	-	-	-	-	02/28/2023
	2,848,362.50	2,848,362.50	553,362.50	1.530%	2,295,000.00	03/01/2023
	535,805.75	535,805.75	535,805.75	-	-	09/01/2023
3,384,168.25	-	-	-	-	-	02/28/2024
-	2,870,805.75	2,870,805.75	535,805.75	1.620%	2,335,000.00	03/01/2024
	516,892.25	516,892.25	516,892.25	-	-	09/01/2024
3,387,698.00	-	-		-	-	02/28/2025
- , ,	2,891,892.25	2,891,892.25	516,892.25	1.720%	2,375,000.00	03/01/2025
	496,467.25	496,467.25	496,467.25	-	-	09/01/2025
3,388,359.50	-	-	-	-	-	02/28/2026
- , ,	2,911,467.25	2,911,467.25	496,467.25	1.790%	2,415,000.00	03/01/2026
	474,853.00	474,853.00	474,853.00		_,,	09/01/2026
3,386,320.25	-	-	-	-	-	02/28/2027
	2,934,853.00	2,934,853.00	474,853.00	1.860%	2,460,000.00	03/01/2027
	451,975.00	451,975.00	451,975.00	-	-	09/01/2027
3,386,828.00				-	-	02/28/2028
5,500,020.00	2,961,975.00	2,961,975.00	451,975.00	2.060%	2,510,000.00	03/01/2028
-	426,122.00	426,122.00	426,122.00	2.00070	2,510,000.00	09/01/2028
3,388,097.00	420,122.00	420,122.00	420,122.00	-	-	02/28/2029
5,588,097.00	2,986,122.00	2,986,122.00	426,122.00	2.200%	2,560,000.00	03/01/2029
	397,962.00	397,962.00	397,962.00	2.200%	2,300,000.00	09/01/2029
2 284 084 00	397,902.00	397,962.00	597,962.00	-	-	02/28/2030
3,384,084.00	2 017 062 00	-	207.062.00	-	-	
-	3,017,962.00	3,017,962.00	397,962.00	2.330%	2,620,000.00	03/01/2030
-	367,439.00	367,439.00	367,439.00	-	-	09/01/2030
3,385,401.00	-	-	-	-	-	02/28/2031
-	3,052,439.00	3,052,439.00	367,439.00	2.430%	2,685,000.00	03/01/2031
	334,816.25	334,816.25	334,816.25	-	-	09/01/2031
3,387,255.25	-	-	-	-	-	02/28/2032
-	3,084,816.25	3,084,816.25	334,816.25	2.530%	2,750,000.00	03/01/2032

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FirstSouthwest (a Division of HilltopSecurities)
Public Finance

\$50,000,000 Water & Sewer Revenue Bonds, Series 2017 TWDB SWIFT Loan (Deferred 20 yr. Loan) (20 Years; 2.50% TIC)

Net Debt Service Schedule

Part 2 of 2

Fiscal						
Total	Net New D/S	Total P+I	Interest	Coupon	Principal	Date
-	300,028.75	300,028.75	300,028.75	-	-	09/01/2032
3,384,845.00	-	-	-	-	-	02/28/2033
-	3,125,028.75	3,125,028.75	300,028.75	2.610%	2,825,000.00	03/01/2033
-	263,162.50	263,162.50	263,162.50	-	-	09/01/2033
3,388,191.25	-	-	-	-	-	02/28/2034
-	3,163,162.50	3,163,162.50	263,162.50	2.680%	2,900,000.00	03/01/2034
-	224,302.50	224,302.50	224,302.50	-	-	09/01/2034
3,387,465.00	-	-	-	-	-	02/28/2035
-	3,204,302.50	3,204,302.50	224,302.50	2.740%	2,980,000.00	03/01/2035
-	183,476.50	183,476.50	183,476.50	-	-	09/01/2035
3,387,779.00	-	-	-	-	-	02/28/2036
-	3,243,476.50	3,243,476.50	183,476.50	2.800%	3,060,000.00	03/01/2036
-	140,636.50	140,636.50	140,636.50	-	-	09/01/2036
3,384,113.00	-	-	-	-	-	02/28/2037
-	3,290,636.50	3,290,636.50	140,636.50	2.850%	3,150,000.00	03/01/2037
-	95,749.00	95,749.00	95,749.00	-	-	09/01/2037
3,386,385.50	-	-	-	-	-	02/28/2038
-	3,335,749.00	3,335,749.00	95,749.00	2.890%	3,240,000.00	03/01/2038
-	48,931.00	48,931.00	48,931.00	-	-	09/01/2038
3,384,680.00	-	-	-	-	-	02/28/2039
-	3,388,931.00	3,388,931.00	48,931.00	2.930%	3,340,000.00	03/01/2039
3,388,931.00	-	-	-	-	-	02/28/2040
	\$66,515,159.19	\$66,515,159.19	\$16,515,159.19	-	\$50.000.000.00	Total

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Public Finance

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Applicant's Ten Largest Employers

El Paso Independent School District: 9,000 Ysleta Independent School District: 7,155 City of El Paso: 6,570 Fort Bliss Civilian Employees: 6,006 Socorro Independent School District: 6,000 T&T Staff Management: 4,000 University of Texas at El Paso: 3,700 Tenet Health: 2,991 County of El Paso: 2,771 El Paso Community College: 2,499

Ten Largest Employers Comments:

Bond Ratings

Bond Ratings

Туре	Standard & Poors	Date Received	Fitch	Date Received	Moody's	Date Received
G.O.	AA	07-08-2015	AA	07-10-2015		
Revenue	AA	10-26-2015	AA	10-26-2015		

Bond Rating N/A: N

Receive Water or Sewer

Is the project intended to allow the applicant to provide or receive water or sewer services to or from another entity?: N

Project Description

Description of Project Need (for example, is the project needed to address a current compliance issue, avoid potential compliance issues, extend service, expand capacity, etc.): This project is necessary to meet the needs of the El Paso County community, presently serving 823,862 residents. This population is projected to grow to 1,410,527 by year 2060. This is an increase of almost 600,000 residents.

According to "Integrated Water Management Strategies for El Paso Water Utilities", (LBG-Guyton Associates, and Freese and Nichols, Inc., February 2016), by year 2030 El Paso Water Utilities could see its first serious water deficit of almost 7000 AFY; by year 2040, this shortfall could increase to 20,000 AFY. Without taking immediate and strategic steps towards securing water rights, El Paso Water Utilities will be unable to deliver water to its future customers in any affordable manner.

Aside from anticipated population growth, this westernmost area of Texas has suffered for the last several years under ongoing drought conditions, even while the remainder of Texas has recovered from drought. For several years, westernmost Texas has been unable to withdraw its allotted share of surface water from the Bureau of Reclamation's Rio Grande Project because of low water levels as a result of drought. EPWU, through its water conservation awareness campaigns, has been able to reduce residential water usage to 130 gallons per capita daily. Even so, there will not be enough water available from current sources to meet future needs. This project to acquire water rights is a strategic step for EPWU to take to ensure that El Paso's future holds water for its growth.

Provide a detailed description of the proposed project. The description should include a discussion of the current service area, existing system facilities; and an adequate description of all proposed project elements (include a bulleted list of new project elements/components).:

EPWU is requesting SWIFT loan funding of \$150 million for this project. This acquisition will allow EPWU to begin potable water production in year 2060, to serve the

El Paso community area. This area's water will be desalinated to produce potable water.

Future water production: ~10,000 AFY in year 2060 ~20,000 AFY in year 2070.

These amounts are within the modeled available groundwater (MAG) for the Aquifer.

SWIFT

SWIFT Funding Type Low Interest Loan: \$150000000.00

Is this request for multi-year funding or phased commitments?: Y

As an applicant for financial assistance from SWIFT, I acknowledge that this project must comply with any applicable legal obligations in federal law related to contracting with disadvantaged business enterprises.: Y

As an applicant for financial assistance from SWIFT, I acknowledge that this project must comply with applicable legal obligations in state law (Texas Government Code Chapter 2161 and Texas Administrative Code Chapter 20, Subchapter B) related to contracting with historically underutilized businesses.: Y

El Paso Water Utilities Public Service Board

Proposed Schedule for Multi-year Commitments

TOTAL	\$150,000,000		
Year Two	\$ 50,000,000	Closing Date:	12/15/2017
Year One	\$100,000,000	Closing Date:	12/15/2016

ORDINANCE NO.

AUTHORIZING THE ISSUANCE OF

CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE BONDS, SERIES 2016A

Adopted: _____

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$100,000,000 OF CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE BONDS, SERIES 2016A TO THE TEXAS WATER DEVELOPMENT BOARD IN ORDER TO FINANCE CERTAIN SYSTEM IMPROVEMENTS; AND ENACTING PROVISIONS RELATED THERETO

WHEREAS, in accordance with the Constitution and the laws of the State of Texas, specifically Texas Government Code, Chapter 1502, as amended ("Chapter 1502"), the City of El Paso, Texas (the "City"), has previously issued waterworks and sewer system revenue bonds (the "Previously Issued Senior Lien Bonds") payable from and secured by a first and superior lien on and pledge of the net revenues of the City's combined waterworks and sewer system (the "System"); and

WHEREAS, on September 20, 2014 the City Council of the City adopted a Resolution delegating to the El Paso Water Utilities President/CEO the authority to apply for funding from the State Water Implementation Revenue Fund of Texas ("SWIRFT") which provides low interest loans to political subdivisions for water projects; and,

WHEREAS, the President/CEO has submitted an application for SWIRFT funding and the Texas Water Development Board ("TWDB") approved the request made on behalf of the City in the amount of \$100,000,000; and,

WHEREAS, on ______, 2016, the El Paso Water Utilities Public Service Board adopted a Resolution requesting that the City Council authorize the sale and issuance of up to \$100,000,000 in "City of El Paso, Texas Water and Sewer System Revenue Bonds, Series 2016A" to the TWDB as purchaser under the SWIRFT program; and

WHEREAS, in the ordinances authorizing the Previously Issued Senior Lien Bonds, the City reserved the right and option to issue, under certain conditions, "Additional Bonds" on a parity as to lien and right with such bonds; and

WHEREAS, the City Council has found and determined that the bonds herein authorized should be issued, in one series, on a parity with its Previously Issued Senior Lien Bonds, for the purposes aforesaid, pursuant to this Ordinance and as permitted by the General Laws of the State of Texas, particularly Chapter 1502; and

WHEREAS, a public hearing was held, following proper publication of notice thereof, before the City Council with respect to the adoption of this Ordinance; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Texas Government Code, Chapter 551, as amended;

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

ARTICLE 1

DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.01 <u>Definitions</u>. Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance, the following terms shall have the meanings specified below:

"Additional Bonds" means the additional revenue bonds permitted to be issued on a parity with the Bonds, and the Previously Issued Senior Lien Bonds by Section 10.03(a) of this Ordinance.

"Application" means the Application dated ______, 2016 filed by the City with the TWDB requesting financial assistance for improvements to the City's System, as further described in such Application.

"Board" or "Board of Trustees" means that certain board of trustees known as the "Public Service Board" heretofore established for the purpose of managing the System, and other water utilities of the City, as represented by the various persons appointed from time to time.

"Bond" means any of the Bonds.

"Bonds" means the City of El Paso, Texas, Water and Sewer Revenue Bonds, Series 2016A, authorized by Section 3.01 of this Ordinance.

"Bond Counsel" means a firm of nationally recognized attorneys experienced in the issuance of bonds and acceptable to the City, initially Norton Rose Fulbright US LLP.

"Business Day" means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located in the State of Texas are generally authorized or obligated by law or executive order to close.

"City" means the City of El Paso, Texas, and with respect to those matters requiring action regarding the authority and control of management and operation of the System or the expenditure and application of the System's revenues, "City" shall mean the Board acting on behalf of the City.

"City Council" means the governing body of the City of El Paso, Texas.

"Closing Date" means the date of the initial delivery of and payment for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Construction Fund" means the fund by that name designated in Section 9.03 hereof.

"Dated Date" means the date designated as the Dated Date by Section 3.02 of this Ordinance.

"Depository Bank" means any financial institution duly designated by the Board to serve as a depository for funds controlled by the Board.

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar named herein, its designated office in Minneapolis, Minnesota, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Escrow Agent" means _____, Texas.

"Escrow Agreement" means that certain Escrow Agreement between the City and the Escrow Agent, dated as of ______, 2016, pertaining to the deposit of the proceeds of the Bonds.

"Gross Revenues" means all of the revenues of every nature received through the operation of the System.

"Improvement Fund" means the fund by such name described in Section 8.01(a)(iv) hereof.

"Initial Bond" means the Initial Bond authorized by Section 3.04 of this Ordinance.

"Interest and Sinking Fund" means the fund by that name described in Section 8.01(a)(ii) hereof.

"Interest Payment Date" means the date or dates on which interest on the principal of the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1, commencing ______.

"MSRB" means the Municipal Securities Rulemaking Board.

"Net Revenues" means the Gross Revenues less the Operation and Maintenance Expenses.

"Note Payment Fund" means the fund so designated in Section 8.01(b) hereof.

"Operation and Maintenance Expenses" means the reasonable and proper expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions as are necessary to keep the System in operation or which are necessary to meet some physical accident or condition that would otherwise impair the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds shall be included as Operation and Maintenance Expenses.

"Owner" means the person who is the registered owner of a Bond or Bonds.

"Paying Agent/Registrar" means Wells Fargo Bank, National Association or any successor thereto or replacement therefor as provided in this Ordinance.

"Previously Issued Senior Lien Bonds" means the outstanding bonds of the following issues of the City (such bonds being designated as "Previously Issued Bonds" in ordinances adopted prior to March 1, 1993):

(1) Water and Sewer Taxable Revenue Bonds, Series 1990B, authorized by ordinance duly passed and approved December 18, 1990;

(2) Water and Sewer Revenue Bonds, Series 2003A, authorized by ordinance duly passed and approved August 26, 2003;

(3) Water and Sewer Revenue Refunding Bonds, Series 2007, authorized by ordinance duly passed and approved July 24, 2007;

(4) Water and Sewer Revenue Refunding Bonds, Series 2008, authorized by ordinance duly passed and approved January 15, 2008;

(5) Water and Sewer Revenue Bonds, Series 2008A, authorized by ordinance duly passed and adopted on September 16, 2008;

(6) Water and Sewer Revenue Bonds, Series 2008B, authorized by ordinance duly passed and adopted on September 16, 2008;

(7) Water and Sewer Revenue Refunding Bonds, Series 2008C, authorized by ordinance duly passed and adopted on October 7, 2008;

(8) Water and Sewer Revenue Refunding Bonds, Series 2010, authorized by ordinance duly passed and adopted on December 22, 2009;

(9) Water and Sewer Revenue Bonds, Taxable Series 2010 (Direct Subsidy – Build America Bonds), authorized by ordinance duly passed and adopted on July 13, 2010;

(10) Water and Sewer Revenue Refunding Bonds, Series 2010A, authorized by ordinance duly passed and adopted on September 21, 2010;

(11) Water and Sewer Revenue Refunding Bonds, Series 2011, authorized by ordinance duly passed and adopted on June 21, 2011;

(12) Water and Sewer Revenue Refunding Bonds, Series 2012, authorized by ordinance duly passed and adopted on January 10, 2012;

(13) Water and Sewer Revenue Refunding and Improvement Bonds, Series 2012A, authorized by ordinance duly passed and adopted on October 30, 2012;

(14) Water and Sewer Revenue Refunding Bonds, Series 2014, authorized by ordinance duly passed and adopted on January 7, 2014;

(15) Water and Sewer Revenue Refunding Bonds, Series 2015, authorized by ordinance duly passed and adopted on December 2, 2014;

(16) Water and Sewer Revenue Bonds, Series 2015A, authorized by ordinance duly passed and adopted on June 16, 2015;

(17) Water and Sewer Revenue Bonds, Series 2015B, authorized by ordinance duly passed and adopted on October 27, 2015; and

(18) Water and Sewer Revenue Refunding Bonds, Series 2015C, authorized by ordinance duly passed and adopted on October 27, 2015.

"Project" means the _____, as more fully described in the Application.

"Record Date" means with respect to each interest payment date the fifteenth day of the month next preceding such interest payment date.

"Register" means the Register specified in Section 3.07(a) of this Ordinance.

"Reserve Fund" means the fund by that name described in Section 8.01(a)(iii) hereof.

"Reserve Fund Requirement" means the amount which is equal to the average annual principal and interest requirements on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time outstanding.

"Revenue Fund" means the Waterworks and Sewage Fund established in Section 8.01(a)(i) hereof.

"Rule" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"SEC" means the United States Securities and Exchange Commission.

"Subordinate Lien Obligations" shall mean the obligations of the City under the City's Commercial Paper Notes, Series A and the documents pertaining thereto.

"System" means the complete waterworks plant and system of the City as they now exist and may be improved, added to, or extended hereafter, and the complete sewer system of the City as it now exists and may hereafter be improved, added to, or extended, there being included in such term all water and sewer facilities now or hereafter owned or operated by the City, lying within and without the boundaries of the City, and including all real estate and real and personal property of every kind and nature comprising any part of or used or useful in the operation of the water and sewer facilities of the City.

"TWDB" means the Texas Water Development Board.

Section 1.02 <u>Findings</u>. The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 <u>Table of Contents, Titles and Headings</u>. The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed 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.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance.

ARTICLE 2

SECURITY FOR THE BONDS

Section 2.01 <u>Security for the Bonds</u>. The Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, both principal and interest, are and shall be equally and ratably secured by and payable from an irrevocable first lien on and pledge of the Net Revenues.

Section 2.02 <u>Limited Obligations</u>. The Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, are special obligations of the City, payable solely from the Net Revenues, and do not constitute a prohibited indebtedness of the City. Neither the Bonds, the Previously Issued Senior Lien Bonds, nor the Additional Bonds shall ever be payable out of funds raised or to be raised by taxation.

Section 2.03 <u>Security Interest</u>. The City represents that, under Chapter 1208.002, Texas Government Code, a security interest in property, other than real property, that is created by the City is valid and effective according to the terms of the security agreement and is perfected from

the time the security agreement is entered into or adopted continuously through the termination of the security interest, without physical delivery or transfer of control of the property, filing of a document, or another act. The City covenants that, if Chapter 1208.002 is amended at any time while the Bonds, the Previously Issued Senior Lien Bonds or Additional Bonds are outstanding and unpaid, the City shall take all actions required in order to preserve for the Owners of the Bonds, the Previously Issued Senior Lien Bonds or Additional Bonds a perfected security interest in the property in which such security interest is granted pursuant to Section 2.01 hereof.

ARTICLE 3

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 <u>Authorization</u>. The City's revenue bonds to be designated the "City of El Paso, Texas, Water and Sewer Revenue Bonds, Series 2016A," are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, particularly the Act, and the Charter of the City. The Bonds shall be issued in the aggregate principal amount of \$100,000,000 for the purposes of (i) financing the Project and (ii) paying the costs of issuing the Bonds.

Section 3.02 Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated as of ______ (the "Dated Date"). The Bonds shall be in fully registered form, without coupons, and shall be numbered consecutively from one upward, except the Initial Bond, which shall be numbered as specified in Section 6.02.

(b) The Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall mature on March 1 in the years and in the principal amounts and shall bear interest at the per annum rates set forth in the following schedule:

Stated	Principal	Interest
<u>Maturity</u>	<u>Amount (\$)</u>	<u>Rates (%)</u>

Stated <u>Maturity</u> Principal Amount (\$) Interest <u>Rates (%)</u>

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or earlier redemption from the later of the Closing Date or the most recent interest payment date to which interest has been paid or provided for at the per annum rates specified in the schedule contained in subsection (b) above. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing ______, computed on the basis of a 360-day year of twelve 30-day months.

Section 3.03 Medium, Method and Place of Payment

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.

(b) Interest on the Bonds shall be paid to the Owners thereof as shown in the Register at the close of business on the Record Date by check (dated as of the Interest Payment Date) and sent by the Paying Agent/Registrar to the person entitled to such payment, first class United States mail, postage prepaid, to the address of such person as it appears in the Register, or by such other customary banking arrangements; and provided further that so long as the beneficial owner of the Bonds is TWDB, payments of principal of and interest on the Bonds may be made by electronic transfer at no cost to such beneficial owner.

(c) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, the date for such payment shall be the next succeeding Business Day, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in this Section.

(e) In the event of a nonpayment of interest on a Bond 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 business days prior to the Special Record Date

by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

(f) Unclaimed payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which the unclaimed payments pertain. Subject to Title 6 of the Texas Property Code, payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

Section 3.04 <u>Execution and Initial Registration</u>. The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem and the City Clerk or Alternate City Clerk as of the date of adoption of this Ordinance, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(a) In the event any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(b) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered on the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond of each series has been duly approved by the Attorney General of the State of Texas and that they are valid and binding special obligations of the City, and have been registered by the Comptroller of Public Accounts of the State of Texas.

(c) On the Closing Date, one Initial Bond for each series of the Bonds, payable in stated installments to the TWDB or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Clerk or Alternate City Clerk, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts will be delivered to the TWDB or its designee. Upon payment for each Initial Bond, the Paying

Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Sections 3.09 and 3.11.

Section 3.05 <u>Ownership</u>.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal, for the further purpose of making and receiving payment of the interest thereon (subject to the terms of this Ordinance requiring the Paying Agent/Registrar to make payments of interest to the person who is the registered owner on the Record Date or the Special Record Date), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06 <u>Registration, Transfer and Exchange</u>

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) Registration of any Bond may be transferred in the Register only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of the Bonds, or any portion thereof in any integral multiple of \$5,000, to the assignee or assignees thereof, and the right of such assignee or assignees thereof to have the bond or any portion thereof registered in the name of such assignee or assignees. No transfer of any Bond shall be effective until entered in the Register. Upon assignment and transfer of any Bond or portion thereof, a new Bond or Bonds will be issued by the Paying Agent/Registrar in exchange for such transferred and assigned Bond. To the extent possible the Paying Agent/Registrar will issue such new Bond or Bonds in not more than three business days after receipt of the Bond to be transferred in proper form and with proper instructions directing such transfer.

(c) Any Bond may be exchanged only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantees of signatures satisfactory to the Paying Agent/Registrar, for a Bond or Bonds of like series, of the same maturity and interest rate and in any authorized denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. If a portion of any Bond is redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds of like series, having the same maturity date, bearing interest at the same rate, in the denomination or denominations of any integral multiple of \$5,000 at the request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the

registered owner upon surrender thereof for cancellation. To the extent possible, a new Bond or Bonds will be required to be delivered by the Paying Agent/Registrar to the registered owner of the Bond or Bonds in not more than three business days after receipt of the Bond to be exchanged in proper form and with proper instructions directing such exchange.

(d) Each Bond issued in exchange for any Bond or portion thereof assigned or transferred shall be of like series, of the same tenor and shall have the same maturity date and bear interest at the same rate and in the same manner as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying Agent/Registrar shall exchange the Bonds as provided herein, and each substitute Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such substitute Bond is delivered.

(e) The City will pay the Paying Agent/Registrar's reasonable and customary charge for the initial registration of the Bonds and the subsequent exchange of the Bonds pursuant to the provisions hereof. However, the Paying Agent/Registrar will require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond. In addition, the City hereby covenants with the Owners of the Bonds that it will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Bonds, when due, and (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer, registration and exchange of Bonds as provided herein to the extent such fees and charges are payable hereunder by the City.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the owner of the uncalled principal balance of a Bond.

Section 3.07 <u>Cancellation and Authentication</u>.

(a) All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be canceled upon the making of proper records regarding such payment, redemption, exchange or replacement.

(b) Each substitute Bond issued in exchange for or replacement of (pursuant to the provisions of Section 3.09 hereof) any Bond or Bonds issued under this Ordinance shall have printed thereon a Paying Agent/Registrar's Authentication Certificate, in the form hereinafter set forth. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such bond, manually sign and date such Certificate, and no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person so as to

accomplish the foregoing exchange or replacement of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Texas Government Code, Chapter 1201, as amended, the duty of exchange or replacement of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the above Paying Agent/Registrar's Authentication Certificate, the exchanged or replaced Bonds shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which originally were delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

Section 3.08 <u>Temporary Bonds</u>.

(a) Pending the preparation of definitive Bonds, the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance. The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar, and thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like series, of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(c) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(d) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the City, to save each of them harmless;

(i) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(ii) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(e) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(f) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, without the necessity of issuing a replacement Bond, may pay such Bond on the date on which such Bond becomes due and payable.

(g) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.10 Book-Entry Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/ Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose

of payment of principal of, premium, if any, and interest on, the Bonds, for the purpose of all matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.11 <u>Successor Securities Depository; Transfer Outside Book-Entry Only</u> <u>System</u>. In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12 <u>Payments to Cede & Co</u>. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on the Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the blanket representation letter of the City to DTC.

ARTICLE 4

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 <u>Limitation on Redemption</u>. The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article.

Section 4.02 Optional Redemption.

(a) The Bonds having Stated Maturities on and after March 1, 2028, shall be subject to redemption prior to maturity, at the option of the City, in whole or in part (in inverse order of Stated Maturities, if less than all), 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 March 1, 2027, or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least 45 days before the redemption date (unless a shorter period shall be satisfactory to the Paying Agent/Registrar), shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03 Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each \$5,000 portion of the Bonds and select the portion or portions of the Bond to be redeemed by lot or by any other customary method that results in a random selection.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.04 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by first class United States mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or portion thereof) to be redeemed, at the address shown in the Register at the close of business on the Business Day next preceding the date of mailing of such notice.

(b) The notice shall state, among other things, the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, that the Bonds so called for redemption shall cease to bear interest after the redemption date, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.05 <u>Payment Upon Redemption</u>.

(a) Before or on each redemption date, the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust an amount received by the Paying Agent/Registrar sufficient to pay the principal of and accrued interest on such Bonds.

(b) Upon presentation and surrender of any Bond called for redemption at the designated office of the Paying Agent/Registrar, on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, and accrued interest on such Bond from the moneys set aside for such purpose.

Section 4.06 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.04 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in the payment of the principal thereof or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If any Bond or portion thereof called for redemption is not so paid upon presentation and surrender thereof for redemption, such Bond or portion thereof shall continue to bear interest at the rate stated on the Bond until paid or until due provision is made for the payment of same.

Section 4.07 <u>Lapse of Payment</u>. Money set aside for the redemption of Bonds and remaining unclaimed by the Owners thereof shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE 5

PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

(a) Wells Fargo Bank, National Association, a national banking association organized under the laws of the United States of America authorized to do business in the State of Texas, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

(b) The Mayor, Mayor Pro Tem, and the City Manager are authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar substantially in the form attached hereto as <u>Exhibit</u> <u>B</u>.

Section 5.02 <u>Qualifications of Paying Agent/Registrar</u>. Each Paying Agent/Registrar shall be a commercial bank, a national banking association trust company organized under the

laws of the State of Texas, or other entity duly qualified and legally authorized to serve as, and perform the duties and services of, paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04 <u>Termination of Paying Agent/Registrar</u>. The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated a certified copy of a resolution of the City (i) giving notice of the termination of the appointment, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar.

Section 5.05 <u>Notice of Change of Paying Agent/Registrar to Owners</u>. Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 <u>Agreement of Paying Agent/Registrar to Perform Duties and Functions.</u> By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby.

Section 5.07 <u>Delivery of Records to Successor</u>. If a Paying Agent/Registrar is replaced, such Paying Agent/ Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE 6

FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) 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 any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced

by their execution thereof. Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(b) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof. The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02 <u>Form of the Bonds</u>. The form of the Bonds of each series, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas (which shall only appear on the Initial Bond), the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds shall be substantially as follows:

(a) <u>Form of Bond</u>.

REGISTERED No.

REGISTERED \$

UNITED STATES OF AMERICA STATE OF TEXAS COUNTY OF EL PASO CITY OF EL PASO, TEXAS, WATER AND SEWER REVENUE BONDS, SERIES 2016A

INTEREST RATE:	MATURITY DATE:	DATED DATE:	CUSIP NO.:
%	March 1, 20		

The City of El Paso (the "City"), in the County of El Paso, State of Texas, for value received, hereby promises to pay to

or registered assigns, but solely from the sources and in the manner hereinafter provided, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Bond shall have been sooner called for prior redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the date of delivery or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, 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 to be paid semiannually on March 1 and September 1 of each year, commencing ______. The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America

upon presentation and surrender of this Bond at the designated payment/transfer office in Minneapolis Minnesota (the "Designated Payment/Transfer Office") of Wells Fargo Bank, National Association, Minneapolis, Minnesota, Paying Agent/Registrar, or at the Designated Payment/Transfer Office of any successor thereto. Interest on this Bond is payable by check, dated as of the interest payment date, mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth day of the month next preceding such interest payment date. In the event of a nonpayment of interest on a scheduled payment date, and for thirty 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 date shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof, dated as of ______, issued in the aggregate principal amount of \$______ (herein referred to as the "Bonds"), and issued pursuant to the authority provided by Chapter 1502, Texas Government Code, and a certain ordinance of the City (the "Ordinance"), for the purpose of providing funds to pay a portion of the costs of the Project as described in the Ordinance and the costs of issuing the Bonds as described in the Ordinance. Capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Ordinance.

The Bonds, together with the City's previously issued and presently outstanding water and sewer senior lien revenue bonds, are payable from and secured by a first lien on and pledge of the Net Revenues of the City's combined waterworks and sewer system. The City has reserved the right, subject to the restrictions stated in the Ordinance, to issue additional revenue bonds that may be secured in the same manner and on a parity with the Bonds and the Previously Issued Senior Lien Bonds.

The City reserves the option to redeem Bonds maturing on or after March 1, 2028, in whole or in part (in inverse order of Stated Maturities, if less than all), in principal amounts of \$5,000 or any integral multiple thereof, before their respective scheduled maturity dates, on

March 1, 2027 or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the redemption date. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall assign a separate number for each \$5,000 portion of the Bonds and select the portion or portions of the Bond to be redeemed by lot or by any other customary method that results in a random selection.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

As provided in the Ordinance and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar, and, thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption when such redemption is to occur within 45 calendar days after the transfer or exchange date. However, such limitations of transfer shall not be applicable to an exchange by the Owner of the unredeemed balance of a Bond called for redemption in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be 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 Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City, the Paying Agent/Registrar, nor any such agent shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; and that the interest on and principal of this Bond and the series of which it is a part, together with certain outstanding senior lien revenue bonds of the City, are secured by and payable from an irrevocable first lien on and pledge of the Net Revenues of the System, as provided in Ordinance, and not from any other revenues, funds or assets of the City.

This Bond shall not be deemed to constitute a debt of the City or a pledge of its faith and credit; nor shall the Owners hereof ever have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the manual or facsimile signature of the Mayor/Mayor Pro Tem and countersigned by the manual or facsimile signature of the City Clerk or Alternate City Clerk, and the official seal of the City has been duly impressed or placed in facsimile on this Bond all as of the Dated Date set forth herein.

City Clerk City of El Paso, Texas Mayor/Mayor Pro Tem City of El Paso, Texas

(SEAL)

(b) Form of Comptroller's Registration Certificate.

[to be printed on Initial Bond only]

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of El Paso, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same and that said Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, on this date: ______.

Comptroller of Public Accounts of the State of Texas

(SEAL)

(c) Form of Certificate of Paying Agent/Registrar.

CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the withinmentioned Ordinance; the bond or bonds 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 Bond.

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

Dated: _____

By: _____

Authorized Signature

(d) Form of Assignment.

ASSIGNMENT

(print FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto typewrite name, address and Zip Code of transferee):

(Social Security or other identifying number: ______) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints ______ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) <u>The Initial Bond shall be in the form set forth in subsection (a) of this Section,</u> except for the following alterations:

(i) Immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall be completed with the words "As Shown Below," and the heading "CUSIP No." shall be deleted.

(ii) in the first paragraph of the Bond the words "on the Maturity Date specified above, the sum of ______ DOLLARS" shall be deleted and the following will be inserted: "on March 1 in each of the years, in the principal amounts and bearing interest at the per annum rates set forth in the following schedule:

Year Principal Amount Interest Rate

(Information to be inserted from the schedule in Section 3.02 of this Ordinance)

(iii) the Initial Bond shall be numbered T-1.

(f) The Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the Initial Bond is fully executed.

(g) The Certificate of the Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

Section 6.03 <u>CUSIP Registration</u>. The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.04 <u>Legal Opinion</u>. The approving legal opinion of Bond Counsel, may be attached to or printed on each Bond over the certification of the City Clerk or Alternate City Clerk of the City, which certification may be executed in facsimile.

Section 6.05 <u>Statement of Insurance</u>. A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

ARTICLE 7

PUBLIC SERVICE BOARD

Section 7.01 Public Service Board.

(a) Pursuant to the authority contained in Texas Government Code, Section 1502.071, as amended, during such time as any of the Bonds herein authorized are outstanding and unpaid, the Public Service Board shall have complete authority and control of the management and operation of the System.

(b) The Board shall consist of seven members, one of whom shall be the Mayor of the City who shall ex officio be one member of the Board. Each term of office shall be four years with no member being appointed to more than two consecutive terms. To the extent not prohibited by State law, each member shall continue to serve until his or her successor is appointed and qualified, or until 30 days have passed beyond the expiration of such term, whichever event occurs first. After that time a vacancy on the Board shall exist and the former member shall have no power to vote or participate in Board proceedings; but such vacancy shall not serve to reduce the number of members required for a quorum.

Each vacancy in Board membership whether occasioned by expiration of office or otherwise shall be filled by the City Council from three persons eligible to serve as Board members and presented to City Council. A selection committee selected by the City Council and comprised of the Board and such additional members as appointed by City Council shall agree upon and submit to City Council the names of such three eligible persons.

Any member of the Board, other than the Mayor, who shall be continuously absent from all meetings of the Board for a period of three consecutive months shall, unless he or she shall be granted leave of absence by the unanimous vote of the remaining members of the Board, be removed from office, but only for adequate cause. As City Council appointees, members of the Board are subject to the City's ethics ordinance, Chapter 2.92 of the City Code of the City, as amended, and must comply with the applicable provisions contained therein. (c) The Board shall elect one of its own members as Chairman and one as Vice-Chairman and appoint a Secretary and a Treasurer or a Secretary-Treasurer, who may, but need not, be a member or members of the Board. The Board may make such regulations or any bylaws for the orderly handling of its affairs as it may in its discretion see fit and shall thereafter, subject to the pertinent laws of the State of Texas, operate and manage the System with the same freedom and in the same manner as are ordinarily enjoyed by the Board of Directors of a private corporation operating properties of a similar nature.

Subject to the provisions and restrictions contained in this Ordinance, all of which shall be binding on the Board, the Board shall have complete authority and control of the management and operations of the System and the expenditure and application of its revenues.

(d) The Board shall elect or appoint all officers and employees which it may consider desirable, including a President/Chief Executive Officer of the System. The President/Chief Executive Officer shall be responsible to appoint officers and employees that directly report to the President/Chief Executive Officer, including an attorney or attorneys, vice president(s) and such other personnel that directly report to the President/Chief Executive Officer. All other officers and employees, except members of the Board, the President/Chief Executive Officer, attorneys, vice president(s) and persons directly reporting to the vice president(s) shall serve under the City Civil Service provisions as are or may be established by the Charter of the City or the laws of Texas, and the Board shall have the same authority with respect to such officers and employees of the City. The Board shall obtain and keep continually in force an employers' fidelity and indemnity bond of the so-called blanket type, written by a solvent and recognized indemnity company, and covering losses to the amount not to exceed \$50,000.

(e) The members of the Board, other than the Mayor shall, for each meeting attended, receive the sum of \$20.00, except that the amount so paid to any member of the Board in any fiscal year shall not exceed \$5,000. The members of the Board shall not personally be liable for any act or omission not willfully fraudulent or committed in bad faith.

ARTICLE 8

FUNDS; FLOW OF FUNDS

Section 8.01 Special Funds.

(a) The City covenants and agrees that all revenues derived from the operation of the System shall be kept separate from other funds of the City. To that end, the following special funds heretofore established are reaffirmed and shall be maintained at the Depository Bank so long as any of the Bonds, the Previously Issued Senior Lien Bonds, or any Additional Bonds are outstanding and unpaid, to-wit:

(i) "City of El Paso, Texas, Water and Sewer Revenue Bonds Waterworks and Sewage Fund" (herein called the "Revenue Fund");

(ii) "City of El Paso, Texas, Water and Sewer Revenue Bonds Interest and Sinking Fund" (herein called the "Interest and Sinking Fund");

(iii) "City of El Paso, Texas, Water and Sewer Revenue Bonds Reserve Fund" (herein called the "Reserve Fund"); and

(iv) "City of El Paso, Texas, Water and Sewer System Improvement Fund" (herein called the "Improvement Fund").

The Interest and Sinking Fund and the Reserve Fund shall be held in trust solely for the benefits of the Owners and the Owners of the Previously Issued Senior Lien Bonds, the Bonds and any Additional Bonds.

(b) The "City of El Paso, Texas Water and Sewer System Note Payment Fund" (the "Note Payment Fund") heretofore created by the ordinance authorizing the City's Commercial Paper Notes, Series A, herein referred to as the "Subordinate Lien Obligations."

Section 8.02 <u>Revenue Fund</u>. All Gross Revenues shall be deposited from day to day as collected into the Revenue Fund. Moneys on deposit in the Revenue Fund shall first be used to pay all Operation and Maintenance Expenses. The revenues of the System not actually required to pay Operation and Maintenance Expenses (the "Net Revenues") shall be transferred from the Revenue Fund to the other Funds in this Ordinance, in the order of priority, in the manner, and in the amounts set forth below:

(a) <u>Interest and Sinking Fund</u>. In addition to the deposits required by ordinances authorizing the Previously Issued Senior Lien Bonds, there shall be deposited into the Interest and Sinking Fund the following:

(i) such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the interest scheduled to come due on the Bonds on the next interest payment date, less any amounts already on deposit therein for such purpose derived from the proceeds of the Bonds or from any other lawfully available source; and

(ii) such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the next maturing principal of the Bonds, including any scheduled mandatory redemption of Bonds.

The Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds as such principal matures and such interest becomes due.

(b) <u>Reserve Fund</u>. So long as the funds on deposit in the Reserve Fund created for the benefit of the Bonds, the Previously Issued Senior Lien Bonds, and all Additional Bonds are equal to the Reserve Fund Requirement, no deposits need to be made to the credit of the Reserve Fund; but should the Reserve Fund at any time contain less than the Reserve Fund Requirement, then, subject and subordinate to making the required deposits to the credit of the Interest and Sinking Fund, the City shall transfer from the Net Revenues in the Revenue Fund and deposit to the credit of the Reserve Fund, on the first day of each month, such amounts in equal monthly installments to accumulate within at least five years and one month a sum equal to the Reserve Fund Requirement. The money on deposit in the Reserve Fund may be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time there are not sufficient funds on deposit in the Interest and Sinking Fund for such purpose.

In accordance with the procedures specified in the preceding paragraph, the City hereby directs that the deposits, if any, being made to the Reserve Fund be increased to accumulate in the Reserve Fund within five years and one month from the date of the Bonds an amount equal to the Reserve Fund Requirement.

(c) <u>Note Payment Fund</u>. In addition to the foregoing deposits, in order to provide for the payment of and security for any Subordinate Lien Obligations there shall be deposited to the Note Payment Fund amounts sufficient to pay when due the principal of and interest on the Subordinate Lien Obligations.

(d) <u>Payment to the City's General Fund</u>. At the end of each month there shall be paid to the City Treasurer for deposit to the City's General Fund from any money which may remain in the Revenue Fund after all payments required to be paid from such Fund in such month have been made and all deficiencies accumulated from prior months have been remedied, such amounts as will result in there having been paid to the City during each fiscal year, ten percent (10%) of the total received by the Board from the sale of water during the fiscal year.

(e) <u>Improvement Fund</u>. All money remaining in the Revenue Fund at the end of each month after all payments required to be made therefrom in such month have been made and all deficiencies accumulated from prior months have been remedied shall continue to be paid to the Improvement Fund established in connection with the System, and shall be held in and paid out from such Fund for the following purposes:

(i) To pay the cost of any special or extraordinary repairs or replacements to or of the properties comprising the System, properly payable with such money under the laws of the State of Texas, necessitated by reason of some emergency; and

(ii) To the extent permitted by law, for the making of extensions, improvements, and betterments of the System.

Section 8.03 Investment of Funds.

(a) <u>Revenue Fund and Interest and Sinking Fund</u>. The Funds hereinabove created shall be invested and secured in the manner required by State or federal law, including specifically the Public Funds Investment Act, Texas Government Code, Chapter 2256, as appropriate. Moneys on deposit in the Interest and Sinking Fund and the Revenue Fund shall be continually secured by the deposit of collateral securities having a market value at all times not less than the amount in such Fund. The money in the Interest and Sinking Fund and the Reserve Fund shall be held as a trust fund for the benefit of the Owners of the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds, the beneficial interest in which shall be regarded as existing in such owners. The Secretary of the Board shall require arrangements to be made with the Paying Agent/Registrar as will, to the extent of money in the Interest and Sinking Fund, and, if necessary, in the Reserve Fund, assure the prompt payment of principal of and

interest on the Bonds herein authorized as such principal and interest become due, except that by agreement with the Owners of any Bonds purchased on the open market for retirement, payment of principal and interest thereon due by reason of such purchase, may be made by the Paying Agent/Registrar to the Owners thereof upon surrender of Bonds. All Bonds so paid, redeemed or purchased shall be canceled and shall not be subject to reissuance.

Investment of Reserve Fund. To the extent permitted by applicable law, including (b) specifically the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, moneys on deposit in the Reserve Fund may be invested and reinvested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by the United States Government, Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, Banks for Cooperatives, or certificates of deposit, the payment of which are insured in full by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, which shall mature, or which shall be subject to redemption by the Owner thereof at the option of such Owner, not later than ten years after the date of investment. Any obligations in which money is so invested shall be kept in escrow and shall be promptly sold and the proceeds of sale applied to the making of payments required to be made from the Reserve Fund whenever such payments are necessary to be made under this Section. The deposits into the Reserve Fund shall be subordinate to those required to be made into the bond funds for the Previously Issued Senior Lien Bonds, the Bonds, and any Additional Bonds.

Section 8.04 <u>Contributions in Aid of Construction</u>. Any moneys that may be received by the Board that shall represent contributions in aid of construction shall be deposited in a separate account at the Depository Bank. Such contributions shall not be considered as part of the Gross Revenues of the System. Payments from such bank account shall be made only for the purposes for which the contributions were made, including any refunds that may become due to any contributor.

ARTICLE 9

DEPOSIT OF PROCEEDS; CONTROL AND DELIVERY OF BONDS

Section 9.01 <u>Deposit of Proceeds</u>.

(a) Pursuant to written instructions from First Southwest Company, the City's Financial Advisor, on the Closing Date the Paying Agent/Registrar shall pay, from the proceeds of the Bonds received on the Closing Date, to First Southwest Company an amount sufficient to pay the costs and expenses pertaining to the issuance of the Bonds. To the extent such amount is not required or used for such purpose, such excess shall be deposited to the Interest and Sinking Fund.

(b) After giving effect to the payment required in Section 9.01(a), the remaining proceeds of the Bonds shall be deposited to the "Escrow Fund" (as defined in the Escrow Agreement), and, to the extent directed in writing by TWDB, to the Construction Fund. Moneys deposited to the Escrow Fund shall be applied as provided in the Escrow Agreement.

Section 9.02 Control and Delivery of Bonds.

(a) The Mayor, or in his absence, the Mayor Pro-Tem, is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the TWDB under and subject to the general supervision of the City Manager of the City or the President/Chief Executive Officer of the System against receipt by the City of all amounts due the City under the terms of the sale.

Section 9.03 Construction Fund.

(a) There is hereby established and created the "City of El Paso, Texas Water and Sewer Revenue Bonds, Series 2016A Construction Fund" (the "Construction Fund"), which shall be maintained by the City at the City's Depository Bank and which shall be kept segregated and apart from other funds and accounts of the City and the Board. Such Depository Bank is a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

(b) Monies on deposit in the Construction Fund shall be applied solely to the payment of the Project in accordance with the applicable requirements of the Texas Water Code and the rules and regulations of the TWDB.

ARTICLE 10

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 10.01 <u>Insurance</u>. The City hereby agrees that it will carry at all times for the benefit of the Owners of the Bonds, such insurance on the System that is reasonably obtainable of the kinds and in the amounts which are usually carried by private companies operating similar properties and adequate to protect TWDB's interest in the Project. Such insurance may be provided by means of a self-insurance fund in which event deposits to such fund shall be a maintenance and operating expense of the System.

Section 10.02 <u>Books and Records</u>. The City hereby covenants and agrees that complete and proper books of records and account will be kept and that the Owners of any of the Bonds, or any duly authorized agent or agents of such Owners, shall have the right to inspect such records at all reasonable times. The Board will within sixty (60) days following the close of each fiscal year, cause an audit of the books and accounts to be made by an independent firm of certified public accountants and that such audit will be available for inspection by the Owners of any of the Bonds.

Section 10.03 Additional Covenants.

(a) <u>Additional Bonds</u>. The City may issue "Additional Bonds" if the following conditions are met:

(i) the City is not then in default as to any covenant, condition or obligation prescribed by an ordinance authorizing the issuance of any bonds payable from and secured by a first lien on and pledge of the Net Revenues;

(ii) the Additional Bonds are made to mature on March 1 in each of the years in which they are scheduled to mature;

(iii) the net earnings of the System for any consecutive period of 12 months of the 15 months next preceding the month of the date of the Additional Bonds then to be issued, or for the City's completed fiscal year next preceding the date of such Additional Bonds, are equal to at least 1.25 times the maximum annual principal and interest requirements of all bonds to be outstanding after the issuance of the Additional Bonds, as such net earnings are shown by a report by a certified public accountant; and

(iv) the amount to be accumulated and maintained in the Reserve Fund shall be increased to an amount not less than the average annual requirements for the payment of principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and the Additional Bonds, such additional amount to be accumulated in equal monthly installments during a period not to exceed five years and one month.

(b) <u>Maintain and Operate System Efficiently</u>. The City and the Board hereby covenant, respectively, that they will maintain and operate the System with all possible efficiency while any of the Bonds remain outstanding and faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State.

(c) <u>Rate Covenant</u>. The Board hereby covenants that it will establish and maintain rates for water and sewer services supplied by the System which shall produce or yield revenues sufficient to pay maintenance and operating expenses of the System and an additional amount equal to 150% of the aggregate amount required to be paid in such year for principal and interest on all outstanding Previously Issued Senior Lien Bonds, the Bonds, and any Additional Bonds.

(d) <u>Charges for Water and Sewer Service</u>. The City and the Board hereby covenant that charges for sewer services will be made jointly with charges made for the sale of water and water services. Such charges shall be required to be paid by the customer at the same time. Water connections shall be permitted only on a metered basis.

(e) <u>Enforcement</u>.

(i) The City and the Board hereby respectively covenant, acting in the exercise of their respective police powers, to take all necessary action to require every owner, tenant or occupant of each lot or parcel of land in the City which abuts upon a street or other public way containing a sewer line and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use to connect such building with the System and to cease using any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in

accordance with the rules and regulations of the City and the Board, as may be adopted from time to time, which rules and regulations may provide for an inspection charge to assure the proper making of such connections.

(ii) The City and the Board hereby further covenant, respectively, to require the occupant of any premises, the owner or occupant of which shall be delinquent for more than thirty (30) days in the payment of sewer charges imposed hereunder, to cease to dispose of sewage or industrial or commercial wastes originating from or on such premises by discharge thereof into the System until such delinquent charges, together with all penalties relating thereto, shall have been paid. In order to enforce the provisions of this covenant and to prevent the creation of a health hazard, in the event any such occupant shall not cease such disposal, the supply and sale of water to such premises shall cease until such time as all delinquencies have been removed.

(iii) The Board will proceed immediately with a suit in assumpsit or similar action against such owner or occupant to recover the amount of any delinquent charges, together with penalties and with interest computed thereon at the rate of six percent (6%) per annum.

(iv) The Board will shut off the supply of water to any premises the owner or occupant of which shall be delinquent for more than thirty (30) days in the payment of any charges imposed hereunder.

(f) <u>Nonimpairment of Lien</u>. The City and the Board hereby covenant, respectively, to take no action or omit to take any action, or suffer to be done or omitted to be done, any matter or thing whatsoever whereby the lien of the Bonds, the Senior Lien Bonds and any Additional Bonds on the revenues of the System might or could be lost or impaired, and that the Board will pay or cause to be paid, or will make adequate provision for the satisfaction and discharge of all lawful claims and demands for labor, materials, supplies, or other objects which, if unpaid, might by law be given precedence to, or an equality with the Bonds, the Senior Lien Bonds and any part thereof; provided that nothing in this subsection (f) shall be construed to require the Board to pay, discharge or make provision for any such lien, charge, claim or demand so long as the validity thereof shall be by it in good faith contested.

(g) <u>No Sale or Encumbrance of System</u>. The City and the Board hereby covenant, respectively, that they will not in any manner dispose of the System or any substantial part thereof, including any and all extensions and additions that may be made thereto, until the Bonds, the Senior Lien Bonds and any Additional Bonds shall have been paid in full as to both principal and interest; provided, however, that this covenant shall not be construed to prevent the disposal by the City of property, which in the Board's judgment has become inexpedient to use in connection with the System, when other property of equal value is substituted therefor or when the proceeds of such disposition of such property are placed in the Interest and Sinking Fund, in addition to all other amounts required to be placed in the Interest and Sinking Fund in the current fiscal year, and are used for the retirement of Bonds, Senior Lien Bonds, and any Additional Bonds in advance of their respective maturities.

(h) <u>Payment to City from Sale of Land</u>. An amount equal to five percent (5%) of the net proceeds from the sale of lands of the System shall be paid as received to the General Fund of the City and used for any lawful purpose.

(i) <u>No Competing Systems</u>. The City hereby covenants that it will not grant a franchise for the operation of any competing water or sewer system in the City until all Bonds, Senior Lien Bonds and any Additional Bonds have been paid in full with respect to principal and interest.

(j) <u>No Free Service</u>. The Board hereby covenants that it will not permit free water or services to be supplied to the City or to any other user, and the City hereby agrees that it will pay from its general fund the reasonable value of all water and services obtained from the System by the City and all departments and agencies thereof.

Section 10.04 Covenants to Maintain Tax Exempt Status.

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

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchaser 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 Bonds.

"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 Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"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 Bonds. 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 Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) <u>Not to Cause Interest to Become Taxable</u>. 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 interest on (1) any Bond issued hereunder or (2) any series of bonds or obligations issued or incurred by the TWDB or the Texas Water Resources Finance Authority to become includable in the gross income, as defined in section 61 of the Code, of the owner 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 Bond, the City shall comply with each of the specific covenants in this Section.

(c) <u>No Private Use or Private Payments</u>. 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 Bonds:

(i) 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 Bonds, 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

(ii) 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 Bonds 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) <u>No Private Loan</u>. 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 Bonds 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) <u>Not to Invest at Higher Yield</u>. 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 Bonds 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 Bonds.

(f) <u>Not Federally Guaranteed</u>. 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 Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) <u>Information Report</u>. 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) <u>Rebate of Arbitrage Profits</u>. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(i) 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 Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds 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.

(ii) 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 Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the TWDB 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 Interest and Sinking Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds 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.

(iv) 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) <u>Not to Divert Arbitrage Profits</u>. 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 Bonds, 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 Bonds not been relevant to either party.

(j) <u>Elections</u>. The City hereby directs and authorizes the City Manager, the President/Chief Executive Officer of the System, the Vice President of Strategic, Financial and Management Services of the System and/or the Chief Financial Officer of the System, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

Section 10.05 <u>Reimbursement</u>. The City reasonably expects to reimburse capital expenditures with respect to the projects described in Article 3 hereof with proceeds of the Bonds and this Ordinance shall constitute a declaration of official intent under Treas. Reg. § 1.150-2. The maximum principal amount of obligations to be issued for the projects is \$100,000,000.

Section 10.06 <u>Continuing Obligation</u>. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Article X shall survive the defeasance and discharge of the Bonds.

ARTICLE 11

DEFAULT AND REMEDIES

Section 11.01 <u>Remedies in Event of Default</u>. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Interest and Sinking Fund or the Reserve Fund as required by the Ordinance, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in the Ordinance, the Owner or Owners of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in the Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, nor shall such delay or omission 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.

Section 11.02 <u>Remedies Not Exclusive</u>. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE 12

DISCHARGE

Section 12.01 <u>Discharge</u>. The Bonds may be defeased, refunded and discharged in any manner permitted by law.

ARTICLE 13

SALE AND DELIVERY OF BONDS; PRIVATE PLACEMENT MEMORANDUM

Section 13.01 Sale of Bonds - Private Placement Memorandum.

(a) The Bonds are hereby sold and awarded and shall be delivered to the TEXAS WATER DEVELOPMENT BOARD, as purchaser of the Bonds, pursuant to the terms and provisions of the Commitment issued by the TWDB in connection with the sale of the Bonds. It is hereby officially found, determined and declared that the terms of this sale are the most advantageous reasonably obtainable. The Bonds shall be registered in the name of Cede & Co., the TWDB's designee.

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 a Private Placement Memorandum, prepared in connection with the offering of the Bonds to the TWDB.

(b) The City Manager, the President/Chief Executive Officer of the System, the Vice President of Strategic, Financial and Management Services of the System, the Chief Financial Officer of the System or any other officer of the City are each authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Bonds, as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the provisions and terms of this Ordinance.

(c) The obligation of the TWDB to accept delivery of the Bonds is subject to the TWDB being furnished with the final, approving opinion of Norton Rose Fulbright US LLP, Bond Counsel for the City, which opinion shall be dated and delivered the Closing Date. The engagement of such firm as Bond Counsel to the City in connection with the issuance of its System revenue bonds is hereby approved and confirmed.

ARTICLE 14

CONTINUING DISCLOSURE UNDERTAKING

Section 14.01 Annual Reports.

(a) The City shall cause the Board to provide annually to the MSRB (1) within six months after the end of each fiscal year (beginning with the fiscal year ending February 29, 2016) financial information and operating data with respect to the System of the general type described in **Exhibit A** hereto, and (2) if not provided as part such financial information and operating data, audited financial statements of the System, when and if available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in **Exhibit A** hereto, or such other accounting principles as the Board may be required to employ from time to time pursuant to state law or regulation, and audited, if the Board commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the Board will provide unaudited financial information of the type included in the final Application and described in **Exhibit A** hereto by the required time and audited financial statements when and if such audited financial statements become available.

(b) If the Board 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 Board otherwise would be required to provide financial information and operating data pursuant to this Article.

(c) The financial information and operating data to be provided pursuant to this Article 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.

Section 14.02 Notice of Certain Events.

(a) The City will cause the Board to provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;

(iii) unscheduled draws on debt service reserves reflecting financial difficulties;

(iv) unscheduled draws on credit enhancements reflecting financial difficulties;

(v) substitution of credit or liquidity providers, or their failure to perform;

(vi) 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 Bonds, or other material events affecting the tax status of the Bonds;

(vii) modifications to rights of Owners of the Bonds, if material;

(viii) bond calls, if material, and tender offers;

(ix) defeasances;

(x) release, substitution, or sale of property securing repayment of the Bonds, if material;

(xi) rating changes;

(xii) bankruptcy, insolvency, receivership, or similar event of the Board or City, which shall occur as described below;

(xiii) the consummation of a merger, consolidation, or acquisition involving the Board or 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

(xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described above in Section 14.02(a)(xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Board or 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 Board or 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 Board or City.

(b) The City will cause the Board to notify the MSRB, in a timely manner, of any failure by the Board to provide financial information or operating data in accordance with this Article by the time required by this Article.

Section 14.03 <u>Filings with the MSRB</u>. All financial information, operating data, financial statements, notices, and other documents provided to the MSRB in accordance with this Article shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

Section 14.04 Limitations, Disclaimers and Amendments

(a) The City, acting through the Board, shall be obligated to observe and perform the covenants specified in this Article with respect to the City and the Bonds while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City will cause the Board in any event to give notice required by subsection (c)

hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person".

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, 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 Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the financial results, condition, or prospects of the City or the State of Texas or hereby undertake to update any information provided in accordance with this Article 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 Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE BOARD OR THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, 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.

(c) No default by the Board or the City in observing or performing its obligations under this Article shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

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

Notwithstanding anything herein to the contrary, the provisions of this Article (e) may be amended by the City from time to time to adapt to changed circumstances resulting 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 or the Board, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds 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 Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Order that authorizes such an amendment) of the Outstanding Bonds 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 Owners and beneficial owners of the Bonds. The provisions of this Article may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Article, 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.

ARTICLE 15

SPECIAL PROVISIONS RELATING TO THE TEXAS WATER DEVELOPMENT BOARD SWIRFT PROGRAM

Section 15.01 <u>Application of Article 15</u>. The provisions of this Article shall apply so long as the Bonds, or any of them, are owned by the TWDB.

Section 15.02 <u>Covenants to Abide with Rules</u>. The City will abide by all applicable laws of the State of Texas and Rules of the TWDB relating to the loan of funds evidenced by the Bonds and the Project.

Section 15.03 <u>Tax Covenants</u>. The City will not take, or omit to take, any action which action or omission would adversely affect the excludability for federal income tax purposes of interest payable on the Bonds or on any series of bonds issued by the TWDB or the Texas Water Resources Finance Authority.

Section 15.04 <u>Use of Unexpended Funds</u>. Any proceeds of the Bonds remaining unexpended after completion of the Project shall be used for the following purposes as approved by the Executive Administrator of the TWDB: (1) deposit into the Interest and Sinking Fund; or (2) improvements and extensions to the System which could otherwise be financed with the proceeds of bonds in any manner approved in writing by the Executive Administrator of the TWDB.

Section 15.05 <u>Approval of Escrow Agreement</u>. The Escrow Agreement, in substantially the form attached hereto as <u>Exhibit C</u>, and its execution and delivery by the Mayor, Mayor Pro Tem, President/Chief Executive Officer of the System, Vice President of the System, or the City Manager, is hereby authorized and approved. The signature of the Mayor, Mayor Pro Tem, President/Chief Executive Officer of the System, Vice President of the System, or the City Manager may be attested to by the City Clerk, Alternate City Clerk, Chief Financial Officer of the System.

Section 15.06 Further Covenants.

(a) Prior to the release of the funds for Project acquisition, the City shall submit a Phase I Environmental Site Assessment of the proposed Project area in form and substance acceptable to the Executive Administrator of the TWDB;

(b) the City must agree to maintain current, accurate and complete records and accounts;

(c) the City will not use any portion of the proceeds of the Bonds in a manner that would cause the Bonds to become "private activity bonds" within the meaning of Section 141 of

the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder;

(d) the City must agree it will not use Bond proceeds to acquire or replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments which produce a yield materially higher than the yield on the Board's bonds that were issued to provide financing for the loan of the Board (the "Source Series Bonds") to the City, evidenced by the Bonds, other than Nonpurpose Investments acquired with

(i) proceeds of Source Series Bonds invested for a reasonable temporary period of up to three (3) years [(reduced by the period of investment by the Board)] until such proceeds are needed for the facilities to be financed;

(ii) amounts invested in a bona fide debt service fund, within the meaning of \$1.148-1(b) of Regulations (as defined in Section 10.04 hereof);

(iii) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds;

(e) Neither the City nor a related party will acquire any of the Source Series Bonds; and

(f) The City shall report to the TWDB the amounts of Project funds, if any, that were used to compensate historically underutilized businesses that worked on the Project, in accordance with 31 TAC § 363.1312.

Section 15.07 <u>Indemnification</u>. Loan proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site and the City, acting through the Board, also agrees, to the extent permitted by law, to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport and/or removal and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project.

Section 15.08 <u>TWDB Remedies</u>. The Board may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the Board's full exercise of these remedies shall be of no force and effect.

Section 15.09 <u>TWDB Requirements</u>. The City hereby instructs the Board to make all required filings with the TWDB as required by this Ordinance, and administer the Project on a basis consistent with this Ordinance and the TWDB requirements set forth herein.

ARTICLE 16

MISCELLANEOUS

Section 16.01 Amendment to Ordinance.

(a) *Amendments Without Consent*. This Ordinance and the rights and obligations of the City and of the owners of the Bonds may be modified or amended at any time without notice to or the consent of any owner of the Bonds or any other Previously Issued Senior Lien Bonds, solely for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City contained in this Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the City in this Ordinance;

(ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Ordinance, upon receipt by the City of an opinion of nationally recognized bond counsel, that the same is needed for such purpose, and will more clearly express the intent of this Ordinance;

(iii) To supplement the security for the Bonds, replace or provide additional credit facilities, or change the form of the Bonds or make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Bonds;

(iv) To make any changes or amendments requested by any bond rating agency then rating or requested to rate Previously Issued Senior Lien Bonds, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the City, materially adversely affect the interests of the owners of the outstanding Previously Issued Senior Lien Bonds; or

(v) To make such other changes in the provisions hereof as the City may deem necessary or desirable and which shall not, in the judgment of the City, materially adversely affect the interests of the owners of outstanding Previously Issued Senior Lien Bonds.

Notice of any such amendment may be published by the City in the manner described in subsection (c) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory resolution and the failure to publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory resolution.

(b) *Amendments With Consent*. Subject to the other provisions of this Ordinance, the owners of outstanding Bonds aggregating a majority in outstanding principal amount shall have the right from time to time to approve any amendment, other than amendments described in subsection (a) of this Section, to this Ordinance which may be deemed necessary or desirable by the City; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of all of the outstanding Bonds, the amendment of the terms and conditions in this Ordinance or in the Bonds so as to:

- (i) Make any change in the maturity of the outstanding Bonds;
- (ii) Reduce the rate of interest borne by outstanding Bonds;
- (iii) Reduce the amount of the principal payable on outstanding Bonds;

(iv) Modify the terms of payment of principal of or interest on the outstanding Bonds, or impose any conditions with respect to such payment;

(v) Affect the rights of the owners of less than all Bonds then outstanding; or

(vi) Change the minimum percentage of the outstanding principal amount of Bonds necessary for consent to such amendment.

(c) *Notice*. If at any time the City shall desire to amend this Ordinance other than pursuant to subsection (a) of this Section, the City shall cause written notice of the proposed amendment to be given by certified mail to each registered owner of the Bonds affected at the address shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file with the City Clerk for inspection by all owners of Bonds.

(d) **Consent Irrevocable**. Any consent given by any owner of Bonds pursuant to the provisions of this Section shall be irrevocable for a period of eighteen (18) months from the date of mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the same Bonds during such period. Such consent may be revoked at any time after eighteen (18) months from the date of mailing by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the City, but such revocation shall not be effective if the owners of a majority in outstanding principal amount of Bonds, prior to the attempted revocation, consented to and approved the amendment.

(e) **Ownership**. For the purpose of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the registration books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

Section 16.02 <u>Further Procedures</u>. The Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the System, the Vice President of Strategic, Financial and Management Services of the System, and/or the Chief Financial Officer of the System 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 Bonds, the Mayor, Mayor Pro Tem, the City Clerk, the Alternate City Clerk, the City Manager of the City, the President/Chief Executive Officer of the System or the System, the Vice President of Strategic, Financial and Management Services of the System or the Chief Financial Officer of the System and the City's 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 16.03 <u>Effectiveness</u>. This Ordinance shall take effect and be in force from and after its passage and approval.

[The remainder of this page intentionally left blank.]

Oscar Leeser 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 Bond Counsel Don L. Minton Asst. City Attorney City of El Paso, Texas

APPROVED AS TO CONTENT:

Marcela Navarrete Vice President, Strategic, Financial and Management Services El Paso Water Utilities

EXHIBIT A

Description of Annual Disclosure of Financial Information

The following information is referred to in Article 14 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified below:

Financial information and operating data customarily prepared by the City and publicly available include (i) financial statements of the City for the most recently concluded fiscal year, (iii) current monthly water rates, (iii) current monthly sewer rates, (iv) water and sewer revenue debt service requirements, (v) condensed statement of operations for the System, (vi) a list of current investments and (vii) customer count for the System.

Accounting Principles

The accounting principles referred to in such Section are the generally accepted accounting principles as applicable to governmental units as prescribed by The Government Accounting Standards Board.

EXHIBIT B

Paying Agent/Registrar Agreement

EXHIBIT C

Escrow Agreement

PRIVATE PLACEMENT MEMORANDUM DATED AS OF _____

NEW ISSUE BOOK-ENTRY-ONLY

On the date of initial delivery of the Bonds (defined below), Issuer Bond Counsel (defined on page 2) will render its opinion substantially in the form attached in APPENDIX C - FORM OF OPINION OF BOND COUNSEL.

\$100,000,000 CITY OF EL PASO, TEXAS WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2016A (the "Bonds")

Dated: (Interest accru	ues from delivery date)	Due: March 1, as shown in "APPENDIX A- MATURITY SCHEDULE"
Interest Date	: Inte cor inte	erest on the Bonds will be payable on March 1 and September 1 each year, nmencing March 1, 2017 (each an "Interest Payment Date"). The Bonds will bear erest at the rates per annum set forth in "APPENDIX A - MATURITY HEDULE."
Record Date		th respect to each Interest Payment Date, the fifteenth day of the month next ceding such Interest Payment Date.
Date Interest	Pay Ap	ch Bond shall bear interest from the Delivery Date thereof or the most recent Interest yment Date to which interest has been paid or provided for at the rate set forth in pendix A. Such interest is payable semiannually on March 1 and September 1 of h year until the earliest of maturity or prior redemption, commencing on March 1, 17.
Redemption:		e Bonds are subject to redemption prior to maturity as provided herein. See "THE NDS - Redemption Provisions" herein.
Authorized Denominatio		e Bonds are being issued as fully registered bonds in denominations of \$5,000 , or v integral multiple thereof.
Paying Agent/Regist		e paying agent ("Paying Agent/Registrar/Registrar") for the Bonds is Wells Fargo nk, National Association, Minneapolis, Minnesota.
Book-Entry-	boo nor prin ma cer the	on initial issuance, the ownership of the Bonds will be registered in the registration oks of the Issuer kept by the Paying Agent/Registrar, in the name of Cede & Co., as ninee of The Depository Trust Company, New York, New York ("DTC") to which ncipal, redemption premium, if any, and interest payments on the Bonds will be de. The purchaser of the Bonds will not receive physical delivery of bond tificates. Principal of, interest, and premium if any, on the Bonds will be payable at designated office of the Paying Agent/Registrar in Minneapolis, Minnesota as the ne become due and payable.
Issuer:	Cit	y of El Paso, Texas
Official Acti	on: Ord	linance Authorizing the Issuance of the Bonds adopted on, 2016.
Purpose:	See	"APPENDIX B - OFFICIAL ACTION."
Security for	the Bonds: See	APPENDIX B - OFFICIAL ACTION."
Ratings:	See	"OTHER INFORMATION - Ratings"
Delivery Dat	e: .	

See "APPENDIX A - MATURITY SCHEDULE" for Principal Amounts, Maturities, Interest Rates, Prices or Yields, and Initial CUSIP Numbers

CITY COUNCIL

Oscar Leeser, Mayor Peter Svarzbien Jim Tolbert Emma Acosta Carl L. Robinson Michiel Noe Claudia Ordaz Lily Limón Cortney Niland

THE PUBLIC SERVICE BOARD

Henry Gallardo, Chair Chris Antcliff, Vice-Chair Terri Garcia, Secretary/Treasurer Oscar Leeser, Mayor – City of El Paso ^(a) Richard T. Schoephoerster, Member Bradley Roe, Member Kristina D. Mena, Member

(a) Ex-officio member.

CERTAIN ADMINISTRATIVE STAFF

Tommy Gonzalez	City Manager
Dr. Mark Sutter	. Chief Financial Officer
Richarda Duffy Momser	n City Clerk
Sylvia Borunda Firth	City Attorney
Maria Pasillas	. Tax Assessor/Collector
Pat Degman	Comptroller

CERTAIN ADMINISTRATIVE STAFF

John Balliew, P.E	President & CEO
Marcela Navarrete, CP	A Vice President
Alan Shubert, P.E	Vice President
Arturo Duran	. Chief Financial Officer
Lupe Cuellar	General Counsel

CONSULTANTS AND ADVISORS (EL PASO WATER UTILITIES)

Auditors	Gibson Ruddock Patterson LLC El Paso, Texas
Bond Counsel	Norton Rose Fulbright US LLP Dallas, Texas
Financial Advisor	First Southwest Company, a Division of Hilltop Securities El Paso, Texas

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APPENDIX B	FORM OF OFFICIAL ACTION
APPENDIX C	FORM OF OPINION OF BOND COUNSEL

Private Placement Memorandum relating to

\$100,000,000

CITY OF EL PASO, TEXAS WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2016A (the "Bonds")

INTRODUCTION

This Private Placement Memorandum, including the cover page and appendices, contains brief descriptions of the Issuer, provides certain information with respect to the issuance by the Issuer, and summaries of certain provisions of the "Bonds" pursuant to the Official Action. Except as otherwise set forth herein, capitalized terms used but not defined in this Private Placement Memorandum have the meanings assigned to them in the Official Action. See "APPENDIX B – "FORM OF OFFICIAL ACTION" attached hereto.

APPENDIX A contains the maturity schedule for the Bonds. APPENDIX B contains the Official Action and a description of the purpose for the proceeds of the Bonds. APPENDIX C contains a copy of the proposed opinion of Bond Counsel with respect to the Bonds. The summaries of the documents contained in the forepart of this Private Placement Memorandum are not complete or definitive, and every statement made in this Private Placement Memorandum concerning any provision of any document is qualified by reference to such document in its entirety.

THE BONDS

General Description

The Bonds are being issued in the aggregate principal amount set forth in APPENDIX A of this Private Placement Memorandum and will mature and be subject to redemption prior to maturity as described therein. The Bonds are being issued as fully registered bonds in denominations of \$5,000, or any integral multiple thereof. The Bonds will be dated as of the stated date of issue and will mature on the dates referenced thereon, and will bear interest at the rates per annum set forth in "APPENDIX A - MATURITY SCHEDULE."

Interest on the Bonds is payable semiannually on each Interest Payment Date, and will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal of and the redemption price with respect to the Bonds will be payable to the Owners upon presentation and surrender at the principal office of the Paying Agent/Registrar.

Purpose

See "APPENDIX B - FORM OF OFFICIAL ACTION."

Authority for Issuance

The Bonds are issued pursuant to the Constitution and general laws of the State of Texas, particularly Texas Government Code, Chapter 1502, as amended, and an ordinance authorizing the issuance of the Bonds (the "Ordinance"). See Appendix B for a copy of the Ordinance. The Bonds are special obligations of the City payable, both as to principal and interest, solely from and, together with the outstanding Previously Issued Senior Lien Bonds and any Additional Bonds (as defined in the Ordinance), secured by a first lien on and pledge of the Net Revenues of the City's Waterworks and Sewer System (the "System"). **The City has not covenanted nor obligated itself to pay the Bonds from monies raised or to be raised from taxation**.

Security for the Bonds

See "APPENDIX B - FORM OF OFFICIAL ACTION."

Redemption Provisions

On March 1, 2027, or on any date thereafter, the Bonds maturing on and after March 1, 2028 may be redeemed prior to their scheduled maturities, upon the written direction of the Issuer, with funds provided by the Issuer, at par plus accrued interest to the date fixed for redemption as a whole, or in part. If less than all of a maturity is to be redeemed, the Paying Agent/Registrar will determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in Authorized Denominations).

Notice of Redemption; Selection of Bonds to Be Redeemed

See "APPENDIX B - FORM OF OFFICIAL ACTION."

The Paying Agent/Registrar, so long as a Book-Entry-Only System is used for the Bonds, will send any notice of redemption of the Bonds, or other notices with respect to the Bonds only to DTC. Any failure by DTC to advise any DTC participant, or of any DTC participant or indirect participant to notify the beneficial owner, shall not affect the validity of the redemption of the Bonds called for redemption or any other action premised on any such notice. Redemption of portions of the Bonds by the Issuer will reduce the outstanding principal amount of such Bonds held by DTC.

Book-Entry-Only System

The information in this caption concerning The Depository Trust Company, New York, New York ("DTC") and DTC's book entry system has been obtained from DTC and the Issuer makes no representation or warranty nor takes any responsibility for the accuracy or completeness of such information.

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Bonds and deposited with DTC. See APPENDIX B - "FORM OF OFFICIAL ACTION."

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument (from over 100 countries) that DTC's participants (the "Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearance Corporation, and Fixed Income Clearance Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: "AAA." The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

TAX MATTERS

Opinion

Bond Counsel will deliver its opinion on the date of delivery of the Bonds substantially in the form as attached in "APPENDIX C - FORM OF OPINION OF BOND COUNSEL."

OTHER INFORMATION

Settlement of Purchase of Obligations

The Board and the Issuer intend for the delivery of the Obligations to be facilitated through the book-entryonly system of DTC. See "THE OBLIGATIONS - Book-Entry-Only System". In connection with the delivery of the Obligations, a settlement agent may be used to effect the delivery of the Obligations. If such a settlement agent is used, such settlement agent (i) is being used solely to facilitate book-entry delivery of the Obligations, (ii) will be acting solely as a "Clearing DTC Participant" and not as an "underwriter" (each as defined in Section2(a)(11) of the U.S. Securities Act of 1933, as amended, (iii) is not acting as a fiduciary or municipal advisor to the Board or the Issuer with regard to the Obligations and, accordingly, has no fiduciary duty to either the Board of the Issuer under Federal or state securities laws, and therefore is not required by federal or state law to act in the best interests of the Board or the Issuer, (iv) in providing information to either the Board or the Issuer, is not providing "advice" with the meaning of Section 15Bof the Securities Exchange Act of 1934, as amended, and that the information provided has not been relied on by either the Board or the Issuer in the issuance of the Obligations and (v) has not provided any legal, accounting, regulatory or tax advice to the Issuer.

Forward Looking Statements

The statements contained in this Private Placement Memorandum, including the cover page, appendices, and any other information or documents provided by the Issuer, that are not purely historical, are forward-looking statements, including statements regarding the Issuer's expectations, hopes, intentions, or strategies regarding the future. Holders and beneficial owners of the Bonds have placed reliance on forward-looking statements. All forward looking statements included in this Private Placement Memorandum are based on information available to the Issuer on the date hereof. It is important to note that the Issuer's actual results could differ materially from those in such forward-looking statements.

Ratings

No application has been made to any ratings agency or municipal bond insurance company for qualification of the Bonds for ratings or municipal bond insurance, respectively.

LITIGATION

General

On the date of delivery of the Bonds to the initial purchasers thereof, the Issuer will execute and deliver a certificate to the effect that, except as disclosed herein, no litigation of any nature has been filed or is pending, as of that date, to restrain or enjoin the issuance or delivery of the Bonds or which would affect the provisions made for their payment or security or in any manner questioning the validity of the Bonds.

The Issuer

There is no litigation, proceeding, inquiry, or investigation pending by or before any court or other governmental authority or entity (or, to the best knowledge of the Issuer, threatened) that adversely affects the power, authority or obligation of the Issuer to deliver the Bonds, the security for, or the validity of, the Bonds or the financial condition of the Issuer.

CONTINUING DISCLOSURE OF INFORMATION

In the Official Action, the Issuer has made a continuing disclosure agreement for the benefit of the holders and beneficial owners of the Bonds. The Issuer is required to observe the agreement for so long as it remains obligated to advance funds to pay the Bonds. Under the agreement, the Issuer will be obligated to provide certain updated financial information and operating data, and timely notice of specified material events, to the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System. SEE APPENDIX B - "FORM OF OFFICIAL ACTION."

Compliance with Prior Undertakings

During the last five years, the Issuer has complied in all material respects with its continuing disclosure agreements in accordance with SEC Rule 15c2-12.

MISCELLANEOUS

Any statements made in this Private Placement Memorandum involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Private Placement Memorandum nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Bonds.

The information contained above is neither guaranteed as to accuracy or completeness nor to be construed as a representation by the Issuer. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Private Placement Memorandum nor any sale made hereunder is to create, under any circumstances, any implication that there has been no change in the affairs of the Issuer or the Issuer from the date hereof.

The Private Placement Memorandum is submitted in connection with the sale of the securities referred to herein to the Texas Water Development Board on the Delivery Date and may not be reproduced or used, as a whole or in part, for any other purpose.

ADDITIONAL INFORMATION

The Private Placement Memorandum speaks only as of its date and the information contained herein is subject to change. Descriptions of the Bonds and the Official Action and any other agreements and documents contained herein constitute summaries of certain provisions thereof and do not purport to be complete. This Private Placement Memorandum was approved by the Issuer.

APPENDIX A

MATURITY SCHEDULE

(1) CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by Standard and Poor's Financial Services LLC on behalf of The American Bankers Association. This data is not intended to create a database and does not serve in any way to substitute for the CUSIP Services. Neither the City nor the Financial Advisor is responsible for the selection or correctness of the CUSIP numbers set forth herein.

APPENDIX B

FORM OF OFFICIAL ACTION

[ATTACH COPY OF OFFICIAL ACTION]

APPENDIX C

FORM OF OPINION OF BOND COUNSEL

County: Primary: Y

Can you locate your project to a specific address?: N

Project Address: Project City: Project State: TX Project ZIP:



Project Schedule

- a) Requested loan closing date: 11-15-2016
- b) Estimated date to submit environmental planning documents.: 07-01-2016
- c) Estimated date to submit engineering planning documents.: 12-31-2016
- d) Estimated date for completion of design.: 12-31-2016
- e) Estimated Construction start date for first contract.: 12-31-2016
- f) Estimated Construction end date for last contract: 12-31-2016

D11 Project Information - Project Miscellaneous

Population Served When Fully Operational

According to American Factfinder, the total El Paso County population for the five year estimate 2006-2010 was 772,280; for the five year estimate 2009-2013 was 813,015. The five year estimate for the years 2010-2014 was 823,862. Following these growth estimates, growth for El Paso County over the next 44 years (when the project will initially produce and transport water to El Paso County), will be approximately 10,000 each year:

2010	772,280
2014	823,862
2016	843,000
2020	883,000
2030	983,000
2040	1,083,000
2050	1,183,000
2060	1,283,000

In the 2016 State Water Plan, Region E, population growth in El Paso County is expected to reach 1,410,527 by year 2060. For purposes of this application, we will use the 2016 Region E State Water Plan estimate.

Non-agricultural water supply demand is projected to be 255,138 AFY by year 2070. ("Integrated Water Management Strategies for EPWU and its Customers"; LBG Guyton Associates Freese and Nichols, Inc.; February, 2016)

CONFIDENTIAL						
Uses	TWDB Funds Series 1	TWDB Funds Series 2	TWDB Funds Series 3	Total TWDB Cost	Other Funds	Total Cost
Construction						
Construction	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Construction	\$0	\$0	\$0 \$0	\$0	\$0 \$0	\$0
Basic Engineering Fees	\$ 0	ψυ	ψυ	ψŪ		Ψ
Planning +	\$0	\$0	\$0	\$0	\$0	\$0
Design	\$0	\$0	\$0	\$0	\$0	\$0
Construction Engineering	\$0	\$0	\$0	\$0	\$0	\$0
Basic Engineering Other	· · ·					
**	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Basic Engineering						
Fees	\$0	\$0	\$0	\$0	\$0	\$0
Special Services						
Application	\$0	\$0	\$0	\$0	\$0	\$0
Environmental	\$0	\$0 \$0	\$0 \$0	\$0 \$0	\$50,000	\$50,000
Water Conservation Plan	\$0	\$0	\$0 \$0	\$0 \$0	\$50,000 \$0	\$50,000 \$0
I/I Studies/Sewer Evaluation	\$0	\$0 \$0	\$0	\$0 \$0	\$0 \$0	
						\$(
Surveying	\$0	\$0	\$0	\$0	\$100,000	\$100,000
Geotechnical	\$0	\$0	\$0	\$0	\$0	\$0
Testing	\$0	\$0	\$0	\$0	\$0	\$0
Permits	\$0	\$0	\$0	\$0	\$0	\$(
Inspection	\$0	\$0	\$0	\$0	\$0	\$0
O&M Manual	\$0	\$0	\$0	\$0	\$0	\$0
Project Management (by						
engineer)	\$0	\$0	\$0	\$0	\$0	\$0
Pilot Testing	\$0	\$0	\$0	\$0	\$0	\$0
Water Distribution Modeling	\$0	\$0	\$0	\$0	\$0	\$0
Special Services Other **Appraisal	\$0	\$0	\$0	\$0	\$25,000	\$25,000
Subtotal Special Services	\$0	\$0	\$0	\$0	\$175,000	\$175,000
Other						
Administration	\$0	\$0	\$0	\$0	\$0	\$0
Land/Easements Acquisition	\$100,000,000	\$50,000,000	\$0 \$0	\$150,000,000	\$19,465,000	\$169,465,000
Water Rights Purchase (If	<i>Q.00,000,000</i>	\$00,000,000		\$100,000,000	\$10,100,000	<i>Q</i> 100,100,000
Applicable)	\$0	\$0	\$0	\$0	\$0	\$0
Capacity Buy-In (If						
Applicable)	\$0	\$0	\$0	\$0	\$0	\$0
Project Legal Expenses	\$0	\$0	\$0	\$0	\$0	\$0
Other **	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Other Services	\$100,000,000	\$50,000,000	\$0	\$150,000,000	\$19,465,000	\$169,465,000
Fiscal Services						
Financial Advisor	\$0	\$0	\$0	\$0	\$180,000	\$180,000
Bond Counsel	\$0	\$0	\$0	\$0 \$0	\$180,000	\$180,000
Issuance Cost	\$0	\$0	\$0	\$0 \$0	\$180,000	\$180,000
		\$0 \$0				
Bond Insurance/Surety	\$0	\$0 \$0	\$0	\$0	\$0	\$
Fiscal/Legal	\$0		\$0	\$0	\$0	\$
Capitalized Interest	\$0	\$0 \$0	\$0 \$0	\$0 \$0	\$0	\$
Bond Reserve Fund	\$0	1 ·	1.	• •	\$0	\$(
Loan Origination Fee	\$0	\$0	\$0	\$0		
Other **	\$0	\$0	\$0	\$0	\$0	\$(
Subtotal Fiscal Services	\$0	\$0	\$0	\$0	\$360,000	\$360,00
Contingency	* *	ţ.	**	ţ.	<i></i>	<i>+b</i> ,000
Contingency	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Contingency	\$0	\$0	\$0 \$0	\$0 \$0	\$0 \$0	\$
Casteral Contingency						ψ
TOTAL COSTS	\$100.000.000	\$50.000.000	\$0	\$150.000.000	\$20,000.000	\$170.000.000

PROJECT BUDGET - Entity Name El Paso Water Utilities Public Service Board

Other ** description must be entered

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+ For Planning applications under the EDAP Program, please break down Planning costs as follows:

Category A			0
Category B			0
Category C			0
Category D			0
Total Planning Costs	0	0	0

								05/18/2010
				Development Boa ject Information	ırd			
A. Project Name			oject No.	,	C. Co	unty		egional
E-23		3			Planning (A-P)		ning Group	
E. Program(s)		F. Lo	oan 🔳 / Grant 🗌 Amount:			an Term:)
SWIFT			,000,000			e determined	A	
H. Water Project Description: (Multiphas	se project, i	new or ex	pansion; p	lant, well, storage,	pump station	n, distribution sys	item, etc)	
This project is a land and g			-	quisition proj ted by Project or			er Utilities. S	See map
I. Is an Inter Basin Transfer potentially i			J. Is proje	ect located in a Gro	oundwater Di	strict (If yes, iden	tify District by na	me)?
Yes 🔳 No 🗌			Yes 🔳				N	
Yes K. Projected Population from		Re	eference					
application for at least a 20 year period. Attach justification and list	Year		Year	2010	2020	2030	2040	2060-2070
service area populations if different from Planning Area.	Populatic Projectio			772,280	883,000	983,000	1,083,000	1,410,5 27
Project Design Year 2030				Desi	gn Populatio	983,00	00	
L. Is the proposed project included in a (If Yes, please specify on what page				Yes No Regional Water P		Kno mbe		
M. What type of water source is associ	ated direct	ly with th	ne propos	ed project?				
N. Will the project increase the volume	of water su	oply? `	Yes 🔳	No 🗌				
O. What volume of water is the project a	anticipated	to deliver,	/ treat per	year? 10,000 initially in	2060; 20,000 by 207	_Acre-Feet/Year		
P. Current Water Supply Information								
Surface Water Supply Source / Provide		Certifica	ate No.		Source Co	unty	Annual Volum	e and Unit
Rio Grande Rive	er			dministered by USBR	El Pa		60,000	
Groundwater Source Aquifer					Source County		Annual Volume and Unit	
Hueco and Mesilla		El Pa	aso County El F		El Paso	I Paso 60,000 AFY		Ϋ́
Q. Proposed Water Supply Associated				ect			1	
11.5				Source County		Annual Volume and Unit		
NA NA		. IN		NA		NA		
Groundwater Source Aquifer Well Fie		Field location:		Source County		Annual Volume and Unit		
						10,000-20,000 AFY		
R. Consulting Engineer Name	·		Telepho	ne No.	E	mail address		
NA								
S. Applicant Contact Name, Title				Telephone No. E-mail address				
Scott Reinert, Water Resou	rces Ma	nager	915-	-594-557	9 s	reinert@	epwu.o	rg

WRD-253d

Property Rights

a) Does the applicant currently own all the property rights, groundwater permits and surface water rights needed for this project?: N

b) If all property rights, groundwater permits, and surface water rights, needed for this project have not yet been acquired, identify the rights and/or permits that will need to be acquired and provide the anticipated date by which the applicant expects to have acquired such rights and/or permits.

Type of Permit Water Right	Entity from which the right must be acquired	Acquired by lease or full ownership	Expected acquisition date	Permit / Water Right ID No.
Groundwater		f	02-28-2030	0

Permits & Easements

Are any major permits necessary for completion of the project?: N

Has the applicant obtained all necessary land and easements for the project?: N

Description of Land or Easement Permit	Entity from which the permit or right must be acquired	Acquired by lease or full ownership	Expected acquisition date	To Be Funded by TWDB (Yes/No)
	Landowners/farme rs or ranchers	OWN	12-14-2016	Y

Environmental Determination

Has a Categorical Exclusion (CE), Determination of No Effect, Finding of No Significant Impact (FONSI), Record of Decision (ROD), or any other environmental determination been issued for this project?: N

CE/DNE

Is the project potentially eligible for a CE/ Determination of No Effect (DNE) because it involves only minor rehabilitation or the functional replacement of existing equipment?: N

Adverse Environmental/Social Impacts

Are there potentially adverse environmental or social impacts that may require mitigation or extensive regulatory agency or public coordination (e.g. known impacts to properties eligible for listing on the National Register of Historic Places; potentially significant public controversy; need for an individual permit from the U.S. Army Corps of Engineers)?: N

Associated PIF(s)

PIF number(s):

There are no associated PIFs.

Additional Attachments

The following documents are attached after this page:

B 4 Revenue Pledge.pdf SWIFT 2016-17 Application Notes.pdf

- Full legal name of the security for the proposed debt issue(s). Provide a full explanation of pledge being offered and existing rate covenants as well as relevant additional bonds requirements, reserve fund requirements or other requirements needed to ensure parity with other outstanding creditors.
- 予4 The Bonds will be styled the "City of El Paso, Texas Water and Sewer Revenue Bonds, Series 201___" with the series indicating the year of issuance.
- B 3 The Bonds will be secured solely by the "Net Revenues" of the City's water and sewer system and issued on a parity with the City's previously issued water and sewer revenue bonds (the "Previously Issued Senior Lien Bonds"). "Net Revenues" is defined to mean the Gross Revenues less the Operation and Maintenance Expenses.
 - "Gross Revenues" means all of the revenues of every nature received through the operation of the System.
 - "System" means the complete waterworks plant and system of the City as they now exist and may be improved, added to, or extended hereafter, and the complete sewer system of the City as it now exists and may hereafter be improved, added to, or extended, there being included in such term all water and sewer facilities now or hereafter owned or operated by the City, lying within and without the boundaries of the City, and including all real estate and real and personal property of every kind and nature comprising any part of or used or useful in the operation of the water and sewer facilities of the City.
 - "Operation and Maintenance Expenses" means the reasonable and proper expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions as are necessary to keep the System in operation or which are necessary to meet some physical accident or condition that would otherwise impair the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds shall be included as Operation and Maintenance Expenses.
- **Rate Covenant**: In the authorizing ordinance, the City agrees that it would establish and maintain rates for water and sewer services supplied by the System which such rates shall produce or yield revenues sufficient to pay maintenance and operating expenses of the System and an additional

amount equal to 150% of the aggregate amount required to be paid in such year for principal and interest on all outstanding Previously Issued Senior Lien Bonds, the Bonds, and any Additional Bonds.

Additional Bonds: The City is permitted to issue "Additional Bonds" upon the satisfaction of the following conditions:

- the City is not, at the time, in default as to any covenant, condition or obligation prescribed by an ordinance authorizing the issuance of any bonds payable from and secured by a first lien on and pledge of the Net Revenues;
- Additional Bonds, if any, are made to mature on March 1 or September 1 in each of the years in which they are scheduled to mature;
- the net earnings of the System for any consecutive period of 12 months of the 15 months next preceding the month of the date of the Additional Bonds then to be issued, or for the City's completed fiscal year next preceding the date of such Additional Bonds, are equal to at least 1.25 times the maximum annual principal and interest requirements of all bonds to be outstanding after the issuance of the Additional Bonds, as such net earnings are shown by a report by a certified public accountant; and
- the amount to be accumulated and maintained in the Reserve Fund shall be increased to an amount not less than the average annual requirements for the payment of principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and the Additional Bonds, such additional amount to be accumulated in equal monthly installments during a period not to exceed five years and one month.

Reserve Fund Requirement. The City is required to maintain a reserve fund in an amount equal to the average annual principal and interest requirements on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time outstanding (the "Reserve Fund Requirement").

Revenue Fund. Pursuant to the authorizing ordinance, all Gross Revenues will be deposited from day to day as collected into the "Revenue Fund." Moneys on deposit in the Revenue Fund shall first be used to pay all Operation and Maintenance Expenses. The revenues of the System not actually required to pay Operation and Maintenance Expenses (the "Net Revenues") shall be transferred from the Revenue Fund to the other Funds

as more fully described in the ordinance, in the order of priority, in the manner, and in the amounts set forth below:

- <u>Interest and Sinking Fund</u>. In addition to the deposits required by ordinances authorizing the Previously Issued Senior Lien Bonds, there shall be deposited into the Interest and Sinking Fund the following:
 - such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the interest scheduled to come due on the Bonds on the next interest payment date, less any amounts already on deposit therein for such purpose derived from the proceeds of the Bonds or from any other lawfully available source; and
 - such amounts, in equal monthly installments, commencing on the first day of the month next following the month of Closing Date, and on the first day of each month thereafter, as will be sufficient to pay the next maturing principal of the Bonds, including any scheduled mandatory redemption of Bonds.
 - The Interest and Sinking Fund shall be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds as such principal matures and such interest becomes due.
- <u>Reserve Fund</u>. As long as the funds on deposit in the Reserve Fund created for the benefit of the Bonds, the Previously Issued Senior Lien Bonds, and all Additional Bonds are equal to the Reserve Fund Requirement, no deposits need to be made to the credit of the Reserve Fund.
 - o However, should the Reserve Fund at any time contain less than the Reserve Fund Requirement, then, subject and subordinate to making the required deposits to the credit of the Interest and Sinking Fund, the City shall transfer from the Net Revenues in the Revenue Fund and deposit to the credit of the Reserve Fund, on the first day of each month, such amounts in equal monthly installments to accumulate within at least five years and one month a sum equal to the Reserve Fund Requirement. The money on deposit in the Reserve Fund may be used to pay the principal of and interest on the Bonds, the Previously Issued Senior Lien Bonds and any Additional Bonds at any time there are not sufficient funds on deposit in the Interest and Sinking Fund for such purpose.

- In accordance with the procedures specified in the preceding paragraph, the City directed that the deposits, if any, being made to the Reserve Fund be increased to accumulate in the Reserve Fund within five years and one month from the date of the Bonds an amount equal to the Reserve Fund Requirement.
- <u>Note Payment Fund</u>. In addition to the foregoing funds and required deposits, in order to provide for the payment of and security for any Subordinate Lien Obligations, the City is required to deposit into the Note Payment Fund amounts sufficient to pay when due the principal of and interest on the Subordinate Lien Obligations.
- Additional Definitions.
 - "Additional Bonds" means the additional revenue bonds permitted to be issued on a parity with the Bonds and the Previously Issued Senior Lien Bonds by the terms of the authorizing ordinance.
 - "Subordinate Lien Obligations" shall mean the obligations of the City under the City's Commercial Paper Notes, Series A and the documents pertaining thereto.

El Paso Water Utilities Public Service Board

APPLICATION NOTES

A 9 - El Paso Water Utilities and TWDB are the only partners for this project.

C 5 - Wastewater Usage EPWU does not meter wastewater.

C 21- Financial Statements 5 years We do not have audited 2015-16 financials yet.

C 23- Twenty-one year debt service schedule.

C 26 – Utility Bond Ratings are Fitch and S. & P.; ratings for all are AA+ Stable Outlook.

D 9 - This project is a land acquisition-only project; engineering, design, and construction are not applicable in this case, at this time.

Environmental planning document will be a desktop survey. Project Schedule:

- a) Requested loan closing date. 11/15/2016
- b) Estimated date to submit environmental planning documents. 7/01/2016
- c) Estimated date to submit engineering planning documents. NA
- d) Estimated date for completion of design. NA
- e) Estimated Construction start date for first contract. NA
- f) Estimated Construction end date for last contract. NA

D 20 - Property rights, groundwater permits, and surface water rights Permit / Water Right ID Number: This will be addressed in the preliminary design of water supply infrastructure.

D 33, 34, 35 - Project Information – CE/DNE

At this time, the project involves only purchase of land and water rights, no construction or excavation. However, prior to any construction, excavation, or rehabilitation required, it is El Paso Water Utilities Public Service Board policy to complete an archeological survey and, when indicated, an U.S. Army Corps of Engineers 404 Run-off Permit.