

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

DEPARTMENT: El Paso Water Utilities Public Service Board

AGENDA DATE: Introduction and Public Hearing- October 10, 2016

CONTACT PERSON/PHONE: Marcela Navarrete, El Paso Water Utilities Vice President – Strategic, Financial and Management Services, (915) 594-5614

DISTRICT(S) AFFECTED: All Districts

SUBJECT: APPROVE the following Ordinance

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 the acquisition of water resources for the system; and enacting provisions related thereto.

BACKGROUND / DISCUSSION:

On September 30, 2014 the City Council adopted a Resolution delegating to the El Paso Water Utilities President/CEO the authority to apply for funding from the State Water Implementation Fund of Texas (SWIFT) which provides low interest loans to political subdivisions for water projects. On May 11, 2016, the El Paso Water Utilities Public Service Board authorized the President/CEO to submit an application for SWIFT funding. On July 21, 2016, the Texas Water Development Board approved the El Paso Water Utilities request for multi-year assistance in the total amount of \$150,000,000 to be provided in the form of two series bonds, (100,000,000 in 2016 and 50,000,000 in 2017). On October 12, 2016, El Paso Water Utilities Public Service Board adopted a Resolution requesting that the El Paso City Council authorize the issuance of \$100,000,000 in City of El Paso, Texas, Water and Sewer System Revenue Bonds, Series 2016A.

PRIOR COUNCIL ACTION:

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

Yes, on October 27, 2015, City Council approved \$50,000,000 of City of El Paso, Texas, Water and Sewer System Revenue Bonds, Series 2015B to finance the acquisition of water resources for the system.

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION:

The El Paso Water Utilities Public Service Board approved a Resolution on October 12, 2016

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT MARCELA NAVARRETE TO PICK UP THE DOCUMENTS. 594-5614. THANK YOU.

RESOLUTION

A RESOLUTION REQUESTING THE EL PASO CITY COUNCIL APPROVE THE ISSUANCE AND SALE OF UP TO ONE HUNDRED MILLION AND NO/100 DOLLARS (\$100,000,000.00) OF EL PASO, TEXAS, WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2016A, 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 May 11, 2016, to authorize the President/CEO to request financial assistance from the Texas Water Development Board in an amount not to exceed \$150,000,000.00 in loans from Texas Water Development Board for land and water rights acquisition under the State Water Implementation Fund for Texas program ("SWIFT");

WHEREAS, on July 21, 2016, the Texas Water Development Board approved the El Paso Water Utilities request for a multi-year assistance in the amount of \$150,000,000.00 to purchase water rights land in Hudspeth County, Texas;

WHEREAS, the sale and issuance of up to \$100,000,000.00 in City of El Paso Texas Water and Sewer System Revenue Bonds, Series 2016A, 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:

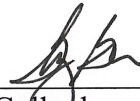
Section 1. That the findings and recitations set out in the preamble to this Resolution are true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board, which has been vested with the complete management and control of the El Paso Texas Water and Sewer System, and made 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 ONE HUNDRED MILLION AND NO/100 DOLLARS (\$100,000,000.00) in City of El Paso, Texas, Water and Sewer System Revenue Bonds, Series 2016A, 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, 12th day of October, 2016, 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



Henry Gallardo
Chair

ATTEST:



Terri Garcia
Secretary/Treasurer

APPROVED AS TO FORM:



Lee Ann B. Koehler
General Counsel

ORDINANCE NO. _____

AUTHORIZING THE ISSUANCE OF

CITY OF EL PASO, TEXAS,
WATER AND SEWER REVENUE BONDS,
SERIES 2016A

Adopted: October 18, 2016

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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 THE ACQUISITION OF WATER RESOURCES FOR THE SYSTEM; 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 30, 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 for financial assistance made on behalf of the City on July 21, 2016 in the amount of \$150,000,000 (the “TWDB Commitment”), such financial assistance to be provided in the form of two series of bonds to be issued by the City and purchased by the TWDB; and,

WHEREAS, on October 12, 2016, the El Paso Water Utilities Public Service Board adopted a Resolution requesting that the City Council authorize the sale and issuance of \$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 as the first series of bonds issued under the TWDB Commitment; 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 Definitions. 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 SWIFT Project Application filed with the TWDB by the Board on behalf of the City on May 11, 2016 requesting financial assistance for the Project, 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 Amegy Bank, a division of ZB, National Association, Plano, Texas.

“Escrow Agreement” means that certain Escrow Agreement between the City and the Escrow Agent, dated as of October 18, 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 March 1, 2017.

“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;

(19) Water and Sewer Revenue Improvement and Refunding Bonds, Series 2016 authorized by ordinance duly passed and adopted on June 28, 2016.

“Project” means the acquisition of land and water rights for the benefit of the System, 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 Findings. 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 Table of Contents, Titles and Headings. 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 Security for the Bonds. 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 Limited Obligations. 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 Security Interest. 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 Authorization. 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 November 15, 2016 (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:

<u>Stated Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rates (%)</u>
2017	500,000	0.53
2018	500,000	0.55
2019	2,000,000	0.64
2020	2,000,000	0.71
2021	2,000,000	0.76
2022	5,000,000	0.83
2023	5,000,000	0.92
2024	6,000,000	1.01
2025	6,000,000	1.08
2026	6,200,000	1.15
2027	6,200,000	1.31
2028	6,200,000	1.41
2029	6,200,000	1.68
2030	6,400,000	1.82
2031	6,400,000	1.91
2032	6,600,000	1.95
2033	6,600,000	2.00
2034	6,600,000	2.11
2035	6,600,000	2.09
2036	7,000,000	2.12

(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 March 1, 2017, 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 Execution and Initial Registration. 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 Ownership.

(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 Registration, Transfer and Exchange

(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 Cancellation and Authentication.

(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 Temporary Bonds.

(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 with respect to any ownership interest in the Bonds, (ii) the delivery to 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 Successor Securities Depository; Transfer Outside Book-Entry Only System. 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 Payments to Cede & Co. 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 Limitation on Redemption. 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 Payment Upon Redemption.

(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 Lapse of Payment. 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 **Exhibit B**.

Section 5.02 Qualifications of Paying Agent/Registrar. 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 Termination of Paying Agent/Registrar. 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 Notice of Change of Paying Agent/Registrar to Owners. 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 Agreement of Paying Agent/Registrar to Perform Duties and Functions. 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 Delivery of Records to Successor. 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 Form of the Bonds. 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) Form of Bond.

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:
March 1, 20__

DATED DATE:
November 15, 2016

CUSIP NO.:

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 March 1, 2017. 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 November 15, 2016, issued in the aggregate principal amount of \$100,000,000 (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 within-mentioned 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

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee):

(Social Security or other identifying number: _____) the within 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:

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.

Authorized Signatory

(e) The Initial Bond shall be in the form set forth in subsection (a) of this Section, 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:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(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 CUSIP Registration. 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 Legal Opinion. 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 Statement of Insurance. 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 by-laws 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 as that of the City Council with respect to other officers and other 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 Revenue Fund. 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) Interest and Sinking Fund. 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) Reserve Fund. 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) Note Payment Fund. 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) Payment to the City's General Fund. 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) Improvement Fund. 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) Revenue Fund and Interest and Sinking Fund. 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.

(b) Investment of Reserve Fund. To the extent permitted by applicable law, including 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 Contributions in Aid of Construction. 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 Deposit of Proceeds.

(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 Insurance. 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 Books and Records. 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) Additional Bonds. 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) Maintain and Operate System Efficiently. 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) Rate Covenant. 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) Charges for Water and Sewer Service. 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) Enforcement.

(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) Nonimpairment of Lien. 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 Additional Bonds as a lien or charge upon the revenues of the System or 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) No Sale or Encumbrance of System. 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) Payment to City from Sale of Land. 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) No Competing Systems. 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) No Free Service. 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) Definitions. 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) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause 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) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of 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) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the 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) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the 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) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(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) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the 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) Elections. 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 Reimbursement. 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 Continuing Obligation. 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 Remedies in Event of Default. 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 Remedies Not Exclusive. 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 Discharge. 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 assets or business 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 Filings with the MSRB. 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.

(e) Notwithstanding anything herein to the contrary, the provisions of this Article 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 Application of Article 15. The provisions of this Article shall apply so long as the Bonds, or any of them, are owned by the TWDB.

Section 15.02 Covenants to Abide with Rules. 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 Tax Covenants. 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 Use of Unexpended Funds. 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 Approval of Escrow Agreement. The Escrow Agreement, in substantially the form attached hereto as **Exhibit C**, 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, or other 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 TWDB's bonds that were issued to provide

financing for the loan of the TWDB (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 TWDB)] 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); or

(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.

(f) The City shall comply with any special conditions specified by the TWDB Executive Administrator's environmental determination for the Project until all financial obligations to the State have been discharged.

(g) 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 Indemnification. 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 TWDB Remedies. The TWDB may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect.

Section 15.09 TWDB Requirements. 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.

Section 15.10 Application. All prior action of the Public Service Board and City officials, employees and agents taken in connection with the preparation and filing of the Application is hereby approved and ratified.

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 Further Procedures. 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, and the Paying Agent/Registrar Agreement. In addition, prior to the initial 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, 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 Effectiveness. This Ordinance shall take effect and be in force from and after its passage and approval.

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APPROVED AND ADOPTED this _____ day of _____, 2016.

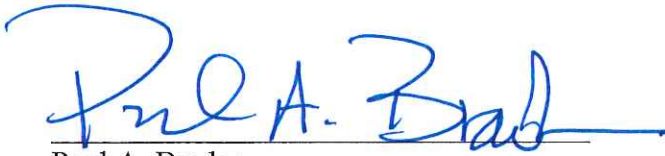
Oscar Leeser
Mayor, City of El Paso, Texas

ATTEST:

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

(SEAL)

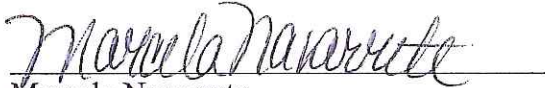
APPROVED AS TO FORM:



Paul A. Braden
Bond Counsel

Sylvia Borunda Firth
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, (ii) 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

TO: Tomás González, City Manager for The City of El Paso, Texas
FROM: Marcela Navarrete, Vice President for El Paso Water Utilities *MN*
DATE: October 10, 2016
SUBJECT: Request to place Item on Regular City Council Agenda for October 18, 2016
Bond Ordinance Introduction and Public Hearing

Agenda Posting Language:

An Ordinance authorizing the issuance of “City of El Paso, Texas, Water and Sewer Revenue Bonds, Series 2016A,” to the Texas Water Development Board in an amount not to exceed \$100,000,000 in order to finance the acquisition of water resources for the System and resolving matters which are necessary to effect such issuance. **(All Districts)** [Marcela Navarrete (915) 594-5614][Public Hearing Date: October 18, 2016]

This agenda item is pursuant to the Resolution of the El Paso Water Utilities Public Service Board (EPWU) requesting the City Council of El Paso to authorize the issuance of up to \$100,000,000 in City of El Paso, Texas, Water and Sewer System Revenue Bonds, Series 2016A to the Texas Water Development Board, to finance the acquisition of water resources for the System.

EPWU finds it in the best interest of its ratepayers to pursue this advantageous funding and savings in the present bond market at this time.

Hard copies of the documents will be submitted to the City Clerk on Tuesday, October 11, 2016.

If there are any questions, please call me directly at 594-5614 or email me at mnavarrete@EPWU.org or General Counsel Lee Ann B. Koehler at 594-5607 or by email at LeeAnnKoehler@epwu.org

Thank you for your attention to this matter.

Attachments: Department Head Summary Form
PSB October 2016 Resolution
Proposed City Council Ordinance

cc: The Honorable Mayor Oscar Leeser (email)
City Council Representatives (email)
Sylvia Firth, City Attorney (email)
Mark Sutter, CFO (email)
Richarda Duffy-Momsen, City Clerk (email)
John Balliew, P.E., President/CEO EPWU-PSB (email)
Art Duran, CFO, EPWU-PSB (email)
Taylor Moreno, Chief of Staff, Mayor (email)
Paul Braden, Norton, Rose, Fulbright, Bond Counsel (email)



Water & Sewer Utility System Revenue Bonds, Series 2016A



October 12, 2016

Texas Water Development Board (SWIFT/SWIRFT Program)

\$100,000,000

**Water & Sewer System Utility
Revenue Bonds, Series 2016A**

TWDB – SWIFT/SWIRFT Program

- State Water Implementation Fund for Texas (SWIFT)/State Water Implementation Revenue Fund for Texas (SWIRFT)
 - Program provides affordable financing for projects in the State Water plan.
 - Projects include conservation and reuse, desalinating ground-water and seawater, building new pipelines, developing reservoirs and well fields, purchasing water rights, as well as other projects similar in scope.
 - SWIFT program will fund over \$27 billion in State Water Plan projects over the next 50 years.
 - Total SWIFT Commitments (2015-16 Cycle Commitments): \$4.6 Billion
 - To date, Water Utilities have commitments under the SWIFT Program of \$200 Million
 - \$50 Million (2015 Cycle)
 - \$150 Million (2016 Cycle)
 - On July 21, 2016, the TWDB approved a funding commitment to the Water Utilities for a total of \$150 Million of project funds under the SWIFT program. Approved financing will include two 20-year low-interest, fixed-rate loans. Interest rate subsidy is 35% below the TWDB's cost of funds for 20-year loans. *The TWDB is rated 'AAA' by S&P and Fitch.*
 - First Loan: \$100,000,000 Water & Sewer System Utility Revenue Bonds, Series 2016A
 - Second Loan: \$50,000,000 Water & Sewer System Utility Revenue Bonds, Series 2017

TWDB – SWIFT/SWIRFT Program

TWDB Lending Rates (FINAL)

1-Mar	Principal	Coupon	Interest	Total
2017	\$ 500,000	0.534%	\$ 450,388	\$ 950,388
2018	500,000	0.547%	1,526,970	2,026,970
2019	2,000,000	0.638%	1,524,220	3,524,220
2020	2,000,000	0.710%	1,511,420	3,511,420
2021	2,000,000	0.762%	1,497,220	3,497,220
2022	5,000,000	0.833%	1,482,020	6,482,020
2023	5,000,000	0.918%	1,440,520	6,440,520
2024	6,000,000	1.009%	1,394,520	7,394,520
2025	6,000,000	1.080%	1,333,920	7,333,920
2026	6,200,000	1.152%	1,269,120	7,469,120
2027	6,200,000	1.314%	1,197,820	7,397,820
2028	6,200,000	1.412%	1,116,600	7,316,600
2029	6,200,000	1.678%	1,029,180	7,229,180
2030	6,400,000	1.821%	925,020	7,325,020
2031	6,400,000	1.912%	808,540	7,208,540
2032	6,600,000	1.951%	686,300	7,286,300
2033	6,600,000	1.997%	557,600	7,157,600
2034	6,600,000	2.107%	425,600	7,025,600
2035	6,600,000	2.088%	286,340	6,886,340
2036	7,000,000	2.120%	148,400	7,148,400
	<u>\$ 100,000,000</u>		<u>\$ 20,611,718</u>	<u>\$ 120,611,718</u>

Average Debt Service Payment: \$ 6,030,586

Overall True Interest Cost: 1.71%

**TWDB
subsidized
rates, will save
the Utility
approximately
\$11.6 million
over the life of
the bonds.**

Overall Debt Service Requirements

Existing Five Year Financial Plan

Annual Period Ending 1-Mar	Existing Gross Debt Service	BAB Tax Credit	Net Debt Service	Commercial Paper Interest	Projected Debt Service	Five Year Financial Plan					Aggregate Debt Service	Annual Period Ending 1-Mar
						CURRENT	Projected:					
						\$100,000,000 2016A	\$191,000,000 Series 2017	\$108,000,000 Series 2018	\$70,000,000 Series 2019	\$51,000,000 Series 2020		
TWDB SWIFT Loan ⁽¹⁾	CP Take-Out & NM Bonds ⁽²⁾	CP Take-Out & NM Bonds ⁽³⁾	CP Take-Out & NM Bonds ⁽⁴⁾	CP Take-Out & NM Bonds ⁽⁵⁾								
2017	\$ 56,241,105	\$ (210,766)	\$ 56,030,338	\$ 310,000	\$ 56,340,338	\$ 950,388					\$ 57,290,727	2017
2018	59,364,350	(199,875)	59,164,475	280,000	59,444,475	2,026,970	\$ 13,853,500				75,324,945	2018
2019	58,926,421	(188,484)	58,737,937	321,000	59,058,937	3,524,220	13,858,130	\$ 8,513,000			84,954,287	2019
2020	57,754,632	(176,512)	57,578,121	250,000	57,828,121	3,511,420	13,862,810	8,519,163	\$ 5,755,000		89,476,513	2020
2021	58,373,437	(163,957)	58,209,480	250,000	58,459,480	3,497,220	13,872,105	8,522,323	5,757,465	\$ 4,368,500	94,477,093	2021
2022	54,740,427	(150,820)	54,589,607		54,589,607	6,482,020	13,875,455	8,527,238	5,759,045	4,367,478	93,600,842	2022
2023	51,282,481	(137,019)	51,145,462		51,145,462	6,440,520	13,882,550	8,533,423	5,764,473	4,371,775	90,138,202	2023
2024	51,260,692	(122,552)	51,138,140		51,138,140	7,394,520	13,882,830	8,535,393	5,763,213	4,375,808	91,089,902	2024
2025	46,891,090	(107,420)	46,783,670		46,783,670	7,333,920	13,896,078	8,542,905	5,770,265	4,374,283	86,701,120	2025
2026	46,321,341	(91,540)	46,229,801		46,229,801	7,469,120	13,901,298	8,545,233	5,774,828	4,377,200	86,297,478	2026
2027	43,727,463	(74,911)	43,652,552		43,652,552	7,397,820	13,908,273	8,552,133	5,776,633	4,383,975	83,671,384	2027
2028	36,830,287	(57,451)	36,772,836		36,772,836	7,316,600	13,916,350	8,557,878	5,780,413	4,384,023	76,728,098	2028
2029	31,975,888	(39,160)	31,936,728		31,936,728	7,229,180	13,924,878	8,561,983	5,785,633	4,392,343	71,830,743	2029
2030	25,761,131	(20,037)	25,741,094		25,741,094	7,325,020	13,933,295	8,568,963	5,791,758	4,393,058	65,753,186	2030
2031	22,037,472		22,037,472		22,037,472	7,208,540	13,935,950	8,578,090	5,798,253	4,396,168	61,954,472	2031
2032	17,874,975		17,874,975		17,874,975	7,286,300	13,947,408	8,583,638	5,799,583	4,401,088	57,892,990	2032
2033	17,884,925		17,884,925		17,884,925	7,157,600	13,956,673	8,590,120	5,805,480	4,407,233	57,802,030	2033
2034	14,449,405		14,449,405		14,449,405	7,025,600	13,963,093	8,601,810	5,815,143	4,414,018	54,269,068	2034
2035	12,304,392		12,304,392		12,304,392	6,886,340	13,976,015	8,607,738	5,817,768	4,415,858	52,008,110	2035
2036	3,368,250		3,368,250		3,368,250	7,148,400	13,984,445	8,617,418	5,828,088	4,422,460	43,369,060	2036
2037	3,370,500		3,370,500		3,370,500		13,992,730	8,624,880	5,830,033	4,427,948	36,246,090	2037
2038								8,634,398	5,838,335	4,436,735	18,909,468	2038
2039									5,846,925	4,442,945	10,289,870	2039
2040										4,450,993	4,450,993	2040
Total	\$ 770,740,663	\$ (1,740,505)	\$ 769,000,158	\$ 1,411,000	\$ 814,128,979	\$ 120,611,718	\$ 278,323,863	\$ 171,317,720	\$ 115,858,328	\$ 88,003,883	\$ 1,588,244,489	

Maximum: \$ 94,477,093

(1) FINAL TIC: 1.71%

(2) Preliminary Blended Interest Cost TIC: 3.85%.

(3) Preliminary Interest Cost TIC: 4.85%.

(4) Preliminary Interest Cost TIC: 5.35%.

(5) Preliminary Interest Cost TIC: 5.85%.

Summary of Financings

Sources & Uses

Dated 11/15/2016 | Delivered 11/15/2016

Sources Of Funds

Par Amount of Bonds	\$100,000,000.00
Issuer Contribution	260,000.00
Total Sources	\$100,260,000.00

Uses Of Funds

Costs of Issuance	260,000.00
Deposit to Project Construction Fund	100,000,000.00
Total Uses	\$100,260,000.00

**Please note: Typical costs of issuance include fees for Financial Advisor, Bond Counsel, Attorney General, Paying Agent, Document Preparation, and other incidental closing costs.*

Timeframe

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

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

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

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

**Complete
By**

Day

Event

22-Sep-16

Thursday

TWDB Releases Lending Rates for SWIFT Loan

5-Oct-16

Wednesday

Presentation to PSB Finance Committee

12-Oct-16

Wednesday

PSB Board Requests City to Sell Bonds through a Parameters Resolution

18-Oct-16

Tuesday

Adoption by City Council: Lending Rates Approved for Seires 2016A

15-Nov-16

Tuesday

Water & Sewer Bond closing and delivery of funds



Denotes Specific Dates



Denotes Holidays