

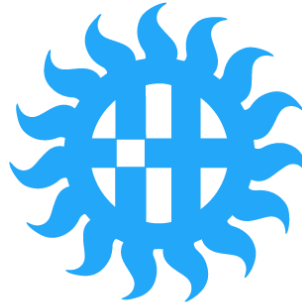
CITY COUNCIL AGENDA

Mayor
Ken Miyagishima

Monday, August 7, 2023 at 1:00 PM
Council Chambers

Mayor Pro Tem
Kassandra Gandara

Councilors
Tessa Abeyta
Becki Graham
Johana Bencomo
Becky Corran
Yvonne Flores



CITY OF LAS CRUCES

CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
PHONE (575) 541-2067

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at [541-2115/V](tel:541-2115).

CONSENT AGENDA

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

Page

1. OPENING CEREMONIES

- 1.1. Pledge of Allegiance - Councilor Bencomo.
- 1.2. Pets of the Week.
- 1.3. Jobs of the Week.
- 1.4. Presentation of Certificates of Appreciation/Proclamations -Councilor Bencomo.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA

5. CITY COUNCIL MINUTES

- 5.1. Regular City Council Meeting of July 3, 2023. 4 - 25
[City Council - Jul 03 2023 - Minutes - Pdf](#)

6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

- 6.1. RESOLUTION NO. 24-014: A RESOLUTION APPROVING A 26 - 34
ROADWAY LIGHTING MAINTENANCE AGREEMENT BETWEEN THE

CITY OF LAS CRUCES AND THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO PROVIDE MAINTENANCE OF ROADWAY LIGHTING ON EAST UNIVERSITY AVENUE (NM101) BETWEEN BOWMAN STREET AND SOUTH MAIN STREET (CONTROL NO LC00290).

[Resolution No. 24-014 - Pdf](#)

- 6.2. RESOLUTION NO. 24-015: A RESOLUTION AUTHORIZING AN INCREASE IN THE ANNUAL NOT-TO-EXCEED AMOUNT OF THE CONTRACT FOR GENERAL LITIGATION SERVICES WITH MYNATT SPRINGER P.C. TO \$600,000 PLUS NEW MEXICO GROSS RECEIPTS TAX ANNUALLY (PROCUREMENT NO. 23-24-005). 35 - 39

[Resolution No. 24-015 - Pdf](#)

- 6.3. RESOLUTION NO. 24-016: A RESOLUTION APPROVING A SERVICE AGREEMENT FOR PLANNING AND DEVELOPMENT SERVICES RELATED TO DOWNTOWN REVITALIZATION TO DOWNTOWN LAS CRUCES PARTNERSHIP OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$120,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS. (PROCUREMENT NO. 23-24-008). 40 - 59

[Resolution No. 24-016 - Pdf](#)

- 6.4. RESOLUTION NO. 24-017: A RESOLUTION APPROVING A CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITH MESILLA VALLEY ECONOMIC DEVELOPMENT ALLIANCE (MVEDA) OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$250,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS AND ANNUAL RENEWALS. (PROCUREMENT NO. 23-24-009). 60 - 79

[Resolution No. 24-017 - Pdf](#)

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

- 7.1. RESOLUTION NO. 24-018: A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING PERTAINING TO THE POSSIBLE UTILIZATION OF TAX INCREMENT FOR THE DEVELOPMENT AND POSSIBLE ANNEXATION OF SELECT PROPERTY OWNED BY THE REGENTS OF NEW MEXICO STATE UNIVERSITY. 80 - 126

[Resolution No. 24-018 - Pdf](#)

- 7.2. COUNCIL BILL NO. 24-001; ORDINANCE NO. 3043: AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, SUBDIVISION VII. CONVENTION AND VISITORS BUREAU ADVISORY BOARD OF THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED. 127 - 133

[Ordinance No. 3043 - Pdf](#)

8. BOARD APPOINTMENTS

9. NOTICE OF PROPOSED ORDINANCE(S)

1) There will be no public discussion.

2) A Councilor may ask staff for clarification on the proposed ordinance(s).

- 9.1. COUNCIL BILL NO. 24-002; ORDINANCE NO. 3044: AN ORDINANCE 134 - 143
AMENDING THE LAS CRUCES MUNICIPAL CODE 1997, AS
AMENDED (LCMC), SECTIONS 2-556 THROUGH 2-564 TO REVISE
THE UNIVERSITY DISTRICT CITIZEN'S DESIGN REVIEW
COMMITTEE (UD-CDRC), RESPECTIVELY, WITHIN CHAPTER 2,
ARTICLE IV, DIVISION 3, NONSTANDARD BOARDS OF DIVISION OF
THE LCMC.

[Ordinance No. 3044 - Pdf](#)

- 9.2. COUNCIL BILL NO. 24-003; ORDINANCE NO. 3045: AN ORDINANCE 144 - 164
AMENDING CHAPTER 13, ARTICLE I. FAIR HOUSING OF THE LAS
CRUCES MUNICIPAL CODE 1997, AS AMENDED.

[Ordinance No. 3045 - Pdf](#)

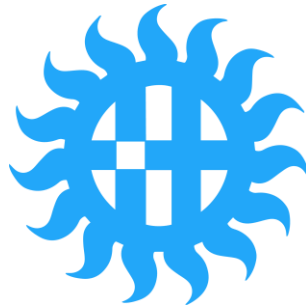
- 9.3. COUNCIL BILL NO. 24-004; ORDINANCE NO. 3046: AN ORDINANCE 165 - 169
TO AUTHORIZE THE CONVEYANCE OF A CITY-OWNED VACANT
PARCEL KNOWN AS LOT NUMBER 1B HOPE SUMMARY
SUBDIVISION (AKA 2245 E. GRIGGS AVENUE) TO CATHOLIC
CHARITIES HOUSING INC./ CHELSEA INVESTMENT
CORPORATION FOR THE DEVELOPMENT OF THE THREE
SISTERS AFFORDABLE HOUSING COMPLEX AS AUTHORIZED
UNDER THE STATE OF NEW MEXICO'S AFFORDABLE HOUSING
ACT (THE ACT) NMSA 1978 CHAPTER 104, IN CONJUNCTION WITH
THE CITY OF LAS CRUCES' AFFORDABLE HOUSING GENERAL
OVERSIGHT ORDINANCE.

[Ordinance No. 3046 - Pdf](#)

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11. CITY MANAGER REPORT

12. ADJOURNMENT



MINUTES

City Council

Monday, July 3, 2023 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

ABSENT:

1. OPENING CEREMONIES

1.1 PLEDGE OF ALLEGIANCE - COUNCILOR ABEYTA.

1.2 PETS OF THE WEEK.

Amy Defelix, Animal Services Center of the Mesilla Valley presented Pets of the Week.

1.3 JOBS OF THE WEEK.

Sarah Raney, NM Workforce Solutions presented Jobs of the Week.

1.4 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR ABEYTA.

Mayor Miyagishima presented Chancellor Dan Arvizu with the Mayor's Distinguished Service Award.

Councilor Abeyta presented Denise Chavez with a proclamation for Margaret Randall Day.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

2.1

None.

3. PUBLIC PARTICIPATION

3.1

Rafael Leos, Member of the Public said last time there were thanks that were not made to council. We wanted to make sure that our interests were coming across the lips of our council which they are now. So, the thank you is now for all of council. Mayor Pro Tem your comments in the last meeting at council input that speeding is systemic and it is out of control. In our interest we are just looking at how we as a community can come together to help the city get it under control. We don't have the services to do that, so I just want to make sure that was upfront in this comment and that is a thank you. We have actually seen the response from council, so I want to thank you. One thing that I did want to mention is that this wasn't just three weeks ago that the interest had come about. We were under the impression that your staff had reported back to you that as of August last year, that is when we started making the motions, we were given by Public Works the signs for speeding. Thirty to forty houses had them all implemented. We noticed that the city PD also came out and put up a monitoring device. They did that for two to three months. They also put up the mobile lights and speed limit signs which is great, help mitigate some of it but it doesn't prevent it. All of that had progressed and I just wanted to make sure that council was aware that we did not just come after the fact, we had already been working for almost a year now or close. Part of my investment into this was in finding out from community they had already addressed council in 88, in the 90's and in the 2010's with similar type issues but I am not sure if it was as gross of an impact as it is now just with the amount of businesses going through there. I just wanted to share that with council. Lastly, I just wanted to say that as my daughters are here that they are not considered prop because that wasn't the intent. The intent is for them to see before us a council of women and the governmental body so that is why they are here so that they can see that things change when they need to.

Jody Kincaid, Member of the Public said the subject that I wanted to address today was the issue of property crime. One of the other sad side effects of that is that business owners are apparently being told that if the property damage from vandalism, from breaking and entering, that sort of stuff doesn't meet a certain financial criteria and I believe it is around \$1,000 that nothing can be done about it. It is not a crime worth going after. In 1795 the Supreme Court said the preservation of property then is a primary object of the social compact. It is contrary to the letter and spirit of the constitution to violate that. I would say to you that it is a crime by omission on the City Council's part to allow a situation to arise where the police cannot enforce laws and where the judiciary in this area will not stand behind its citizens. It is up to you all to protect your citizens and to protect your constituents and I implore you to do your job.

Mayor Miyagishima asked when you said you were told, can you share with us where you heard?

Jody Kincaid said I believe actually you will hear from that lady right back there on a situation that specifically occurred to that. I am getting reports from people, Juan Garcia who you all are aware of, I believe he is going to speak later that this has happened repeatedly that people were told if it was just a window it wasn't worth

Agenda Item #5.1.

reporting and nothing would be done about it. They would have to deal with their insurance company and the city would not stand behind them.

Mayor Miyagishima said the reason that I ask is that I am sure you know the damage threshold is anything over \$1,000 is a felony. So, I think now days a couple of windows is an easy \$1,000 so I just want to encourage and suggest to you and those who experienced this type of damage to please at least note it, call it in, do whatever is needed. A few months ago, and I appreciate the patience of the public, LCPD was down 20 some odd officers but I think with this recent graduation thanks to retired Chief Miguel Dominguez the city Police Department is almost at full strength. I think that is something there that Ifo will probably take into consideration with the Interim Chief Story.

Jody Kincaid said I as a citizen have looked to the City Council to take charge and to stand up and if they say we can't do it because of something that was passed in Santa Fe, stand up to Santa Fe and say this needs to change because our people are suffering because of all the laws that don't protect the people.

Juan Garcia, Member of the Public said thank God for the two young good samaritans that helped save a LCPD officer of a vicious attack attempting to disarm her. Some in our council have recently spoke of our "stigma of brown people" that have endured for the use of illegal marijuana and yet here we have brown people suffering criminal attacks for positive contributions to the community and are part of the growing list of "forgotten victims" and are now just another police report. So, what is the end game? A recent desperate plea for help coming from one of the owners of a small business in District 4 and I quote, "Police can't do anything, and they keep trying to get in. I am desperate and asking the community for help. Anyone who knows how to put bars and can help. There are tons of these people, looks like they are getting ready for the night. We are sick of the situation. What is the price for living in terror and fear. What is the end game? Since deterrents is not in the vocabulary of our current elected officials and citizens have given up on change coming from them and what are small businesses to do, dry up and close, board up and live in fear? I received a letter from Carlos with a plea for help from the terror attacks he is facing. His closing sentence was, "Please pass this along to people who can do something about it. I have passed it through representatives, the council, senators, who else can I pass this to do something about crime?"

Leslie Campa, Member of the Public said I am one of the many local businesses that have been vandalized more than twice just in the month of June. My reason to be here is more than just asking for grants to repair any damage caused to my business is to find an answer from you. I don't want to keep looking for solutions for a broken window, the locks on doors to the loss of thousands of dollars, to the disorder that they do every time they want to get in. I want to get to the bottom of this to stop the criminals. For them to have consequences for their actions because as of today it looks like they are being rewarded or just a slap on the wrist every time they vandalize. What action are you guys taking towards them? I invite all of you to stop to my place and let me know, would you shop from a store that looks abandoned, run down or with now plywood all over the windows. I am losing so many customers

Agenda Item #5.1.

because of that and my already clients are now scared of going to my shop. We have been in the business for just a year. I am really hoping the grant gets approved so there can be some responsibility taken from your end and also, I hope that this will be a grant for any business the one that already exists has a requirement of being in business since March of 2020. As a small new business, we don't have the money to do any repairs. I am not okay with a quick fix. I want a long-term solution. This is making me want to go back to my house and work from there but this is not what I want to do. I do everything I can to be a good citizen. I am raising them to be really good citizens and it just doesn't seem fair what we are getting from all you. I now the police, is trying. They are trying to patrol. I have talked to them. It is not about the police it is about them. We are not seeing any consequences on them and we would like to see that.

Mayor Miyagishima said I know you and I understand your situation. Please know that the city council, if it is under \$1000 it is a misdemeanor and it will go to our city judge. All we can do is appoint judges. We can't tell them what to do. If it is above that it could possibly be considered a felony and it is up the District Attorney. The city council, we don't direct the City Manager to do anything that could directly impact. The Las Cruces Police Department has full authority to do whatever they need to do but I think what I am trying to say is if the Police Department arrests someone and it is under \$1000 unfortunately it goes to Municipal Court and it probably just goes away. We are trying to solve that.

Aras Lee, Member of the Public said it is sad to see how my sister and mom's business is getting destroyed and vandalized. It is really hard to see how people that are doing it don't get consequences and I kind of hate to see how my mom gets worried all the time about it. Sometimes my sister and mom have to stay there till like 1 a.m. really late so I was just really asking you guys if you could please help out.

Luz Lane Alice Ortiz, Member of the Public said I am with District 4 with Johana Bencomo. I have a small business with my uncle Aras and we make cookies, dog cakes and a lot of different pastries. I am really sad looking at the situation that we are living. My mom has a business and now we have been broken in a few times and now the store looks like we are closed. We have to be locked in because we don't know when they will come back and break in since they are always passing by and they are not in their right senses. I don't feel safe going to my mom's business and I see her struggling so much. I am only nine years old but I am already thinking and planning my future. I have fun like other kids my age but I also work on my small business. I want to feel protected I want to be excited about having a business and not scared. I want to go to the back of my mom's business and play and be happy and safe. If I am doing everything on my end to have a happy future but right now my future and life depends so much on your decisions. I ask you to think about me and all the hard working people whenever you decide how to take action of our situation.

Councilor Bencomo translated for Carla Martinez. I am glad to know that Johana Bencomo is who represents me is a Latina and is also from Chihuahua. She is the mom of Leslie and the grandmother of the little girl. About a year and two months had started this new business. We know that we are in a very unfortunate situation in the

Agenda Item #5.1.

city and that it is no one's fault in particular, but they are asking for support and trying to be good citizens and show their kids that the people who make it are the hard working people. She wondered if I remembered her, we had a one to one three years ago during the pandemic. She was making face masks for people with disabilities and she is always trying to help people. She said the help that she is looking for is not selfish. She really wants help for themselves and other businesses in the area but also people who are committing these crimes also need help and not here to blame anybody, they are here to ask for support. They just really want to be guided and helped with what to do next. This coming here is the first step, but they are really just looking for support and God Bless.

Yoli Diaz, Member of the Public said Executive Director of CARE, my goal today because it is the third time I have been here is really trying to get a meeting. To get focus on the Healthcare Fund and to address the issues that exist. I have said it before, and I do think you need to go back to the table with the County and address this problem. Please I welcome any of you to contact me. I am going to read off a report that came out when the County got the 2005 Achievement Award at the National Association of Best in Category, Health. Access to care, provide care for all regardless of ability to pay, preserve and enhance key services, continue community accountability. Access to care with primary concern was Memorial Medical Center be maintained as a full service acute care hospital by sustaining and enhancing substantially the same service lines currently offered, diminished services especially those most crucial to the underserved populations would not meet the objective of the people. Likewise, the people made it clear at meetings and interviews that access with those unable to pay must be preserved. Finally, the new leadership of the hospital must integrate with and provide leadership to the continuum of community including federally qualified health centers, Veterans services, healthcare for the homeless and other outreach programs. I am going to go on as far as I can off of this section of the lease between Memorial Medical Center and the City and the County. Section 6.5, there is 13 volumes. This is volume 2 part 1, indigent care continuation of serves: A. Lessee agrees to institute and maintain during the term any extended term policies for the treatment of indigent patients. Those unable to pay the full cost of healthcare services rendered to them which taken as a whole are no less favorable to the residents of the city and county of those presently maintained by MMCI. Lessee within 90 days of closing will provide a copy of its written policies on indigent to lessors.

Lori English, Member of the Public said about half a month ago talking about the intersection by Onate High School, how dangerous an intersection that was. Well low and behold somebody took action and if it was you guys' God bless you for doing but the Streets Department did a real mess. There are four lanes, one turns into Onate High School. We are talking about the exit off of Mesa Grande off of Highway 70 and I think that is Bataan Memorial area. Heading east bound the far-right lane turn into Onate then there is a bicycle lane, then there is a straight through lane then there is a middle lane that is either now marked either straight through or left turn and then there is a fourth lane that is strictly left turn and the fifth lane is naturally goes underneath the highway to route back onto the highway. The signage looks like a seven year old put it up. It shows one lane to turn left on Mesa Grande but the middle lane still shows straight through only and there are absolutely no signs across underneath the

Agenda Item #5.1.

stoplight to show lane direction. Somebody needs to address that before we have somebody swinging wide going into the turn lane and taking out the side of another car. Veteran's Park, how can the council ignore the rules in favor of a minority against the majority? Two people spoke. Supposedly there was a public outcry on June 5th but two people spoke in favor of this monument and I have no problem with the family, I do have with the council and their judgment. You basically slapped in the face every family of anybody who has an honored dead person's name on those walls out there by allowing this. I am not letting this go. This is not going to be an easy road and I am going to fight you all the way because its disrespectful, its dishonorable and for councilors who don't seem to care enough to show up for a memorial weekend, observance or Welcome Home Vietnam Veterans or dedication or wreath anniversary celebration for the Woman's Veterans Monument which I was very instrumental in designing. Last thing I would like to say concerning fireworks. We have a city ordinance, lets enforce it. We have aerial fireworks going off when we are under red flag warnings.

Quinn Cooper, Member of the Public said I am actually here to echo the words of the conservative voter and group coalition. I was in a rental apartment south of the city outside of anybody's districts. About three months ago I got priced out by investors and had to move back into the city. Within a week of moving back into the city I had my truck stolen. I did get my truck back, five days after it was stolen still pretty inoperable. For a few weeks I was on my BMX bike getting through the city. The interesting thing that I want to echo to is that the person that was pulled out of my car has still not been charged with and has no criminal charges in regard to that incident. He was let go. He has been arrested three times in the last two months since my truck has been stolen and he was pulled out of it. He has current other burglary charges, auto burglary charges pending. I still is really bizarre and I really wish I had the patience and compassion of our previous speakers with regards to forgiveness that they clearly have for the perpetrators of these crime. I feel that the last three times that I have been here I see the city council is honestly doing more for out of state contractors then it is for its own constituents. There is a large level of increasing vagrancy, can't go to a single gas station without being approached. A lot of this isn't local, it is in influx of traffic from other states.

Lisa Parrot, Member of the Public said as this body contemplates the formation of Civilian Police Oversight Committee to assist the LCPD with the execution of its duties one of its own officers was brutally attacked recently and could have lost her life if it had not been for the bravery of two good samaritans, one with a child in arms who chose to put their lives at risk to save hers when they could have simply dialed 911 and kept on going. I don't think a Civilian Oversight Committee would have any beneficial, I don't see how that would help this situation. The alleged criminal who attacked our police officer had many choices when the officer confronted him in the performance of her duties. This alleged criminal must have had no thought or regard for the consequences of his actions but instead he must have chosen to resist the officer because in his mind he must have thought he could get away with it. If an alleged criminal feels safe enough to savagely attack an armed police officer who is trained to defend herself what chances does someone like me have to survive such an attack if it weren't for the second amendment? How many attacks are taking place each day in our community and not reported out of fear of retribution or out of feeling

Agenda Item #5.1.

it is a waste of time. Based on the lawless society we have become in Las Cruces are any of us truly safe. When my husband and I contemplated moving to Las Cruces in 1997 for his career had this city looked then as it does now, I wouldn't be standing here today. We love this area, the beauty of the folks who work hard to provide for their families and in turn provide for ours. Please don't drive these good folks away because they no longer feel safe here to live their lives, raise their families, and invest in their futures.

4. READ CLOSED MEETING STATEMENT

4.1 READ JUNE 26, 2023 CLOSED MEETING STATEMENT INTO THE RECORD.

The Las Cruces City Council met in Closed Session and only discussed those limited items as stated in the posted notice.

- 1. To discuss pending litigation regarding Mark Price v. Francis Whitten, Thaddeus Allen, the City of Las Cruces d/b/a Las Cruces Police Department, No.: 20-CV-1099, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).
- 2. To discuss potential litigation regarding Health Care Fund assessments by the State of New Mexico, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

5. ACCEPTANCE OF AGENDA

Councilor Yvonne Flores moved, seconded by Councilor Tessa Abeyta, to accept the agenda as presented.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Tessa Abeyta
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Becky Corran, and Councilor Yvonne Flores
ABSENT:	Councilor Johana Bencomo

6. CITY COUNCIL MINUTES

- 6.1 WORK SESSION OF MAY 22, 2023.
- 6.2 WORK SESSION OF JUNE 12, 2023.

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

- 7.1 RESOLUTION NO. 24-001: A RESOLUTION APPROVING THE LAS CRUCES INTERNATIONAL AIRPORT FISCAL YEAR 2024-2026 RATES AND FEES REPEALING AND REPLACING RESOLUTION 21-189 EFFECTIVE AS OF JULY 1, 2023.
- 7.2 RESOLUTION NO. 24-002: A RESOLUTION TO AWARD CONTRACTS FOR ENVIRONMENTAL ENGINEERING SERVICES ON AN AS-NEEDED BASIS TO DANIEL B STEPHENS & ASSOCIATES INC., PARKHILL, SOUDER, MILLER & ASSOCIATES, TERRACON CONSULTANTS INC., AND ZIA

ENGINEERING & ENVIRONMENTAL CONSULTANTS LLC, IN AN AMOUNT NOT TO EXCEED \$500,000.00 ANNUALLY FOR EACH, FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR FOUR (4) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO ANNUAL RENEWALS AND APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 22-23-036).

- 7.3 COUNCIL BILL NO. 23-036; ORDINANCE NO. 3042: AN ORDINANCE APPROVING INVESTMENT FUNDS OF \$150,000 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN (LEDA), AUTHORIZING A PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND VARIOUS QUALIFYING BUSINESSES THAT HAVE SUFFERED CATASTROPHIC INCIDENTS.**

8. OLD BUSINESS

- 8.1 RESOLUTION NO. 23-135: A RESOLUTION APPROVING THE PARKS AND RECREATION DEPARTMENT 2023/2024 FEES AND CHARGES/FACILITY USE POLICY REPLACING AND REPEALING RESOLUTION 19-145.**

Robert Nunez, Interim Director Parks and Recreation gave the overhead presentation.

Councilor Abeyta said I just wanted to make a couple of comments, one about slide 4 where it talks about the after-school programs and honestly to say thank you for this type of programming. I know there are a few items that are offered in schools for afterschool but I guess this for the public for cost comparison. One of the programs is \$280 a month and so and that equals right under \$10 a day for that type of programming, where here we have for the 90 days per semester for \$100 per participant you are about \$1.10 so it is a lot more beneficial to the individuals to be able to be in this program and a lot more cost effective because of the cost of childcare can be more than some mortgages these days. Really looking and making the adjustment for youth to be able to have our access to water and pool and water safety.

Councilor Bencomo asked the scholarship fund, how does Parks and Rec market that? How would people know that there is that opportunity available?

Robert Nunez said we have sent it out on Facebook, we have posted it on the Sun News. We will do a news release and get that out. We will also approach Las Cruces Public Schools if we can get all that information out to the parents.

Councilor Bencomo said if you ever do push on social media, please make sure to include City Council on anything that we might be able to share on your behalf as well. The debit-based system, that means you will be handing out cards for example? Can you talk about that a little bit more?

Jake Gutierrez, Aquatics Administrator said no we are actually going the opposite way. Instead of a punch pass that is physical or a punch pass that can get lost our new system allows us to catch up with time if you will. It is more efficient. In some

Agenda Item #5.1.

ways clerically it is more cost effective, but it is a win win for both of us as a department and to the customer. It was quite an involved task for about a year and half. We sent out a press release letting everybody know that if you had a physical card to come on in, we allotted about six months' time to come on in and we still on a one to one basis allow those customers to come in. We are going to a cardless system.

Councilor Bencomo asked the natatorium fee scale, the one that was changed from last time about a month ago was open swim, right?

Robert Nunez said correct.

Councilor Bencomo said last time I was here is I was hoping I would see the same scale for 3-17 as 6+, \$1 to \$1, \$2 for open swim. Given that the Aquatic Center, how much is it for 3-17 to the Aquatic Center?

Robert Nunez said the Regional Aquatic Center is \$3.

Councilor Bencomo said open swim, Regional Aquatic Center totally different pools but still kind of a similar vibe right? I think what makes a natatorium unique and special is the lap swim that I really hope that youth this age and I don't what that for kids. I would still like to see \$1 for lap swim.

Robert Nunez said we can certainly look at that.

Councilor Bencomo said I am happy to hear if there is hesitation to that the reason behind that.

Robert Nunez said our numbers are off our resolution since 1993 so we will be bringing it back in the very near future to update but it was always related to our cost recovery of 33% that we have spoke about previously. Traditionally we have reached from 14 to 18% in recovery. Certainly, we would love to have a goal of attaining 33 being more realistic speaking to with them today, could we target 20% as we get a new facility and we get new amenities available. That is where majority of our fee structure is set up with our previous resolution of 0-85, 33% in those areas. We are always open to entertain anything that is available that will benefit our community.

Councilor Bencomo asked someone 3-17 has to be accompanied by an adult, correct? And they would have to pay the two additional dollars? I know that it's this one dollar difference but I feel like you're saying you can come enjoy this brand new state of the art Olympic size pool for \$1 to our children. For future GO Bonds these are the kinds of conversations to have really early on before we go on and say that we want to build this big thing and cost recovery and then we don't make it accessible to people. I would really like to see it be a \$1 and I am also open to hearing, listen I think that would difficult.

Ifo Pili, City Manager said when I think about \$1, I think either way, one way or another it is really not that significant. It is all about just about cost recovery. I think the

Agenda Item #5.1.

more cost we can recover without putting a burden on the residents, the better we can ensure this facility. When we have a goal of 33% recovery, and we are not even near that at 14-18% adding a \$1 or taking away \$1 to me it doesn't really help or hurt the budget. We know when we went into the pool it is not a money making. We didn't even dream of even trying to cover 100% of our cost. Pools are just not that way. They are like a park, you just maintain them. My opinion really is that anything that we can get to help because all it does is ensure the facility maintenance and the continued operation at a certain level would be at the levels that we want to make it.

Councilor Bencomo asked I wonder if in a year you all could come back and tell us here is data? Here is how many kids 3-17 using the pool and then we reevaluate. Is that possible if we wanted to change the fee structure in a year can you come back to do that?

Robert Nunez said yes, we do have some data regarding here this summer but we can collect all that with the natatorium just recently opening and be very specific with age groups for that information.

Councilor Bencomo said I am specifically interested in 3-17 and so I would be fine with that. I would be interested within a year if you say we are seeing low numbers here then what can we evaluate. I appreciate this conversation and for now I will leave it that way.

Ifo Pili said the other thing that we discussed or what was discussed is when you think about a lap pool the typical person or teen doesn't use this. This isn't a normal pool where zero entry and kids come and they play and you have to really know how to swim. I think this is different than swimming lessons that we want to make affordable. I believe it goes to 14 feet and at one end it is 4 ½ feet so really kids that come in it is really limited to people who do lap swimming. I think that is part of the discussion that is a different type of pool where people are really intentional about their swimming activities in this area.

Councilor Flores said I did have a question about what LCPS was paying and it is a lot less than the commercial and then the non-resident.

Robert Nunez said the Las Cruces Public Schools swim team is that \$11 fee specifically. We have a couple of private organizations or nonprofit organizations that swim just about year round. During the school year and I believe it is in the fall into winter that the public schools they are organized through specific leagues currently through Las Cruces High School. We met with the Athletic Director, Ernie Viramontes a few months ago and they said sent out a note to see if there was interest in all schools being represented. That is where that comes from. Traditionally the only location was if they attended Las Cruces High School. Now they are trying to see the interest and I think Organ Mountain had the most interest in expanding the number of teams that Las Cruces Public Schools will be offering during the school year season.

Councilor Flores asked is there transportation that will be available for young children or is there any kind of free transportation for youth to attend throughout the year?

Robert Nunez said our city transit system currently but we don't have any other. We wouldn't be transporting them. It would be a discussion to be had with the public schools because I know their field trip buses that they have to rent from the business can be quite costly so that can be some discussion possibly working together to identify funds to assist them in being able to get the youth to our location.

Councilor Corran said I actually have two things that I would ask in the future like discussions of cost recovery. One, that it really emphasize equity and thinking about accessibility as the primary sort of thing and profitability garnered hopefully from institutions that interface with our Parks and Rec more than individuals that interface with our facilities. The other part is that I would ask that we think about for everything for people over 60 have a discount of this is about ability to pay I would ask that we create a parallel ability to pay model that goes for people from 3-17. Arguably if it is about ability to pay people who are 3-17 have equally little ability to pay as seniors because they are not working in most cases. I would ask that, that would be one of the guiding principles as well as parity of above 60 and youth if possible.

Councilor Gandara said I was reading the red lines and I noticed that gymnastics was taken out. Did you take that out completely in terms of what you are offering specifically to the public?

Robert Nunez said currently we are still searching for instructors. It is very difficult to identify instructors for that specific program. We had them on board, we probably had that program for at least ten years.

Councilor Gandara said more than that. That is another extracurricular that is so pricey, so expensive when you are going into the private gyms. When you talk about equity and accessibility that would be something. Is there may be a different way that we advertise for coaches that maybe we are not thinking about?

Robert Nunez said I have spoken with Claudia Chavez who is the Interim Deputy Director, but we are continuing research. I have knocked on doors. I have gone to different groups to see if we can identify some folks to assist us in that avenue.

Councilor Gandara said maybe with a private/public partnership that might be something or the high schools who have some of the older kids that are amazing gymnasts. I don't know if they need certification, I am not sure of your qualifications or what not that you are asking for but if there is anything I can do with that I just want to make that as available as we can for folks who may not get that opportunity to or for young people that may not have that opportunity otherwise. I also noticed on that red line version that the Weed and Seed Program was taken out of the funding. Are you recommending that they get taken out of what folks are paying individually? Help me understand that component more.

Robert Nunez said our Out of School Time Program which includes our after-school programs at the school sites, A. Fielder Memorial Safe Have and our Teen Connection are all encompassed underneath that umbrella. So, what we are looking

Agenda Item #5.1.

at is to have that fee structure but also have a criteria for families to apply for scholarships which could include 100% discount and vary percentage wise. I know one of the discussions last time we were here was the amount of scholarship was it just 50% and that is also something that we are talking internally is to look at a scale type set up schedule to make it affordable but available to all families.

Councilor Gandara said I am really concerned about that because the Weed and Seed Program was not a part of this after school program given way back several years ago. It was something that was made available to the area children because of a grant that we received and that is no longer something that we actually apply for. I know that there is probably many opportunities from a foundational standpoint and others and I am really Mr. Pili I have been asking every single year since I have been here that we make it free to those kids in that area because these are really at risk kids. That requires us going for our grants that are available for kids in that area. I noticed that there wasn't any change which I had asked and recommended and will continue to recommend that we add more money into that scholarship fund. I want this to be a priority for grants administration to move in that direction and start increasing and if we need to add more funding from a council perspective, I am happy to advocate for that and I think my colleagues would agree with that. I heard you say making the Benavidez Center more available in terms of an after school program?

Robert Nunez said years ago at one point I was overseeing the facility from 2007-2012 and we did a multi-generational type set up there for the summer times, but I want to reach out to Quality of Life to see if we can revisit to offer a location there at Benavidez. We had an after-school program there. We had a mini gymnastics program there. We did a lot of things for that specific area. The more programming and locations we can have will benefit the youth of our community.

Councilor Gandara said I will definitely support that, interestingly as fate would have it I attended the Hispanic Chamber of Commerce and spoke to Robert Palacios, he is very big on music. He said I would do what I can to provide art and music so there is a connection there. He is so excited, that center was named after his uncle so there is quite a connection and obviously pride in that center opening back up and offering those sorts of activities to the kids.

Robert Nunez said during Covid we were able to get in there and work jointly with Senior Programs and we did it for a number of years prior to and if we were able to do it here in the near future that is something we will certainly visit and coordinate with Ms. Sonia Saldana.

Councilor Gandara said I will continue to advocate for the natatorium. Do you have data now with it opening how many folks we are turning away because of the fee schedule? I am hearing a little bit that people are coming with 5 or 6 kids plus themselves. I worry about turning kids away, families away because they are unable to afford it.

Robert Nunez said this next slide is something Jake provided to me. This is the first week of this summer and those are the numbers from our Laabs East Mesa outdoor

pools our Aquatic Center and then the natatorium. Those are open swim numbers so as you can see the natatorium, the first week we are averaging 17 a day give or take. He mentioned just recently they are back up to about 30 or 40 participants for the open swim session. We still have capacity at the natatorium and I believe at some of the other locations as well. We will stay with that \$1 fee and certainly advertise that on Facebook, news releases and as many outlets as possible to let folks know that we are available and for \$1 they can come splash and enjoy themselves.

Mayor Miyagishima said when I was in discussion probably in 2009/2010 when we thought we were going to get the pool back then, the city wasn't looking to run it. We had gotten an offer from YMCA out of El Paso and back then it was \$5 a person.

Councilor Tessa Abeyta moved, seconded by Councilor Becky Corran, to remove Resolution 23-135 from the table for discussion.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta
SECONDER:	Councilor Becky Corran
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Becky Corran, and Councilor Yvonne Flores
ABSENT:	Councilor Johana Bencomo

Councilor Becky Corran moved, seconded by Councilor Tessa Abeyta, to Approve Resolution No.23-135.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Tessa Abeyta
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

9.1 PUBLIC HEARING REQUIRED. RESOLUTION NO. 24-003: A RESOLUTION APPROVING A WHOLESALER (SPIRITS, BEER, AND WINE) LIQUOR LICENSE. PURSUANT TO RULE 15.10.32.8 IF THE PROPOSED LICENSED PREMISES IS WITHIN 400 FEET OF A CHURCH OR SCHOOL, AND THE APPLICANT DOES NOT ADMIT THE PROPOSED LICENSED PREMISES IS WITHIN 300 FEET OF A CHURCH OR SCHOOL, THE APPLICATION MUST BE ACCOMPANIED BY A CERTIFIED REPORT OF A REGISTERED ENGINEER OR DULY LICENSED SURVEYOR OR MAY OBTAIN A WAIVER FROM A LOCAL OPTION DISTRICT GOVERNING BODY FOR THE PROPOSED LOCATION. THE APPLICANT AT THIS TIME IS SEEKING A WAIVER, LOCATED AT 508 N. MESQUITE STREET 1/2, LAS CRUCES, NEW MEXICO 88001.

Public hearing began at 2:51 p.m. There was no one for or against. Public hearing ended at 2:52 p.m.

Councilor Johana Bencomo moved, seconded by Councilor Becky Corran, to Approve Resolution No. 24-003.

RESULT:	Carried
----------------	----------------

MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Becky Corran
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.2 RESOLUTION NO. 24-004: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2022-23 BUDGET FOR 2023 FISCAL YEAR-END.

Jacqueline Rubalcalva, Budget and Grants Administrator gave the overhead presentation.

Councilor Tessa Abeyta moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 24-004

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.3 RESOLUTION NO. 24-005: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2023-24 BUDGET.

Jacqueline Rubalcalva, Budget Administrator gave the overhead presentation.

Councilor Bencomo asked the insurance on the recovery for the damaged bus stop shelter, can you explain this a little bit? Is this how much it cost to repair the damage?

Mike Bartholomew, City Transit Director said it was a claim that we put in on damage that was done to that shelter that was hit by an automobile. That was the payment on the claim, and it is just to account for the revenue in our 24 budget and the expense for repairing and replacing the shelter.

Councilor Bencomo asked do you know off the top of your head what the repair cost was?

Mike Bartholomew said that is what it was. It was a whole replacement.

Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 24-005.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.4 RESOLUTION NO. 24-006: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2023 BUDGET.

Charlie Fierro, Budget Analyst gave the overhead presentation.

Councilor Flores asked do you know who the grantors are?

Susan Gonzales, Grants Manager said on each one of these grants, the Summer Youth Leadership Academy of course is an agreement with NMSU and there are two sessions being offered for the youth. So, our grantor on that one is NMSU. On the ACD Gateway and Lighting that is through the State of New Mexico, Economic Development and that is part of a \$10 million grant that was granted through Main Street and our portion for the City of Las Cruces is \$900,000 with \$181,000 match coming from Legislative appropriations.

Chris Faivre, Deputy Director Economic Development said this one here is for the LEDA from the State of New Mexico for 828. This is money coming from the state for their portion of the LEDA. The ACD Gateway Project, this was part of a grant through New Mexico Main Street that DLCP applied for last year and the total grant awarded to New Mexico Main Street was \$10 million. DLCP’s portion was the \$900,000 and that is going to go to complete the ACD Lighting and Gateway Project that they already have money for.

Councilor Flores asked these are generally State issued grants?

Chris Faivre said yes, they are coming from the State of New Mexico.

Councilor Tessa Abeyta moved, seconded by Councilor Yvonne Flores, to Approve Resolution No. 24-006.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta
SECONDER:	Councilor Yvonne Flores
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.5 RESOLUTION NO. 24-007: A RESOLUTION TO AWARD CONTRACTS FOR SURVEY SERVICES ON AN AS-NEEDED BASIS TO BOHANNAN HUSTON, INC., COBB, FENDLEY & ASSOCIATES INC., CONSTRUCTION SURVEY TECHNOLOGIES, INC., FRANK X. SPENCER AND ASSOCIATES, INC., HIGH MESA CONSULTING GROUP, LIBBIN UNDERWOOD ENGINEERING & SURVEYING, LLC, AND SOUDER, MILLER & ASSOCIATES, FOR INDEFINITE COST, INDEFINITE QUANTITY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR FOUR (4) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO ANNUAL RENEWALS AND APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 22-23-032).

Lisa Padron, Buyer gave the overhead presentation.

Councilor Tessa Abeyta moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 24-007.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.6 COUNCIL BILL NO. 23-035; ORDINANCE NO. 3041: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-1C (COMMERCIAL LOW INTENSITY - CONDITIONAL) TO C-1C (COMMERCIAL LOW INTENSITY - CONDITIONAL) TO REMOVE AN EXISTING CONDITION RESTRICTING BUILDING USE FOR NON-RESIDENTIAL PURPOSES FOR PROPERTY ± 0.20 ACRES IN SIZE AND LOCATED AT 1024 SOUTH MAIN STREET.

Adam Ochoa, Building Inspector Supervisor gave the overhead presentation.

Mayor Miyagishima asked the notices were 500 or 1000 feet that were sent out in the radius?

Adam Ochoa said it 500 feet per the zoning code.

Mayor Miyagishima asked that obviously reached out to some of the residential behind it?

Adam Ochoa said the vast majority were to the residential side because Main Street is so wide, so it really didn't affect the commercial side of things but really a whole bunch of residential to the west.

Mayor Miyagishima asked no one responded other than one phone call?

Adam Ochoa said we only had phone call and their only concern was hours of operation.

Councilor Bencomo asked just to be clear today we are not voting on anything related to the cannabis business, today we are voting on more specifically on fixing this zoning issue from 1985?

Adam Ochoa said that is correct. It is correcting the error is essentially what it's doing.

Councilor Bencomo asked that would be fixed with Realize anyway?

Adam Ochoa said it potentially could be but because this was something that was done, we need to go back and fix the error that was done back then and correct it now. That is what we are trying to do.

Agenda Item #5.1.

Councilor Flores asked I wonder how many of these ordinances or zoning areas are as old as the city? This came to the attention of Community Development because of the owner wanting to use its property without having that conditional use?

Adam Ochoa said this came up during the special use permit process. In order to do their proposed cannabis business out of the building they would need to go to a special use permit because they are closer than 300 feet from that residential neighborhood which is right next door right behind it. Staff in doing their investigation found the underlying zoning on the property was not just C1 it was actually C1-C, there was a condition on it so this zone change is fixing that because an error somebody back in whenever it was done I believe back in 1985 didn't correctly labeled it on the map so it was never correctly in investigated whenever a business would go in there so this is fixing that error.

Councilor Flores asked it is just this area that is being rectified so we are going to get piecemeal kind of questions forth coming?

Adam Ochoa said this is kind of one of those one offs, these don't happen a lot. In the past staff has found a number of these and we have been able to take care of them administratively. This is just something that because it was approved by ordinance of condition, we need to change it by ordinance.

Councilor Tessa Abeyta moved, seconded by Councilor Johana Bencomo, to Approve Ordinance No. 3041.

RESULT:	Carried
MOVER:	Councilor Tessa Abeyta
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

10. BOARD APPOINTMENTS

10.1

None.

11. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
- 2) A Councilor may ask staff for clarification on the proposed ordinance(s).

11.1

None.

12. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

12.1 MAYOR MIYAGISHIMA

None.

12.2 COUNCILOR GANDARA

Agenda Item #5.1.

I wanted to speak briefly about the speeding that is occurring not only in Rafael's area but I am getting several weekly in different areas. I continue to be deeply concerned about this. I know that staff is working diligently to either have traffic studies completed and next steps or that whole progression of mitigation techniques or solutions and strategies that they afford. I know that we have talked about specifically the traffic mobile vans, hopefully Mr. Pili you have some updates on that. We have been talking about it for months now and it continues to be an area where we should do some short term and more longer term fixes.

Somewhere down the line with this conservative group they are giving the impression to many people that we don't care about people, that we just sit here idly and not do anything and that is so far from the truth. I will be calling Mr. Garcia about this because I have been recipient of many emails from him giving the impression that I don't care or that council doesn't care about what is happening in the community or that we have a lot out of authority to do things other than going and visiting the businesses and really speaking to the different strategies available to the businesses, putting together policies related to Store Front Programming and the like. I want to remind folks and Chief by the way congratulations Chief Story for the Interim. We need those reports in order to file for the Store Front Programming and any other programming that we have available.

I am also concerned about our Mano y Mano Program. What is the status on our hygiene stations? I think this will alleviate quite a bit of what is happening with folks urinating and defecating out in community. They have no other place to go. I am not suggesting for what is happening with that but I am also hearing that Mano y Mano is declining to go out and I am not sure what that is but Mr. Pili if you could check on that it would be helpful to me so that we can continue to advocate for a really great program that is doing so much to adhere to help in these circumstances.

I have been really busy with some strategic sessions through the Downtown Partnership. There are some really exciting things that are happening related to the downtown. They have a new board and a lot of folks coming off leadership and new board and they are working quite a bit on retaining businesses. They are really excited about the Size Up Programming that is made available to the potential businesses and I am really excited about the opportunities that DLCP is putting together for that.

12.3 COUNCILOR FLORES

I would like to remind people that there is a lot that goes on behind the scenes and for most of those people in our audience who are staff people or employees of the city, they know very well that it isn't just a question of city council coming up here four times a month to pretty much go through things that different departments, assistance, coordinators, directors prepare. It is really a dismay and frankly disheartening when people say that we don't care. Given my years of service to the community throughout my life this one has been consistent with what I believe in, and it is a lot of work for the line of work I used to be in. I know that each one of us up here who has been elected to be a city councilor did it because we really care. We care about people and me especially at this point in my life I was out of retirement twelve years ago and came on the scene as a city councilor and that to was born from my

Agenda Item #5.1.

love of people, love of community and making this world a better place. I feel that I have been very fortunate in spite of setbacks. Nothing has been a piece of cake, or a cake walk. I just want to say to those naysayers and the critics and again it is disheartening and very sad to think that we are so one dimensional. We are also very powerful. If you really care about the city consider running for public office whether it is the city, the county or the state. Some people that come to us aren't even city residents and they are coming here and really putting the city down by putting us down. I know that there is a history and there has been many city councilors before us who have gotten us to where we are.

12.4 COUNCILOR CORRAN

I had the opportunity last week Congressman Vasquez was in town and he called together leaders of the LGBTQ+ community to talk about issues in our region and it was a really powerful meeting and there were different folks from different sectors of community advocacy, leadership, healthcare, and it was really powerful to hear some of the stories of some of the things that are happening in our community. One that I really want to highlight that I think that is something that we should think about and I think about Ms. Diaz coming and talking to us about our healthcare system and how it is a disaster at best most of the time. In this context what folks were really focusing on was the Otero County Hospital merger and the effects of a religiously oriented institution taking over the lone healthcare provider for a lot of people in that county and I do just want to point out that Las Cruces we are lucky to be a place where we have a number of healthcare providers that don't discriminate and don't have an orientation toward or against reproductive health or trans healthcare and I just want us to all recognize that we are going to have those folks coming or those folks who can cross the federal constructed border checkpoints that creates a literal physical barrier. Those folks who can get past that will be coming to Las Cruces to get care in particular with related to reproductive health in particular related to gender affirming care. That was one of the big topics that we discussed in that context. It does tie into Ms. Diaz's public comment and how we are dependent on the providers for profit, nonprofit if you are lucky enough to have those and their orientation in serving the community and I do think it is a huge issue. I don't know if we are the place to solve it but I appreciate that our city continues to be the place where people can come and receive the care that they need.

12.5 COUNCILOR BENCOMO

I don't have much today I just wanted to thank Sra. Karla Martinez and Leslie Campa and their two incredible kids for coming to speak today. I think when folks are able to use their own voice and are genuine about building relationships with us you can kind of see a different narrative about the care that we have for the community and folks who genuinely want to see long term change.

Just a huge shout out to our GIS Department. They are having a GIS Conference next week on July 10th and 11th. One of their main speakers is our new Interim Chief Story, so I am really sad to miss it.

I want to thank Mr. Leos as well for coming back. I know that Public Works let me know that they were talking to PD and Fire about some of the solutions that residents

Agenda Item #5.1.

propose like closing off part of Hickory and I just look forward to hearing from City Manager's Office and Public Works about other pilot programs and other ways that we can invest in infrastructure that can really curb speeding in some of these areas. I really do feel like it has been becoming more and more present for sure in my district and it seems like in other districts as well.

12.6 COUNCILOR GRAHAM

The only thing I wanted to update on was the Boxing Camp was amazing. I got to coach four of the five days. I want to thank Mayor, Councilor Corran and several crews from the LCFD who stopped by and talk to the kids and share some stories. It was an amazing pilot. I think it is something definitely that we will try and revisit next year with our partner NMSU and expand to a couple of weeks if possible and even better I would say about a third of the participants have showed up to boxing team practice. Hopefully they found something new that they are going to make part of their regular routine.

12.7 COUNCILOR ABEYTA

Last week we had a board meeting for MVEDA and also went into a strategic board meeting. We were looking at a little bit of the history of how it came to be and then looking towards the future from that. Afterwards they had a tour of the Industrial Park and it was great.

The other item is last Thursday we had an Oversight Committee Meeting. One of the items that we did go over is just a little update from the Audit Plan. I do want to thank Viola so much for all that she has done for ten out of the twelve months they have not been fully staffed but now they are which is great news and they will be able to complete about 60% of their audit plan that they had originally scheduled for what was going to be for a full fully staffed schedule so they have still been able to move along over 50% even without that.

13. CITY MANAGER REPORT

13.1 IFO PILI

The Finance Department asked me to present this pricing certificate. On June 5th we issued a loan with New Mexico Finance Authority, two of them actually and it was part of the ordinance this is a requirement that I report back to you once we receive the proceeds just to discuss the terms, let you know that we fulfilled the terms within the ordinance parameters. Loan agreements with NMFA for flood control and street both have a processing fee of 0% less than 1% specified by ordinance. Both loans are closing on July 14, 2023, and then the city receives the loan proceeds. The NMFA and MRGT Flood Control loan amount was \$3,070,000 less than the maximum amount authorized by the ordinance which was \$3.1 million. Net effective interest rate of 2.84%, the parameters gives us a max of 12%. Final payment on bond specified as June 1, 2035, which also meets ordinance parameters and the NMFA and MRGT Street Loan, the loan was \$5,080,000 less than the maximum amount authorized by the ordinance \$5.1 million, net effective interest rate of 2.59% which is less than maximum. The final payment on bond specified is June 1, 2036, which again meets

Agenda Item #5.1.

the ordinance parameters. This report fulfills that requirement to come back as specified in our ordinance.

I know we talked about the electric parade. Tonight, is the parade but we have a fun run sponsored by the Las Cruces Running Club. Fun run at 7:30 and then a 5K at 8 p.m. and the parade will follow that. Tomorrow at NMSU Lou Sisbarro Park start time will be at 6 p.m. concert will be kicked off by local artist and the headliner will be Randy Houser. There is also the Hadley Sports Complex sponsoring a baseball tournament. USSSA Kyle Falvey Memorial Baseball Tournament, there is about 110 teams and that will go from July 5th through the 9th.

I just wanted to recognize our new Interim Chief. Chief Dominguez retired officially, Friday was his last day here. I want to congratulate Chief Story. Chief Dominguez and I have been talking about the speeding issues and I actually texted Chief Story if he is willing to say anything right now.

Jeremy Story, Interim Police Chief said we recognize that in 2020 especially we are kind of catching up now with staffing as was mentioned and that impacts our speeding enforcement as well, but the good news is that things are a lot better now than they were back then, so we try to do that data driven approach to speeding as well. We use our traffic studies to see if one is there a problem, two, how bad is it, and then when we do something to address it, we can kind of gage how effective it was. With that being said with limited equipment resources are constantly bouncing those things back and forth in places like Roadrunner. We are doing that multiple times a year on Roadrunner every single year but as staffing has increased our traffic section is one of the places that took a hit and with the PSA increased they take a lot of crashes to our traffic section is able to do a lot of enforcement. We are already seeing those numbers increase and once we fully staff traffic we should be by the end of this year it is going to help a lot with these requests so we can address more areas more often.

Ifo Pili said we did have a conversation about our mobile vans and there is sort of mixed opinions on that from our council, so we didn't. We decided not to bring it back.

Councilor Bencomo asked I thought it was the cameras on the lights not the vans that there was disagreement on?

Mayor Miyagishima said you are right, it was the mobile vans but somehow the presentation seemed to have turned to the cameras. I am just talking about the mobile vans. The ones that are used in New Orleans.

Councilor Bencomo said I think there just needs to be standards about how we use the data, who we don't share with, those kinds of things would be my biggest concern. I think you should bring it back because the issue is significant. I just remember the camera on lights being the place that there was disagreement.

Ifo Pili said the cameras will be on the mobile vans.

Agenda Item #5.1.

Councilor Bencomo said the good thing about the mobile vans is that they could target specific areas unlike cameras that are predominately in bigger corridors where there is issues but at least that is not where I am hearing most of the issues.

14. ADJOURNMENT

14.1

Councilor Yvonne Flores moved, seconded by Councilor Becky Corran, to Adjourned at 3:51 p.m.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Becky Corran
AYES:	Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

Mayor

City Clerk



City Council Action and Executive Summary

24-014

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☒ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	Adopted: August 7, 2023		
Drafter:	SooGyu Lee	Department:	Public Works
Program:	Traffic Management	Line of Business:	Traffic Engineering
Title:	A RESOLUTION APPROVING A ROADWAY LIGHTING MAINTENANCE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO PROVIDE MAINTENANCE OF ROADWAY LIGHTING ON EAST UNIVERSITY AVENUE (NM101) BETWEEN BOWMAN STREET AND SOUTH MAIN STREET (CONTROL NO LC00290).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Approve an agreement.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The New Mexico State Statute requires local entities to maintain traffic control devices within their boundaries upon highways, under their jurisdiction. The purpose of this action is for the City Council to approve an agreement between the City of Las Cruces (City) and the New Mexico Department of Transportation (NMDOT) to meet this requirement on East University Avenue (NM101) between Bowman Street and South Main Street.

The NMDOT project (Control No. LC00290) includes the installation of roadway lighting on East University Avenue (NM101) between Bowman Street and South Main Street which is within the boundaries of the City. The project is currently under design with construction anticipated to start in the spring of 2024 and anticipated to be completed in the fall of 2025. The roadway lighting is being installed primarily to promote traffic safety.

Pursuant to the Roadway Lighting Maintenance Agreement, NMDOT will provide the design and construction of the roadway lighting and the City will facilitate future upkeep of the roadway lighting upon the final acceptance of the project. The estimated annual maintenance costs will be in the range of \$2,500, which would be approximately 50% power costs and 50% material costs.

SUPPORT INFORMATION:
[Exhibit "A" - Agreement between CLC and NMDOT LC00290](#)

PLAN(S):
Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:
None

Agenda Item #6.1.

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the lighting agreement with NMDOT.
2. Vote "No"; this will not approve the lighting agreement with NMDOT.
3. Vote to "Amend"; this could delay approval of the lighting agreement and require direction and specific amendments from City Council.
4. Vote to "Table"; this could delay the approval of the lighting agreement. Staff may require additional direction from City Council on how to proceed.

RESOLUTION 24-014

A RESOLUTION APPROVING A ROADWAY LIGHTING MAINTENANCE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND THE NEW MEXICO DEPARTMENT OF TRANSPORTATION TO PROVIDE MAINTENANCE OF ROADWAY LIGHTING ON EAST UNIVERSITY AVENUE (NM101) BETWEEN BOWMAN STREET AND SOUTH MAIN STREET (CONTROL NO LC00290).

The City Council is informed that:

WHEREAS, the New Mexico State Statute requires local entities to maintain traffic control devices within their boundaries upon highways under their jurisdiction; and

WHEREAS, the New Mexico Department of Transportation (NMDOT) project (Control No. LC00290) includes the installation of roadway lighting on East University Avenue (NM101) between Bowman Street and South Main Street which is within the boundaries of the City of Las Cruces (City); and

WHEREAS, the project is currently under design with construction anticipated to start in the spring of 2024 and anticipated to be completed in the fall of 2025. The roadway lighting is being installed primarily to promote traffic safety; and

WHEREAS, pursuant to the Roadway Lighting Maintenance Agreement, NMDOT will provide the design and construction of the roadway lighting and the City will facilitate future upkeep of the roadway lighting upon the final acceptance of the project.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the agreement between the City and the NMDOT on East University Avenue (NM101) between Bowman Street and South Main Street is hereby approved and attached hereto as Exhibit "A" and made part of this resolution.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #6.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Contract No.: _____

MAINTENANCE AGREEMENT**ROADWAY LIGHTING**

This Agreement is between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (Department), and the, **CITY OF LAS CRUCES** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

Whereas, the Department contemplates the construction of a highway project within the boundaries of the Public Entity, identified as, PN: LC00290 CN: LC00290 (Project);

Whereas, the Department and Public Entity agree with the need for installation of roadway lighting at the following location(s): University Ave (NM 101) from Bowman St. to Main St.;

Whereas, the installation of the roadway lighting will promote traffic safety;

Whereas, the parties want to set forth their responsibilities on operation and maintenance of the roadway lighting.

Now therefore, pursuant to NMSA 1978, Section 67-3-28, the parties agree as follows:

1. The Department Shall:

- a. Provide the necessary plans, designs and estimates and other documents required for the construction of the Project and cause the Project to be constructed in the manner provided by law.
- b. Determine the design, provide and install new roadway lighting equipment with cabinet, concrete foundations, poles, luminaires, underground conduit, and conductor for complete roadway lighting.
- c. Provide and install approximately 12, LED luminaires with full cutoff fixtures, on type V standards on NM101 from milepost 1.06 to milepost 1.40, for a fully operational lighting system.
- d. After construction is completed, provide the Public Entity as built drawings of the repairs to the roadway lights and a complete list of all parts and components, used including the brands and specifications.
- e. After completion of the Project, allow the Public Entity to enter into the Department's right of way to perform maintenance as detailed in Section 2 below.

2. The Public Entity Shall:

After the roadway lighting system has been constructed:

- a. Provide at its sole cost and expense all electrical energy.

- b. Perform at its sole cost and expense any and all maintenance to keep the system operating, which includes luminaire replacement as well as replacement of all parts and components as a result of equipment failure, accidental damage and intentional damage, which includes vandalism.
- c. Perform maintenance as detailed in this Section 2, to all parts and components, which includes and is not limited to poles or fixtures, conduits and wiring, and as provided by as-built drawings.
- d. Replace all parts and components with the same kind, brand or performance for continued satisfactory operation of said roadway lighting system.

3. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below.

4. Third Party Beneficiaries.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

5. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.* This paragraph is intended only to define the liabilities between the parties and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

6. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

7. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

8. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall,

on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

9. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement shall terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

10. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

11. Contingent on Project Being Let.

In the event that the Project is not let for any reason, this Agreement shall become null and void and shall create no obligation on any of the parties.

12. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

13. Principal Contacts and Notices.

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

Name: Aaron Chavarria, P.E.
Title: Interim District 1 Engineer
Public Entity: New Mexico Department of Transportation
Address: 2912 E. Pine St., Deming, NM 88030
Office: 575-494-3227
E-mail: aaron.chavarria@dot.nm.gov

Name: SooGyu Lee
Title: Administrator/Public Works/Traffic Management
Public Entity: City of Las Cruces
Address: P.O. Box 20000, Las Cruces, NM 88004
Office: 575-541-2566

E-mail: sglee@las-cruces.org

14. Amendment

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties.

In witness whereof, each party is signing this Agreement on the date stated opposite that party’s signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

Recommended by:

By: _____ Date: _____
State Traffic Engineer

By: _____ Date: _____
District Engineer

Approved as to form and legal sufficiency by the New Mexico Department of Transportation’s Office of General Counsel

By: _____ Date: _____
Assistant General Counsel

CITY OF LAS CRUCES

By: _____ Date: _____

Title: _____

Attest: _____



City Council Action and Executive Summary

24-015

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: August 7, 2023		
Drafter:	Donny Prosis	Department:	Financial Services
Program:	Purchasing	Line of Business:	Procure-to-Pay
Title:	A RESOLUTION AUTHORIZING AN INCREASE IN THE ANNUAL NOT-TO-EXCEED AMOUNT OF THE CONTRACT FOR GENERAL LITIGATION SERVICES WITH MYNATT SPRINGER P.C. TO \$600,000 PLUS NEW MEXICO GROSS RECEIPTS TAX ANNUALLY (PROCUREMENT NO. 23-24-005).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To authorize an increase in the annual not-to-exceed amount for a contract for general litigation services.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City's Legal Department has contracted with Mynatt Springer P.C. for general litigation services. Services of attorneys are exempt from competitive bidding as outlined in the City's procurement code, Las Cruces Municipal Code chapter 24-4. The anticipated amount for general litigation services for fiscal year 2024 and later years exceeds the City Council approval threshold of \$100,000. The Legal Department is requesting authorization to amend contract no. 23-24-005 from an amount not to exceed \$99,999 plus New Mexico Gross Receipts Tax, to an amount not to exceed \$600,000 plus New Mexico Gross Receipts Tax annually, as outlined in Exhibit "A."

SUPPORT INFORMATION:

[Exhibit "A" - 23-24-005 Legal Svcs - Mynatt Amendment 1](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes
☒ No

BUDGET / FISCAL IMPACT:

Agenda Item #6.2.

BUDGETED AMOUNT: 1,500,000

AVAILABLE AMOUNT:

1,017,876

EXPENDITURE AMOUNT:

600,000

Funding Source(s):

60331004-721030

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution authorizing the increase in the annual not-to-exceed amount of the contract with Mynatt Springer P.C. for general litigation services from \$99,999 to \$600,000 plus tax annually.
2. Vote "No"; this will not approve the Resolution and City Council will need to provide staff with alternative direction.
3. Vote to "Amend"; this could modify the Resolution based on direction from City Council to staff.
4. Vote to "Table"; this will delay the increase in the annual not-to-exceed amount of the contract with Mynatt Springer P.C., which will impact Legal Department operations, and City Council will need to provide alternative direction to staff.

RESOLUTION 24-015

A RESOLUTION AUTHORIZING AN INCREASE IN THE ANNUAL NOT-TO-EXCEED AMOUNT OF THE CONTRACT FOR GENERAL LITIGATION SERVICES WITH MYNATT SPRINGER P.C. TO \$600,000 PLUS NEW MEXICO GROSS RECEIPTS TAX ANNUALLY (PROCUREMENT NO. 23-24-005).

The City Council is informed that:

WHEREAS, the City's Legal Department has contract with Mynatt Springer P.C. for general litigation services; and

WHEREAS, services of attorneys are exempt from competitive bidding as outlined in the City's procurement code, Las Cruces Municipal Code chapter 24-4; and

WHEREAS, the anticipated amount for general litigation services for fiscal year 2024 and later years exceeds the City Council approval threshold of \$100,000; and

WHEREAS, the Legal Department is requesting authorization to amend contract no. 23-24-005 from an annual amount not to exceed \$99,999 plus New Mexico Gross Receipts Tax, to an amount not to exceed \$600,000 plus New Mexico Gross Receipts Tax annually, as outlined in Exhibit "A".

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the amendment to the professional services agreement with Mynatt Springer P.C. to an amount not to exceed \$600,000 plus New Mexico Gross Receipts Tax, as outlined in Exhibit "A", attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



CITY OF LAS CRUCES

AMENDMENT NO. 1

23-24-005 LEGAL SERVICES – GENERAL LITIGATION

This amendment, made this _____ day of August, 2023 by and between the CITY OF LAS CRUCES and Mynatt Springer P.C. of Las Cruces, NM.

WITNESSETH

WHEREAS, the parties desire to modify the terms and conditions of their original contract dated July 3, 2023, the parties hereby agree as set forth below:

The following provisions are added:

1. Section 4. COMPENSATION is modified to an annual amount not to exceed \$600,000, plus applicable taxes.

Subject to the modifications set forth in this amendment, the above referenced original agreement dated July 3, 2023 between the parties is hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties, through their authorized representatives, have affixed the signatures below.

MYNATT SPRINGER P.C.

CITY OF LAS CRUCES

BY: _____
Blaine Mynatt
Partner

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

 7/14/2023

City Attorney



City Council Action and Executive Summary

24-016

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	Adopted: August 7, 2023		
Drafter:	Sam Sheen	Department:	Financial Services
Program:	Purchasing	Line of Business:	Procure-to-Pay
Title:	A RESOLUTION APPROVING A SERVICE AGREEMENT FOR PLANNING AND DEVELOPMENT SERVICES RELATED TO DOWNTOWN REVITALIZATION TO DOWNTOWN LAS CRUCES PARTNERSHIP OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$120,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS. (PROCUREMENT NO. 23-24-008).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To award a contract for planning and development services related to downtown revitalization.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The revitalization of downtown is a priority of the City as shown through the adoption of the Downtown Master Plan, Arts and Cultural District (ACD) Plan, Economic Development Business Strategic Plan, and the City's Strategic Plan. The City of Las Cruces has benefited from the New Mexico MainStreet (NMMS) Program through its partnership with the Downtown Las Cruces Partnership (DLCP) for 18 years.

For Downtown Las Cruces, outlined by the Tax Increment Development District (TIDD) and ACD Boundaries, DLCP provides planning and revitalization services, generates a high level of public participation to plan and implement downtown revitalization, and plays a significant and strategic role in attracting visitors & businesses to Downtown Las Cruces. DLCP also facilitates coordination between the City, TIDD, and Downtown Businesses.

City staff transitioned these services from an MOU to a performance-based service agreement in 2019. The City's Purchasing Manager determined DLCP to be a sole source provider pursuant to LCMC, Section 24-95 because of their NMMS accreditation, and that proceeding with another firm would result in "substantial duplication of cost to the City that is not expected to be recovered through competition" (LCMC, Section 24-7 [a]), and that it would cause "an unacceptable delay in fulfilling the City's requirements" (LCMC, Section 24-7 [b]), as outlined in the Sole Source Determination (Attachment "A").

The current agreement (Exhibit "A") is for an initial term of 12 months, with the option for three (3) additional one-year terms, subject to annual renewals and approved budget appropriations.

SUPPORT INFORMATION:
[Exhibit "A" 23-24-008 DLCP planning and development services related to DLCP](#)

Agenda Item #6.3.

[Attachment "A" 23-24-008 sole source DLCP](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Economic Development PRC

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:

\$120,000.00

AVAILABLE AMOUNT:

\$120,000.00

EXPENDITURE AMOUNT:

\$120,000.00

Funding Source(s):

1000-10247002-721070

Overall Budget Impact:

None

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and award a contract to the Downtown Las Cruces Partnership for a term of one (1) year, with three (3) optional one-year renewal term, in an amount not to exceed \$120,000.00 per fiscal year, subject to annual renewals and approved budget appropriations.
2. Vote "No"; this will not approve the Resolution, and City Council will need to provide staff with alternative direction.
3. Vote to "Amend"; this could modify the Resolution based on City Council direction to staff.
4. Vote to "Table"; this could delay awarding a contract for the services described herein.

RESOLUTION 24-016

A RESOLUTION APPROVING A SERVICE AGREEMENT FOR PLANNING AND DEVELOPMENT SERVICES RELATED TO DOWNTOWN REVITALIZATION TO DOWNTOWN LAS CRUCES PARTNERSHIP OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$120,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS. (PROCUREMENT NO. 23-24-008).

The City Council is informed that:

WHEREAS, the revitalization of downtown is a priority of the City as shown through the adoption of the Downtown Master Plan, Arts and Cultural District (ACD) Plan, Economic Development Business Strategic Plan, and the City's Strategic Plan; and

WHEREAS, the City of Las Cruces has benefited from the New Mexico MainStreet (NMMS) Program through its partnership with the Downtown Las Cruces Partnership (DLCP) for 18 years; and

WHEREAS, for Downtown Las Cruces, outlined by the Tax Increment Development District (TIDD) and ACD Boundaries, DLCP provides planning and revitalization services, generates a high level of public participation to plan and implement downtown revitalization, and plays a significant and strategic role in attracting visitors & businesses to Downtown Las Cruces; and

WHEREAS, Downtown Las Cruces Partnership also facilitates coordination between the City, TIDD, and Downtown Businesses; and

WHEREAS, Downtown Las Cruces Partnership is a public/private partnership and to accomplish its mission and to be competitive on a national level, in addition to financial support provided by the City, Downtown Las Cruces Partnership also has a contract with Dona Ana County and is supported by a variety of companies in the private sector; and

WHEREAS, the City's Purchasing Manager determined DLCP to be a sole source provider pursuant to LCMC, Section 24-95 because of their NMMS accreditation, and that proceeding with another firm would result in "substantial duplication of cost to the City that is not expected to be recovered through competition" (LCMC, Section 24-7 [a]), and that it would cause "an unacceptable delay in fulfilling the City's requirements" (LCMC, Section 24-7 [b]), as outlined in the Sole Source Determination.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the contract for planning and development services related to downtown revitalization is hereby awarded to Downtown Las Cruces Partnership of Las Cruces, New Mexico, as shown in Exhibit "A", attached hereto and made part of this Resolution.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

23-24-008

Planning and Development Service Related to Downtown Revitalization



CITY OF LAS CRUCES

SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this ____ day of July, 2023 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Down Town Las Cruces Partnership of 138 S.Water Street, Las Cruces, NM 88001 Zip Code, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Planning and Development Service Related to Downtown Revitalization

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No.23-24-008 as set forth in Exhibit A and B attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

- (a) For the services to be provided herein, the City shall pay DLCP one hundred twenty thousand (\$120,000) including all applicable taxes for each subsequent one year renewable option. DLCP is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. DLCP agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operation of its business. DLCP, in receiving these funds, agrees to solicit additional private or public funding to match the City's contribution in order to maximize the benefit to the community for the sustainability of the organization.
- (b) Prior to payment, DLCP shall submit a billing statement to the City that details how City funds have been utilized and explain the connection between the use of funds and the Service deliverables. Attachment "B" will include a rate and conformed billing sheet. Upon receipt of a conforming billing statement, the City shall promptly process payment. If a billing statement does not conform to this Agreement, the City may withhold payment until the statement is brought into compliance. Such withholding does not relieve DLCP of its obligations under this Agreement.

Planning and Development Service Related to Downtown Revitalization

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on date of award for a term of one (1) year, and has (3) one-year renewable options to be exercised at the discretion of the CITY, upon mutual written consent. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS



Planning and Development Service Related to Downtown Revitalization

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole

Planning and Development Service Related to Downtown Revitalization

property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT



Planning and Development Service Related to Downtown Revitalization

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Professional Liability
 - a. \$1,000,000 per occurrence

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.



Planning and Development Service Related to Downtown Revitalization

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Chris Favre

With Copies to: Purchasing Manager

TO CONTRACTOR: Downtown Las Cruces Partnership
138 S. Water Street
Las Cruces, NM 88001
ATTENTION: Jennifer Garcia Kozlowski

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to

Planning and Development Service Related to Downtown Revitalization

CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

DOWNTOWN LAS CRUCES
PARTNERSHIP

CITY OF LAS CRUCES

BY: _____
Name
Title

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

 6/29/23

City Attorney

EXHIBIT A

SCOPE OF SERVICES

OBJECTIVE. To continue revitalization of the downtown area by increasing business development opportunities and support to existing businesses in the area and by attracting new business to the downtown as defined by the Las Cruces Tax Increment Development District (TIDD), and the Arts and Cultural District (ACD) boundaries during the term of the Agreement.

The work within this scope of work is included in City's Metropolitan Redevelopment Area (MRA), Arts and Cultural District, Elevate Las Cruces, and Economic Development Department plans. Therefore, efforts considered under service agreement are to be aligned to overall City's Economic Development Department priorities. The funding in this service agreement shall cover the expenses related to the deliverables of scope of work as Attachment A.

DELIVERABLE/ OUTPUT:

- I. Business Support Services for Emerging and Established Businesses
 - a. Develop and deploy a targeted, data-based business recruitment and community attraction program
 - i. Develop and execute city-wide focus groups to determine existing trends and market possibilities. Groups will revolve around the specific needs of Downtown and the ACD. Sessions to be held at high-density organizations such as but not limited to downtown employers, the university, and country clubs
 - ii. Optimize and conduct annual downtown/ACD community input survey and share findings with CLC
 - iii. Update void analysis and recruitment target list. Use information gathered through BR&E, community survey, and merchant outreach to create standardized tool to assess considerations and barriers to business expansion.
 - iv. Use data collected update website and create collateral materials including "Doing Business Downtown" Guide to further promotion of Downtown and ACD
 - b. Use data collected to recruit businesses
 - i. Work to match new or expanding businesses with available space in downtown/ACD
 - ii. Use available platforms i.e. LinkedIn to create a targeted campaign to connect emerging and established businesses with downtown/ACD assets and resources including technical assistance

Planning and Development Service Related to Downtown Revitalization

- iii. Identify and contact local and regional businesses about opening a second location in downtown/ACD
- iv. Create a pilot program to be reproduced in other MRAs
- v. Establish a peer to peer "Move-in Ready Fair" for new and expanding businesses, realtors and property owners, and financial institutions. Fair to be hosted by DLCP/ACD
- vi. Conduct BR&E surveys and document qualitative and quantitative data for analysis
- c. Current Business Outreach
 - i. Visit Businesses regularly and report on needs of merchants
- II. Business Networking/Merchant meetings- quarterly
 - a. Hands on Technical Assistance and Business Consulting
 - i. Workshop /Seminar Series for emerging and established downtown businesspeople who are looking to enhance their skills and knowledge in various aspects of their business portfolio including but not limited to leadership, management, sales, marketing, and visual space for current Downtown/ACD business or individuals looking to locate in district
 - ii. Work with City of Las Cruces (CLC) to stand up and implement creative economy technical assistance programs
 - iii. One-on One-technical assistance targeted assistance to current Downtown/ACD businesspeople looking to gain new insights, strategies, and best practices that they can apply to their daily work to stay ahead of the professional curve
 - iv. Writing Workshops and Roundtables for people who are looking to pursue a career in writing, as well as those who simply enjoy writing as a hobby ore creative outlet, may be targeted to individuals who are interested in writing fiction, non-fiction, poetry, or screen plays and cater to writers of different levels of experience
 - b. Business/District Promotion
 - i. Promotion of TIDD and ACD districts as commercial and cultural corridors
 - 1. Develop and post regularly scheduled blog spots/press releases and social media content featuring district and activities/events in Downtown/ACD Promote/advertise projects and programs of DLCP/ACD
 - 2. Promote/advertise projects and programs of DLCP/ACD
 - 3. Produce six video Business Spotlights between July 1, 2023, and June 30, 2024
 - 4. Produce six video ACD Icons between July 1, 2023, and June 30, 2024

Planning and Development Service Related to Downtown Revitalization

III. Develop and produce targeted marketing and promotion action plan and assets for DLCP/ACD promotional efforts and events including:

- i. Zombie Walk
- ii. Chile Drop
- iii. LitFest- cultivate this as and ACD-centric community event to expand on outreach and participation

IV. Reporting

- a. State of Downtown Annual impact report
- b. Regularly scheduled update meetings with Economic Development

V. Capital Outlay

- a. Direct Current ACD Capital Outlay Projects
- b. Seek additional State appropriations and New Mexico MainStreet (NMMS) Capital Outlay Funds for District Projects such as the Amador Hotel (if possible)
- c. Work with NMMS to inventory and survey Downtown and ACD for potential low-cost high impact design projects that will positively affect district.

DELIVERABLE/ OUTPUT: In order to insure sustainable economic development, DLCP will have secured funding, by written commitment or award letter, from public or private sector in the amount equal to or greater than \$120,000, including New Mexico MainStreet Technical Assistance hours. The funding shall be exclusive of funding received from the City. If DLCP does not meet the performance measure, DLCP will present a workable plan to the City that will demonstrate effort toward self-sufficiency. Funding received from the City is for payment of services and is not intended to fund the operating costs of DLCP, in compliance with N.M. Const. art. IX, §14.

DLCP shall maintain all required licenses, including without limitation all necessary professional and business licenses, throughout the term of this Agreement. DLCP shall require and shall assure all the DLCP's employees and subcontractors maintain all required licenses, including without limitation all professional and business licenses. DLCP must maintain New Mexico Main Street accreditation.

PP

EXHIBIT B

RATE STRUCTURE & CONFORMED BILLING

OBJECTIVE: As per the agreement between the City of Las Cruces and the Downtown Las Cruces Partnership (DLCP), the table below outlines the agreed upon rate structure and conformed billing categories which will be used when invoicing the City pursuant to the Scope of Services outlined within the Agreement. Any conditions or changes to these categories shall be agreed upon in advance by both parties.

I. TOTAL CONTRACT NOT TO EXCEED **\$120,000** including applicable Gross Receipts Tax for the period of performance.

II. Cost per unit of service procured:

Service Description	Approximate %/Time Allocation	Budget Allocation
Business Support Services for Emerging and Established Businesses	60%	\$72,000
Develop and produce targeted marketing and promotion action plan for DLCP/ACD	35%	\$42,000
Business Networking/Merchant meetings- quarterly	5%	\$6,000
TOTAL CONTRACT AMOUNT NOT TO EXCEED		\$120,000

- **Business Support Services for Emerging and Established Businesses:** to be billed at an estimated \$6,000 monthly, in an estimated amount of \$72,000 annually.
- **Develop and produce targeted marketing and promotion action plan for DLCP/ACD:** to be billed at an estimated \$3,500 monthly, in an estimated amount of \$42,000 annually.
- **Business Networking/Merchant meetings- quarterly:** to be billed at an estimated \$500 monthly, in an estimated amount of \$6,000 annually.

III. Changes to budget allocation

- DLCP may budget 10 percent across line items based on the various types of services being provided and required for the individual companies/requirements during the period of performance without prior City approval.
- Any budget across line items above 10 percent must be requested in writing to the City for approval. This request should include the changes requested and justification.



**PURCHASING SECTION
SOLE SOURCE DETERMINATION**

ACKNOWLEDGEMENT

I am aware of the City's requirements for purchasing all items via competitive procurement plus criteria for justifying a sole source procurement. I have obtained and assessed necessary technical information and have made a concerted effort to consider and review equipment/services from alternate sources. I have attached pertinent and relevant documentation supporting this effort and from which a sole source determination may be based.

Request By: Chris Faivre
(Note: The person requesting a sole source determination should be an expert and capable of supporting this request)

Signed: _____ Date: 6/1/23

Recommendation:

Company Name: Downtown Las Cruces Partnership
Contact Name: Jennifer Garcia Kozlowski
Address: 138 S. Water Street
City, State, Zip: Las Cruces, NM 88001
Telephone: (575) 525-1955
Fax Number: ()
Email: director@dlcp.org

PLEASE NOTE: An approved Sole Source Determination may be used for up to two years from date of first use. Information for additional procurements should be added as needed, and then the updated form should be attached to the new requisition(s).

Description of Product/Service:	Requisition #	Estimated Cost	Date
Service Agreement		\$120,000	May 16, 2023

SOLE SOURCE RATIONALE

(Note: Avoid general or vague understandings and/or unsupported conclusions)

A. Is the purchase a tangible product? (must select Yes or No)

- ☐ Yes (complete questions 1-8 below)
☒ No (continue to Section B)

1. Is it sold exclusively by the manufacturer?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

2. Is it sold exclusively through a single distributor?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

3. Is the product sold through multiple distributors who are restricted to exclusive marketing territories?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

4. Are similar products available to the product from the recommended company?

☐ Yes ☐ No

If No, explain how you arrived at this conclusion:

This is a service, not a product.

5. Is a similar product obtainable from other sources?

☐ Yes ☒ No

If No, explain fully how you arrived at this conclusion:

DLCP is the only certified Main St. Program in Las Cruces and the CLC has to work with a certified Main St. Program to operate an Arts and Cultural District.

6. Would a similar product from an alternate source meet the City's requirements?

☐ Yes ☒ No

If No, explain how you arrived at this conclusion:

This is a service not a product, however, DLCP is the only certified Main St. Program in Las Cruces and the CLC has to work with a certified Main St. Program to operate an Arts and Cultural District.

7. Is there substantial duplication of costs by contracting with any other source that would not be recovered through a competitive procurement?

☐ Yes ☐ No

If Yes, explain fully how much cost and how you arrived at this conclusion:

We would not be allowed to work with another vendor to provide the services we are asking of DLCP as the only certified Main St. program in Las Cruces.

8. Would contracting with any other source force an unacceptable delay in meeting the City's requirements?

Agenda Item #6.3.

☒ Yes ☐ No

If Yes, explain fully the City's requirements and how you arrived at this conclusion:

Not an option because the CLC can't work with another vendor that is not a certified Main St. program. However, if we were to work with another vendor, we would have to take several months to get a new vendor on board, certified (if the State of NM would approve), and up to speed on what we are asking them to do.

B. Is the purchase for services or software?

1. Are similar services or software obtainable from other sources?

☐ Yes ☒ No

If No, explain fully how you arrived at this conclusion:

The Downtown Las Cruces Partnership is the only organization in downtown Las Cruces that provides outreach, and business support services to specific to downtown businesses. They are also the New Mexico Main Street affiliate for Las Cruces, and as such, represent the interests of the Las Cruces Arts and Cultural District.

2. Would similar services or software from alternate sources meet the City's requirements?

☐ Yes ☒ No

If No, explain how you arrived at this conclusion:

Based on the specific needs of the City and downtown community, there are no other organizations that can provide everything that Downtown Las Cruces Partnership does. Other organizations may be able to provide portions of what is required, but cannot provide all the services that our strategic goals demand.

3. Is there substantial duplication of costs by contracting with any other source that would not be recovered through a competitive procurement?

☒ Yes ☐ No

If Yes, explain fully how much cost and how you arrived at this conclusion:

To bring in another organization would require the building of foundational relationships and institutional knowledge of City goals and processes that Downtown Las Cruces Partnership already has in place and were years in the making. Downtown Las Cruces Partnership is already working on numerous existing initiatives and programs that would need to be altered or restarted by changing organizations.

4. Would contracting with any other source force an unacceptable delay in meeting the City's requirements?

☒ Yes ☐ No

If Yes, explain fully the City's requirements and how you arrived at this conclusion:

A new organization would postpone the implementation of ongoing projects, programs, and initiatives, due to the required implementation time and the need to build the knowledge and relationships already possessed by Downtown Las Cruces Partnership.

DETERMINATION (to be completed by the Purchasing Section):

Based upon the information and support provided in justifying this request for sole source procurement, a sole source determination is hereby

☒ APPROVED

☐ NOT APPROVED - for the following reason(s):

If a determination for sole source procurement is hereby approved, negotiation with the selected source should be attempted and documented. Documentation includes terms/conditions/price offered prior to and after negotiation.

This determination shall remain effective until such time that the reasons for this determination stated herein no longer apply.

Signed: _____

Jim Munf

Date: _____

7/13/2023



City Council Action and Executive Summary

24-017

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:		Adopted:	August 7, 2023
Drafter:	Sam Sheen	Department:	Financial Services
Program:	Procure to Pay	Line of Business:	Purchasing
Title:	A RESOLUTION APPROVING A CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITH MESILLA VALLEY ECONOMIC DEVELOPMENT ALLIANCE (MVEDA) OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$250,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS AND ANNUAL RENEWALS. (PROCUREMENT NO. 23-24-009).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To approve a contract for economic development services.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces has been a participating member of the Mesilla Valley Economic Development Alliance (MVEDA) since its inception in 1994 and the two organizations have worked together to fulfill the City's goals of increasing the City focus on strategic job creation, promoting responsible, stable, and sustainable economic development, and promoting Las Cruces' unique identity as a place to do business.

In close coordination and collaboration with the City, MVEDA will market the City and the region to economic-based industries looking to expand or relocate, maintain relationships with site selectors and industry leaders around the country, and host industry visits to the area.

MVEDA is a public/private partnership. To accomplish its mission and to be competitive on a national level, in addition to financial support provided by the City, MVEDA also has a contract with Dona Ana County and is supported by a variety of companies in the private sector.

A Sole Source Determination was completed by the Economic Development Department and approved by the Purchasing Manager in accordance with Section 24-7 of the City Procurement Code, Las Cruces Municipal Code (LCMC) Chapter 24 (see Attachment "A").

The agreement for a term of one (1) year, with three (3) one-year renewable options.

SUPPORT INFORMATION:
[Exhibit "A" ECONOMIC DEVELOPMENT SERVICES - MVEDA 23-24-009](#)
[Attachment "A" 23-14-009 SOLE SOURCE MVEDA](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Economic Development PRC

DOES THIS AMEND THE BUDGET?:

- ☐ Yes
- ☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:	AVAILABLE AMOUNT:	EXPENDITURE AMOUNT:
\$250,000.00	\$250,000.00	\$250,000.00

Funding Source(s):
1000-10247001-790220-10213

Overall Budget Impact:
None

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
- ☒ No

Does this action align with Elevate Las Cruces?

- ☒ Yes
- ☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and award a contract for economic development services with Mesilla Valley Economic Development Alliance in an amount not to exceed \$250,000.00.
2. Vote "No"; this will not approve the Resolution, and City Council will need to provide staff with alternative direction.
3. Vote to "Amend"; this could modify the Resolution based on City Council direction to staff.
4. Vote to "Table"; this could delay the implementation of the new rate structure and expanded economic development services.

RESOLUTION 24-017

A RESOLUTION APPROVING A CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITH MESILLA VALLEY ECONOMIC DEVELOPMENT ALLIANCE (MVEDA) OF LAS CRUCES, NEW MEXICO IN AN AMOUNT NOT TO EXCEED \$250,000.00 PLUS APPLICABLE TAXES ANNUALLY FOR A PERIOD OF ONE (1) YEAR WITH THE OPTION TO EXTEND FOR THREE (3) ADDITIONAL ONE-YEAR TERMS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS AND ANNUAL RENEWALS. (PROCUREMENT NO. 23-24-009).

The City Council is informed that:

WHEREAS, the City of Las Cruces has been a participating member of the Mesilla Valley Economic Development Alliance (MVEDA) since its inception in 1994; and

WHEREAS, the two organizations have worked together to fulfill the City's goals of increasing the City focus on strategic job creation; promoting responsible, stable, and sustainable economic development, and promoting Las Cruces' unique identity as a place to do business; and

WHEREAS, in close coordination and collaboration with the City, MVEDA will market the City and the region to economic-based industries looking to expand or relocate, maintain relationships with site selectors and industry leaders around the country, and host industry visits to the area; and

WHEREAS, MVEDA is a public/private partnership and to accomplish its mission and to be competitive on a national level, in addition to financial support provided by the City, MVEDA also has a contract with Dona Ana County and is supported by a variety of companies in the private sector.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the contract for economic development services in an amount not to exceed \$250,000 plus applicable taxes annually is hereby awarded to MVEDA as shown in Exhibit "A" attached hereto and part of this Resolution.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

23-24-009

Economic Development Services - MVEDA



CITY OF LAS CRUCES

SERVICE AGREEMENT

THIS AGREEMENT made and entered into on this ____ day of July, 2023 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Mesilla Valley Economic Development Alliance of 277 E. Amador, Ste. 304 Las Cruces, NM 88001, hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION

Economic Development Service - MVEDA

2. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No.23-24-009 as set forth in Exhibit A and B attached hereto and made a part of this Agreement.

3. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION

- (a) For the services to be provided herein, the City shall pay MVEDA two hundred fifty thousand (\$250,000) including all applicable taxes for each subsequent one year renewable option. MVEDA is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. MVEDA agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operation of its business. MVEDA, in receiving these funds, agrees to solicit additional private or public funding to match the City's contribution in order to maximize the benefit to the community for the sustainability of the organization.
- (b) Prior to payment, MVEDA shall submit a billing statement to the City that details how City funds have been utilized and explain the connection between the use of funds and the Service deliverables. Attachment "B" will include a rate and conformed billing sheet. Upon receipt of a conforming billing statement, the City shall promptly process payment. If a billing statement does not conform to this Agreement, the City may withhold payment until the statement is brought into compliance. Such withholding does not relieve MVEDA of its obligations under this Agreement.

A handwritten signature in blue ink, appearing to be "DP".

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of project that are required by the CITY, and it will serve the CITY, diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE

This Agreement shall become effective on date of award for a term of one (1) year through June 30, 2024 and has (3) one-year renewable options to be exercised at the discretion of the CITY, upon mutual written consent. CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit A and B

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

132

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments. CONTRACTOR will retain records for five (5) years after the completion of the project.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole

property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT



CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain at least the following insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain the same insurance during the life of the subcontracted work:

1. Commercial General Liability Insurance
 - a. \$1,000,000 per occurrence / \$2,000,000 aggregate
 - b. Coverage must include premises and operations, products and completed operations, and personal and advertising injury.
 - c. The City of Las Cruces must be named as an Additional Insured for all coverages listed above on endorsements acceptable to the City.
 - d. Coverage must be primary and non-contributory.
 - e. Coverage must be per project or per location.
 - f. Coverage must be on an occurrence form.
 - g. Subrogation must be waived.
2. Commercial Auto Liability
 - a. \$1,000,000 per occurrence
 - b. Coverage must be for "owned, leased, hired, and non-owned autos" or "any autos."
3. Workers' Compensation and Employers Liability
 - a. Statutory Limits
 - b. Employer liability – \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 policy limit
 - c. Subrogation must be waived.

Endorsements for additional insured coverage and waivers of subrogation must be provided as a condition of this Agreement and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.



19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement, including anti-discrimination.

20. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
 PO Box 20000
 Las Cruces, NM 88004
 ATTENTION: Chris Favre

With Copies to: Purchasing Manager

TO CONTRACTOR: Mesilla Valley Economic Development Alliance
 277 E. Amador, Ste. 304
 Las Cruces, NM 88001
 ATTENTION: Davin Lopez

23. SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

24. SEVERABILITY

The parties agree that each provision of this Agreement is severable and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

25. CONFLICT OF INTEREST

CONTRACTOR represents and warrants that CONTRACTOR has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises under this Agreement, CONTRACTOR shall immediately inform the CITY in writing of such conflict. If, in the reasonable judgement of the CITY, such conflict poses a conflict to and with the performance of CONTRACTOR'S obligations under this Agreement or is otherwise a violation of the CITY'S current policy or ordinances, then the CITY may terminate the Agreement immediately upon written notice to CONTRACTOR; such termination of the Agreement shall be effective upon the receipt of such notice by CONTRACTOR.

Mesilla Valley Economic Development
Alliance

CITY OF LAS CRUCES

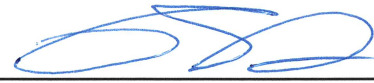
BY: _____
Name
Title

BY: _____
Alicia Hernandez
Purchasing Manager

Date

Date

APPROVED AS TO FORM

 6/29/23

City Attorney

EXHIBIT A

ATTACHMENT A

SCOPE OF SERVICES

OBJECTIVE: Using the goals of Elevate Las Cruces, Mesilla Valley Economic Development Association (MVEDA) will support the City of Las Cruces Economic Development Department (LCEDD) to achieve the defined goals and deliverables as follows. MVEDA will use business attraction and recruitment, economic development advisory services, and capacity building services to generate economic-based activity in the Las Cruces area that will lead to the creation of new businesses and new above-average wage jobs, provide employment for local residents, generate local revenue as well as attract revenue from outside the Las Cruces MSA, and bolster local business.

I. DELIVERABLES/OUTPUTS

- a. Develop, execute, and implement a marketing, attraction and recruitment program:
 - i. On the behalf of the City of Las Cruces, recruit economic-based jobs within Las Cruces.
 - ii. Develop a Marketing & Recruitment Outline for industry attraction within 60 days from approval of the contract, to include plans for marketing directed both at creating a broad, general interest in considering Las Cruces among business decision markets as well as more targeted, direct marketing and sales aimed at key industries established jointly by LCEDD and MVEDA.
 - iii. The role of the City in the Marketing & Recruitment Outline is for the LCEDD to work cohesively with MVEDA, recognizing that MVEDA provides a regional approach in their economic development efforts. LCEDD will provide input into the Marketing Outline for the upcoming Fiscal Year, to include suggestions on target industries and messaging, using this regional approach. This input shall be submitted by LCEDD to MVEDA by May 30th of the prior Fiscal Year.
 - iv. Collaboration on an ongoing basis with the LCEDD team in order to ensure alignment with policy priorities, ensure collaboration between the two organizations' teams, and provide market-derived insights from activities that can inform future policy decisions.
 - v. MVEDA shall collaborate with LCEDD staff in responding to potential recruitment opportunities coming from various sources and will coordinate with City staff for prospect visits.
 - vi. MVEDA shall focus recruitment efforts on marketing the Las Cruces Innovation and Industrial Park for recruitment opportunities, highlighting LCIIIP's competitive assets. This shall in no way will depart from MVEDA's efforts to market other key assets and sites of the City of Las Cruces for the purpose of economic-base industry attraction.
- b. Economic development advisory services to the City's Economic Development department

- i. Provide advisory information on the competitive landscape particularly with respect to the key industries, incentive climate, and state programs. Proposed recommendations and economic impact analyses based on global, national, and state trends for economic based recruitment and attraction initiatives .
 - ii. Provide education for supporting the business community on importance of economic-based industry through quarterly luncheons.
 - c. Capacity building services
 - i. MVEDA shall work with local entities and in coordination with LCEDD to identify skill sets required for existing business, recruitment efforts and/or entrepreneurial development, to address immediate needs and potential needs in the future.
 - ii. Address infrastructure issues by seeking LEDA, federal funding, and other potential funding sources in coordination with the City, Dona Ana County, and other organizations.
 - iii. MVEDA shall address workforce development by communicating industry needs to and support lead agencies to include Dona Ana Community College, New Mexico State University, The Bridge of Southern New Mexico, Workforce Connections, and other workforce development agencies.
 - II. PERFORMANCE MEASURES
- The Performance Measures set forth in this agreement are an average of the last four years and are to be used as a basis for future growth/expansion in these areas. Success is not based on just one objective, but the accumulation of marketing and sales efforts to see continued growth in all three areas.

MVEDA Performance Measures for
FY2024

Objectives	Target
Recruitment Program	
Jobs*	300
Payroll*	10,000,000
Capital Investment*	17,500,000
Marketing	
Qualified Prospects	24
Site Visits	11
Completed Projects	4

*75% of all jobs, payroll, and capital investment created outside city limits, or within Arrowhead Park, but within 10 miles of the city limits will be counted towards these objectives

III. COMPENSATION AND BILLING

- a. For the services to be provided herein, the City shall pay MVEDA two-hundred fifty thousand dollars (\$250,000). Payment shall include all applicable gross receipts tax and local options taxes.
- b. In order to insure sustainable economic development, MVEDA will have secured funding, by written commitment or award letter, from public or private sector in the amount equal to or greater than \$250,000, contracted amount with the City of Las Cruces. The funding shall be exclusive of funding received from the City. If MVEDA does not meet the performance measure, MVEDA will present a workable plan to the City that will demonstrate effort towards self-sufficiency. Funding received from the City is for payment of services and is not intended to fund the operating costs of MVEDA, in compliance with N.M. Const. art. IX. 14.

IV. REPORTING

- a. It is expected that MVEDA and LCEDD staff will keep each other up to date with all projects, throughout the project. They will do this by providing any pertinent information related to projects or the progress thereof, that may impact the successful execution of the project.
- b. Monthly – MVEDA shall provide monthly reports with their invoices that will include:
 - i. Number of projects, qualified prospects, site visits, and existing business development for Las Cruces, including those specific to Las Cruces Innovation and Industrial Park.
 - ii. Monthly MVEDA board reports.
- c. Quarterly/Mid-Year & Annual Reporting – MVEDA shall provide quarterly reporting providing a City of Las Cruces Dashboard outlining YTD performance numbers across Site Visits, PRO's, Completed Projects, Jobs Created, Payroll Generated, and Capital Investment. In addition, each Quarterly update will provide operational subject matter adhering to the following schedule:
 - i. Quarter 1: Marketing Report which focuses on overall marketing and business development efforts, across various mediums with key metrics and indicators, and sample messaging .
 - ii. Quarter 2/Mid Year: Competitive Landscape Update providing findings and recommendations to address industry trends, challenges, opportunities and recommendations on potential initiatives that LCEDD and the City could move forward with to address competitiveness.
 - iii. Quarter 3: Marketing Report YTD, details as outlined in part IV-c.-i. above.

- iv. Quarter 4/Annual: MVEDA shall provide it's overall annual report to the LCEDD along with an annual economic impact report specific to the City that clearly explains the following:
 - 1. Methodology of how the net economic impact, as a result of MVEDA's direct efforts, has occurred within City limits during that year. This to include but not limited to the announced number of jobs, the mean and average salaries for jobs, total estimated payroll, total estimated (GRT) tied to new jobs created, the capital investment, and effects in the municipal gross receipts taxes and property taxes.
 - 2. A breakdown of lost leads and opportunities, and the data surrounding those businesses, if available.
- d. All reporting provided to the City shall include the direct impact that such data has in the City, its businesses, and residents.

EXHIBIT B**ATTACHMENT B****RATE STRUCTURE & CONFORMED BILLING**

OBJECTIVE: As per the agreement between the City of Las Cruces and Mesilla Valley Economic Development Alliance (MVEDA), the table below outlines the agreed upon rate structure and conformed billing categories which will be used when invoicing the City pursuant to the Scope of Services outlined within the Agreement. Any conditions or changes to these categories shall be agreed upon in advance by both parties.

- I. TOTAL CONTRACT NOT TO EXCEED **\$250,000** including applicable Gross Receipts Tax for the period of performance.
- II. Cost per unit of service procured:

Service Description	Approximate %/Time Allocation	Budget Allocation
Business Attraction Campaign & Recruitment Program	65%	\$162,500
Marketing Program	25%	\$62,500
Economic Development Advisory Services and Capacity Building Services	~10%	\$25,000
TOTAL CONTRACT AMOUNT NOT TO EXCEED		\$250,000

- **Business Attraction Campaign and Recruitment:** to be billed at an estimated \$13,541.66 monthly, in an estimated amount of \$162,500 annually.
 - **Marketing Program:** to be billed at an estimated \$5,208.33 monthly, in an estimated amount of \$62,500 annually.
 - **Economic Development Advisory Services and Capacity Building Services:** to be billed at an estimated \$2083.33 monthly, in an estimated amount of \$25,000 annually.
- III. Changes to budget allocation
- a. MVEDA may budget 10 percent across line items based on the various types of services being provided and required for the individual companies/requirements during the period of performance without prior City approval.
 - b. Any budget across line items above 10 percent must be requested in writing to the City for approval. This request should include the changes requested and justification.



**PURCHASING SECTION
SOLE SOURCE DETERMINATION**

ACKNOWLEDGEMENT

I am aware of the City's requirements for purchasing all items via competitive procurement plus criteria for justifying a sole source procurement. I have obtained and assessed necessary technical information and have made a concerted effort to consider and review equipment/services from alternate sources. I have attached pertinent and relevant documentation supporting this effort and from which a sole source determination may be based.

Request By: Chris Faivre
(Note: The person requesting a sole source determination should be an expert and capable of supporting this request)

Signed: _____ Date: 5/1/23

Recommendation:

Company Name: Mesilla Valley Economic Development Alliance
Contact Name: Davin Lopez
Address: 277 E. Amador, Ste. 304
City, State, Zip: Las Cruces, NM 88001
Telephone: (575) 523-6833
Fax Number: ()
Email: davin@meveda.org

PLEASE NOTE: An approved Sole Source Determination may be used for up to two years from date of first use. Information for additional procurements should be added as needed, and then the updated form should be attached to the new requisition(s).

Description of Product/Service:	Requisition #	Estimated Cost	Date
Service Agreement		\$250,000	June 1, 2023

SOLE SOURCE RATIONALE

(Note: Avoid general or vague understandings and/or unsupported conclusions)

A. Is the purchase a tangible product? (must select Yes or No)

- ☐ Yes (complete questions 1-8 below)
☒ No (continue to Section B)

1. Is it sold exclusively by the manufacturer?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

2. Is it sold exclusively through a single distributor?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

3. Is the product sold through multiple distributors who are restricted to exclusive marketing territories?

☐ Yes ☒ No

If Yes, explain how you arrived at this conclusion:

This is a service, not a product.

4. Are similar products available to the product from the recommended company?

☐ Yes ☐ No

If No, explain how you arrived at this conclusion:

This is a service, not a product.

5. Is a similar product obtainable from other sources?

☐ Yes ☒ No

If No, explain fully how you arrived at this conclusion:

MVEDA is the only State of New Mexico recognized Economic Development Office in Southern New Mexico. That means that all leads from the State about Las Cruces and southern NM go through them. The CLC partners with MVEDA on recruiting efforts to bring additional business to Las Cruces, specifically the Las Cruces Innovation and Industrial Park.

6. Would a similar product from an alternate source meet the City's requirements?

☐ Yes ☒ No

If No, explain how you arrived at this conclusion:

This is a service not a product, however, MVEDA is the only State of New Mexico recognized Economic Development Office in Southern New Mexico. That means that all leads from the State about Las Cruces and southern NM go through them. The CLC partners with MVEDA on recruiting efforts to bring additional business to Las Cruces, specifically the Las Cruces Innovation and Industrial Park.

7. Is there substantial duplication of costs by contracting with any other source that would not be recovered through a competitive procurement?

☐ Yes ☐ No

If Yes, explain fully how much cost and how you arrived at this conclusion:

We would not be allowed to work with another vendor to provide the services we are asking of DLCP as MVEDA is the only State recognized EDO in the Las Cruces area.

8. Would contracting with any other source force an unacceptable delay in meeting the City's requirements?

☒ Yes ☐ No

If Yes, explain fully the City's requirements and how you arrived at this conclusion:

Not an option MVEDA is the only State of New Mexico recognized Economic Development Office in Southern New Mexico. That means that all leads from the State about Las Cruces and southern NM go through them. The CLC partners with MVEDA on recruiting efforts to bring additional business to Las Cruces, specifically the Las Cruces Innovation and Industrial Park.

B. Is the purchase for services or software?

1. Are similar services or software obtainable from other sources?

☐ Yes ☒ No

If No, explain fully how you arrived at this conclusion:

MVEDA is a State of NM recognized EDO partnering with the CLC to recruit additional businesses to Las Cruces, specifically the Las Cruces Innovation and Industrial Park.

2. Would similar services or software from alternate sources meet the City's requirements?

☐ Yes ☒ No

If No, explain how you arrived at this conclusion:

Based on the specific needs of the City and, there are no other organizations that can provide everything that MVEDA does. Other organizations may be able to provide portions of what is required, but cannot provide all the services that our strategic goals demand, and that are recognized by the State of NM.

3. Is there substantial duplication of costs by contracting with any other source that would not be recovered through a competitive procurement?

☒ Yes ☐ No

If Yes, explain fully how much cost and how you arrived at this conclusion:

To bring in another organization would require the building of foundational relationships and institutional knowledge of City goals and processes that MVEDA already has in place and were years in the making. They are already working on numerous existing initiatives and programs that would need to be altered or restarted by changing organizations, and would still not be recognized by the State of NM as an official EDO for Las Cruces. With out that recognition, Las Cruces would not receive access to any recruitment inquires through the State.

4. Would contracting with any other source force an unacceptable delay in meeting the City's requirements?

☒ Yes ☐ No

If Yes, explain fully the City's requirements and how you arrived at this conclusion:

A new organization would postpone the implementation of ongoing projects, programs, and initiatives, due to the required implementation time and the need to build the knowledge and relationships already possessed by MVEDA. Additionally, the organization would still not be recognized by the State of NM as an official EDO for Las Cruces. With out that recognition, Las Cruces would not receive access to any recruitment inquires through the State.

DETERMINATION (to be completed by the Purchasing Section):

Based upon the information and support provided in justifying this request for sole source procurement, a sole source determination is hereby

☒ APPROVED

☐ NOT APPROVED - for the following reason(s):

If a determination for sole source procurement is hereby approved, negotiation with the selected source should be attempted and documented. Documentation includes terms/conditions/price offered prior to and after negotiation.

This determination shall remain effective until such time that the reasons for this determination stated herein no longer apply.

Signed:  Date: 7/13/2023



City Council Action and Executive Summary

24-018

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1	☒ 2	☐ 3	☐ 4	☐ 5	☐ 6	☐ N/A
1st Reading:				Adopted:	August 7, 2023		
Drafter:	Elizabeth Teeters			Department:	Economic Development		
Program:	Office of the Director			Line of Business:	Administration		
Title:	A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING PERTAINING TO THE POSSIBLE UTILIZATION OF TAX INCREMENT FOR THE DEVELOPMENT AND POSSIBLE ANNEXATION OF SELECT PROPERTY OWNED BY THE REGENTS OF NEW MEXICO STATE UNIVERSITY.						

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To approve the Memorandum of Understanding between NMSU and CLC to establish a TIDD.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
This is a Memorandum of Understanding (MOU) between the City of Las Cruces (City) and the New Mexico State University (NMSU) pertaining to a possible creation of a Tax Increment Development District (TIDD) and possible annexation of select property owned by the Regents of NMSU land.

NMSU owns approximately 2,300 acres of land located proximate to or nearby the city limits of Las Cruces, most of which are undeveloped or underdeveloped. NMSU intends to expand its research and educational uses, creation of campus and community commercial and residential uses, community service and public recreation uses, and other ancillary uses be developed.

It is mutually understood that NMSU and the City will jointly investigate the possibility of creating one or more TIDDs for the site.

SUPPORT INFORMATION:
[Exhibit "A", Memorandum of Understanding](#)

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

Agenda Item #7.1.

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this approves the Memorandum of Understanding and allows NMSU and the City to jointly investigate the possibility of creating one or more TIDDs for the site.
2. Vote "No"; this does not approve the Memorandum of Understanding that allows NMSU and the City to jointly investigate the possibility of creating one or more TIDDs for the site.
3. Vote to "Amend"; this action will modify the terms of the Memorandum of Understanding based on direction from Council.
4. Vote to "Table"; this action will postpone the Memorandum of Understanding and the Council will need to direct staff.

RESOLUTION 24-018

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING PERTAINING TO THE POSSIBLE UTILIZATION OF TAX INCREMENT FOR THE DEVELOPMENT AND POSSIBLE ANNEXATION OF SELECT PROPERTY OWNED BY THE REGENTS OF NEW MEXICO STATE UNIVERSITY.

The City Council is informed that:

WHEREAS, this is a Memorandum of Understanding (MOU) between the City of Las Cruces (City) and the New Mexico State University (NMSU) pertaining to a possible creation of a Tax Increment Development District (TIDD) and possible annexation of select property owned by the Regents of NMSU land; and

WHEREAS, NMSU owns approximately 2,300 acres of land located proximate to or nearby the city limits of Las Cruces, most of which are undeveloped or underdeveloped; and

WHEREAS, NMSU intends to expand its research and educational uses, creation of campus and community commercial and residential uses, community service and public recreation uses, and other ancillary uses be developed; and

WHEREAS, it is mutually understood that NMSU and the City will jointly investigate the possibility of creating one or more TIDDs for the site.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Memorandum of Understanding between the City of Las Cruces and New Mexico State University as shown in Exhibit "A", attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #7.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

**MEMORANDUM OF UNDERSTANDING
PERTAINING TO POSSIBLE UTILIZATION OF
TAX INCREMENT FOR DEVELOPMENT
AND POSSIBLE ANNEXATION OF SELECT PROPERTY OWNED
BY THE REGENTS OF NEW MEXICO STATE UNIVERSITY**

This Memorandum of Understanding pertaining to possible creation of a Tax Increment for Development District(s) (“**TIDD**”) and possible annexation of select property owned by the Regents of New Mexico State University lands (“**MOU**”) is entered into by and between the City of Las Cruces, a New Mexico municipal corporation (“**City**”) and the Regents of New Mexico State University (“**NMSU**”), a state institution of higher education established under Section 11 of Article XII of the Constitution of the State of New Mexico and is effective as of the date of the final signature, as indicated below (collectively, the “**Parties**” or singularly “**Party**”).

RECITALS

WHEREAS, **NMSU** owns approximately 2,300 acres of land (collectively, the “**Site**”) located proximate to or nearby the city limits of the **City** and more generally shown on **Exhibit A** attached hereto, most of which are undeveloped or underdeveloped, upon which **NMSU** intends that expansion of its research and educational uses, creation of campus and community commercial and residential uses, community service and public recreation uses, and other ancillary uses be developed.

WHEREAS, the Parties have the authority to enter into this inter-government **MOU**.

WHEREAS, the development of the **Site** will:

1. encourage significant economic development in the **NMSU** area designated by the **City** for Sustained and Special Investment and foster continued creation of entrepreneurship for the **City**, **NMSU**, the Mesilla Valley, Border Region, and the State;
2. create significant new incremental tax revenues in the amount of \$374 million as preliminarily estimated per the “**NMSU Tax Increment Public Financing Study**” (**Exhibit B** attached) from **City**, County and State sources;
3. create new, sustainable tax revenue for the **City**;
4. take advantage of undeveloped and underdeveloped infill locations with connectivity to Downtown, Interstate 25 and Interstate 10;
5. compliment and support existing collegiate sports and entertainment venues of the **City**;
6. locate quality new retail, entertainment and food services in a portion of the **City** that is presently underserved;
7. create development consistent with **NMSU**’s Master Plan 2017-2027 and in furtherance of the **City**’s Elevate Las Cruces, Comprehensive Plan 2020, which calls for joint participation by **NMSU** and the **City** in

- planning processes to support placemaking projects such as Aggie Uptown, Arrowhead Park and University Avenue; and,
8. generate new revenue for the City and **NMSU**, a major employer and educator within the region.

WHEREAS, **NMSU** cannot afford to provide the public infrastructure (estimated by **NMSU** to be approximately \$318 million (see **Exhibit B** attached) desired and necessary for the development of the **Site**.

WHEREAS, the City will require approximately \$60 million (see Exhibit C attached) to provide the public infrastructure needed to keep up with the expected growth of **NMSU** throughout the life of the **TIDD**, and thereafter.

WHEREAS, the **Parties** recognize the mutual benefits and potential of development of the **Site**.

WHEREAS, the **Parties** wish to jointly investigate the potential for and advisability of creating one or more Tax Increment for Development District(s) ("**TIDD**") for all or a portion of the **Site**.

WHEREAS, the **Parties** wish to jointly investigate the potential for and advisability of having all or a portion of the **Site** annexed into the **City** simultaneous with approval of the **TIDD** by the **City**.

WHEREAS, the **Parties** understand that "time is of the essence" in creating a **TIDD** and annexation of the **Site**, which will need to be accomplished no later than the first quarter of 2024 in order to meet the July 1, 2024 application deadline of the State for the dedication of its tax increment to the **TIDD**.

NOW, THEREFORE, the **Parties** agree that:

UNDERSTANDING

1. **NMSU** and the **City** will jointly investigate the possibility of creating one or more **TIDDs** for the **Site**.
2. Notwithstanding that **NMSU** is not subject to land use governance by the **City**, the **Parties** wish to reach an agreement regarding the design, approval, permitting, construction, and installation of the public infrastructure necessary to access and service the **Site**, including, but not limited to, access to **City** streets, paving, traffic control, curbs, gutters, sidewalks and storm drainage.
3. If the **Parties** agree that creating one or more **TIDDs** would be mutually beneficial:
 - a. The **Parties** will jointly complete the necessary studies and requirements for consideration by **NMSU** and the **City** for gaining possible approval by the City Council of the creation of said **TIDD(s)**, including agreeing to the

dedication of the percentage of tax increment available to the **TIDD(s)** utilizing the **City's** process for a **City-initiated TIDD(s)** application.

- b. The **Parties** will jointly negotiate a "pre-annexation" agreement which will define the process for annexation, describe the land use approval process while keeping **NMSU's** present autonomous land use approval process in place and describe how utility and public safety services for the **Site** will be coordinated by the **Parties**.
 - c. The **Parties** will be joint applicants for the request to create said **TIDD(s)** and if approved by City Council, the **Parties** will be joint applicants for the possible dedication of the percentage of tax increment available to the **TIDD(s)** from Dona Ana County and the State of New Mexico.
 - d. Any creation of a **TIDD(s)** and annexation must occur simultaneously.
- 4. **NMSU** will employ the approval process for the development of the **Site** as agreed to in the "pre-annexation" agreement.
 - 5. This **MOU** will expire on March 31, 2024, unless the Parties agree in writing to extend this **MOU** to remain in effect thereafter, or unless the Parties agree mutually in writing to terminate this **MOU** before March 31, 2024.
 - 6. Nothing in this **MOU** will be construed to waive any rights, claims or defenses asserted heretofore of hereafter by any of the **Parties**.
 - 7. All notices and other communications under this **MOU** must be in writing and will be deemed duly given: (i) when delivered personally or by prepaid overnight courier, with a record of receipt, (ii) the third day after mailing if mailed by certified mail, return receipt requested, (iii) the day of transmission, if sent by facsimile or telecopy during regular business hours or the day after transmission, if sent after regular business hours, provided that, in either event, the completed transmission is electronically verified, or (iv) the day of transmission, if sent electronically, if there is proof of receipt on the day of transmission or the first day thereafter on which receipt can be verified, to the **Parties** at the following addresses, telecopy numbers, or e-mail addresses (or to such other address, telecopy number, or e-mail address as a **Party** may have specified by notice given to the other **Party** pursuant to this provision):

If to the City:

With a copy to:
City of Las Cruces
City Attorney's Office
P.O. Box 20000
Las Cruces, New Mexico 88004

If to NMSU:

With a copy to:

**New Mexico State University
Office of General Counsel
MSC 3UGC
P.O. Box 30001
Las Cruces, New Mexico 88003-8001**

- 8. This **MOU** may be executed in one or more counterparts, including facsimile or electronic counterparts, each of which will be a fully binding and enforceable contract and agreement against the **Party** signing such counterpart, but all such counterparts will together constitute but one agreement.
- 9. This **MOU** may be amended, upon mutual agreement of the **Parties**, by written agreement executed by each of the Parties.
- 10. The **Parties** agree to hereafter negotiate and enter into such further and more definitive agreements, such as but not limited to a “Pre-Annexation Agreement” and “Joint Powers Agreement” as may be necessary, to effectuate the transactions contemplated by this **MOU**.
- 11. This **MOU** is signed, sealed, executed and delivered by the **Parties** as of the date indicated next to the respective signatures below, with the Effective Date to be the date of the last signature affixed hereto.

**CITY OF LAS CRUCES,
a New Mexico municipal corporation**

By: _____
Ifo Pili, City Manager

Date: _____

**REGENTS OF NEW MEXICO STATE UNIVERSITY,
a constitutionally created educational institution of the
State of New Mexico**

By: _____

Date: _____

ACKNOWLEDGEMENT OF THE CITY OF LAS CRUCES

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

 This instrument was acknowledged before me this _____ day of _____,
2023, by Ifo Pili_____, _City Manager_____, City
of Las Cruces, a New Mexico municipal corporation, on behalf of said corporation.

Notary Public

My commission expires:

ACKNOWLEDGEMENT OF NMSU

STATE OF NEW MEXICO)
) ss.
COUNTY OF DONA ANA)

 This instrument was acknowledged before me this _____ day of _____,
2023, by_____, on behalf of the Regents of the
University of New Mexico State University.

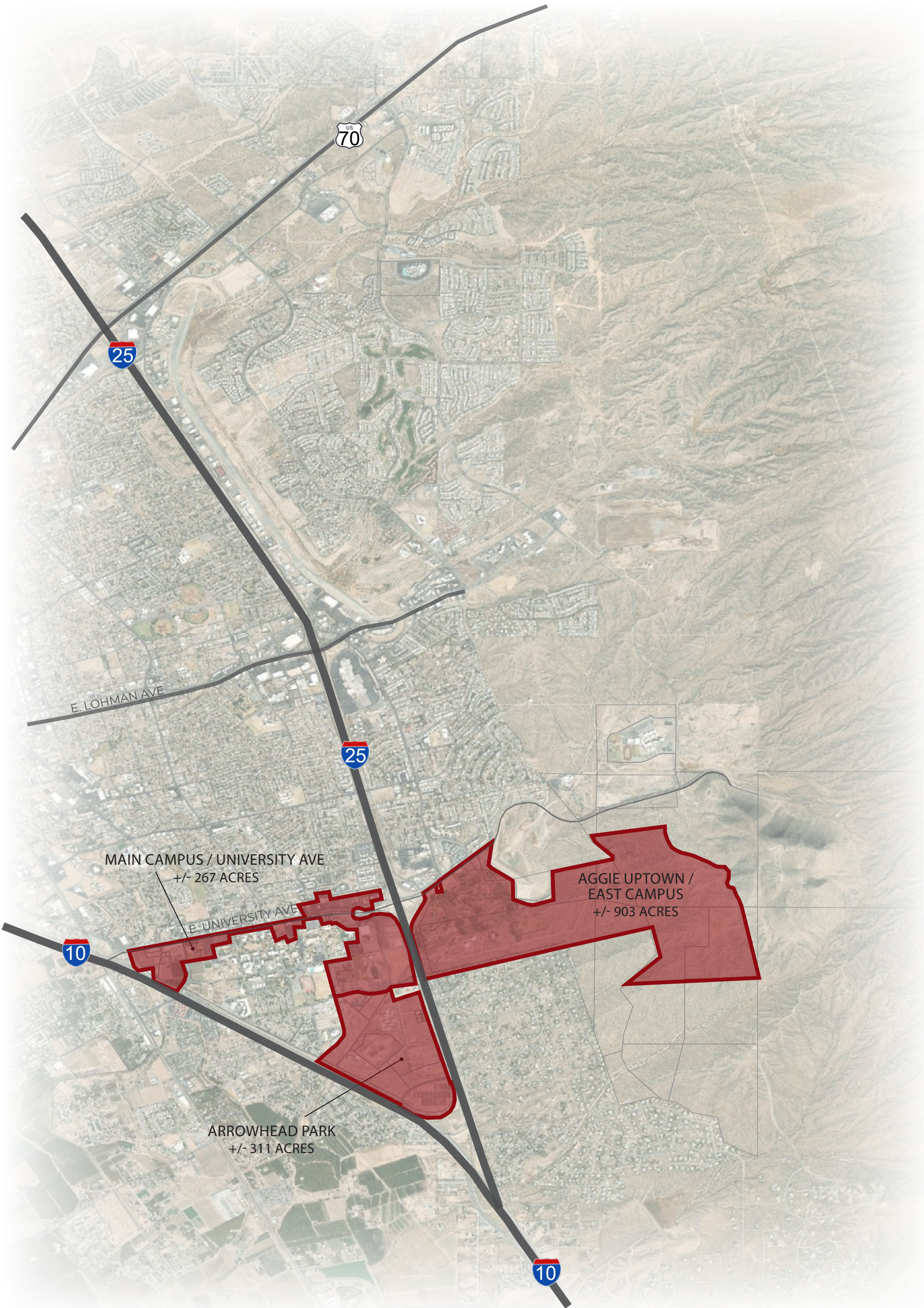
Notary Public

My commission expires:



NMSU TIDD

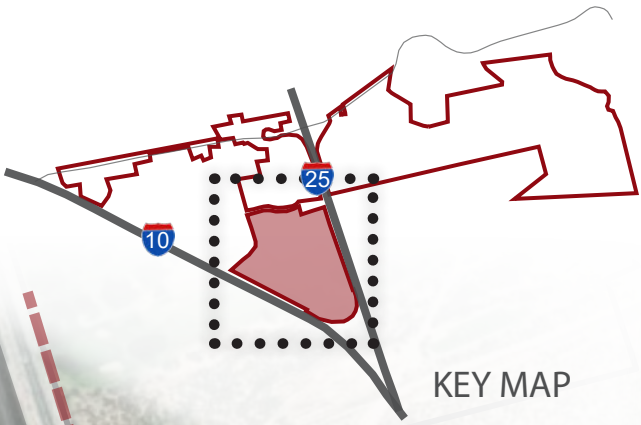
TIDD Boundary





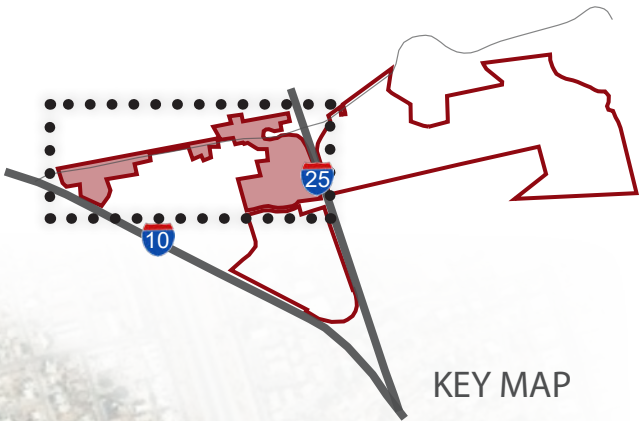
ARROWHEAD PARK

Land Use Program





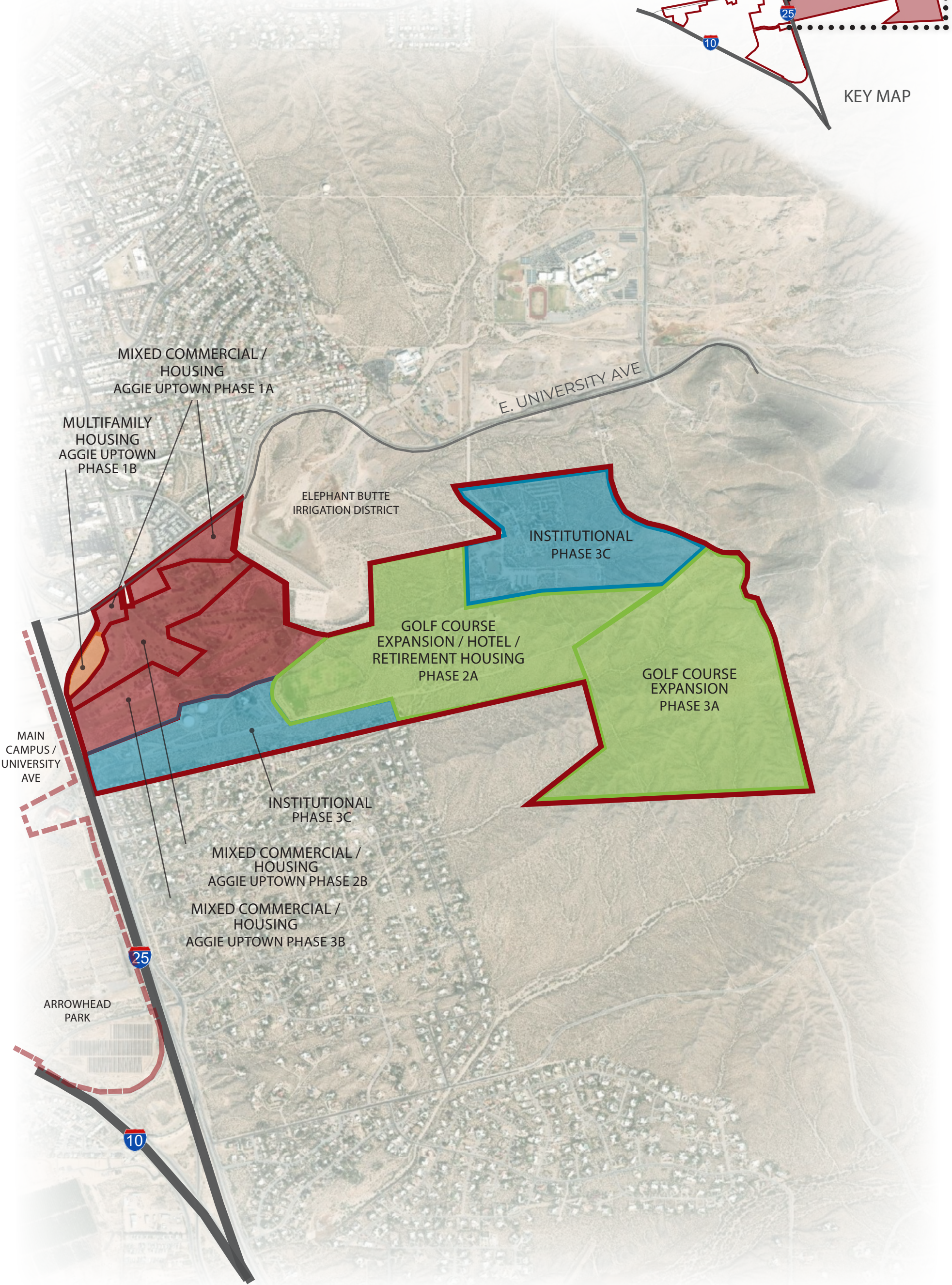
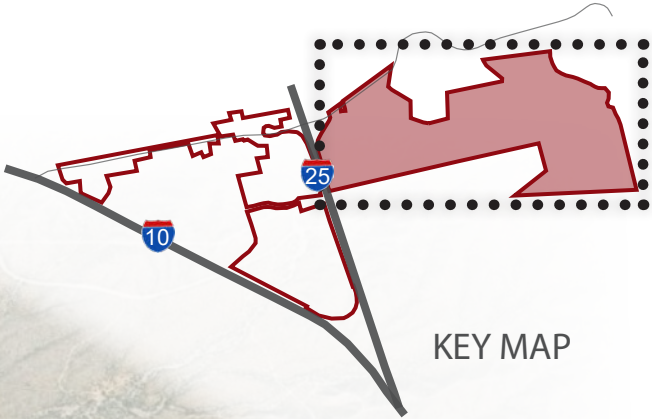
MAIN CAMPUS/UNIVERSITY AVE Land Use Program





AGGIE UPTOWN / EAST CAMPUS

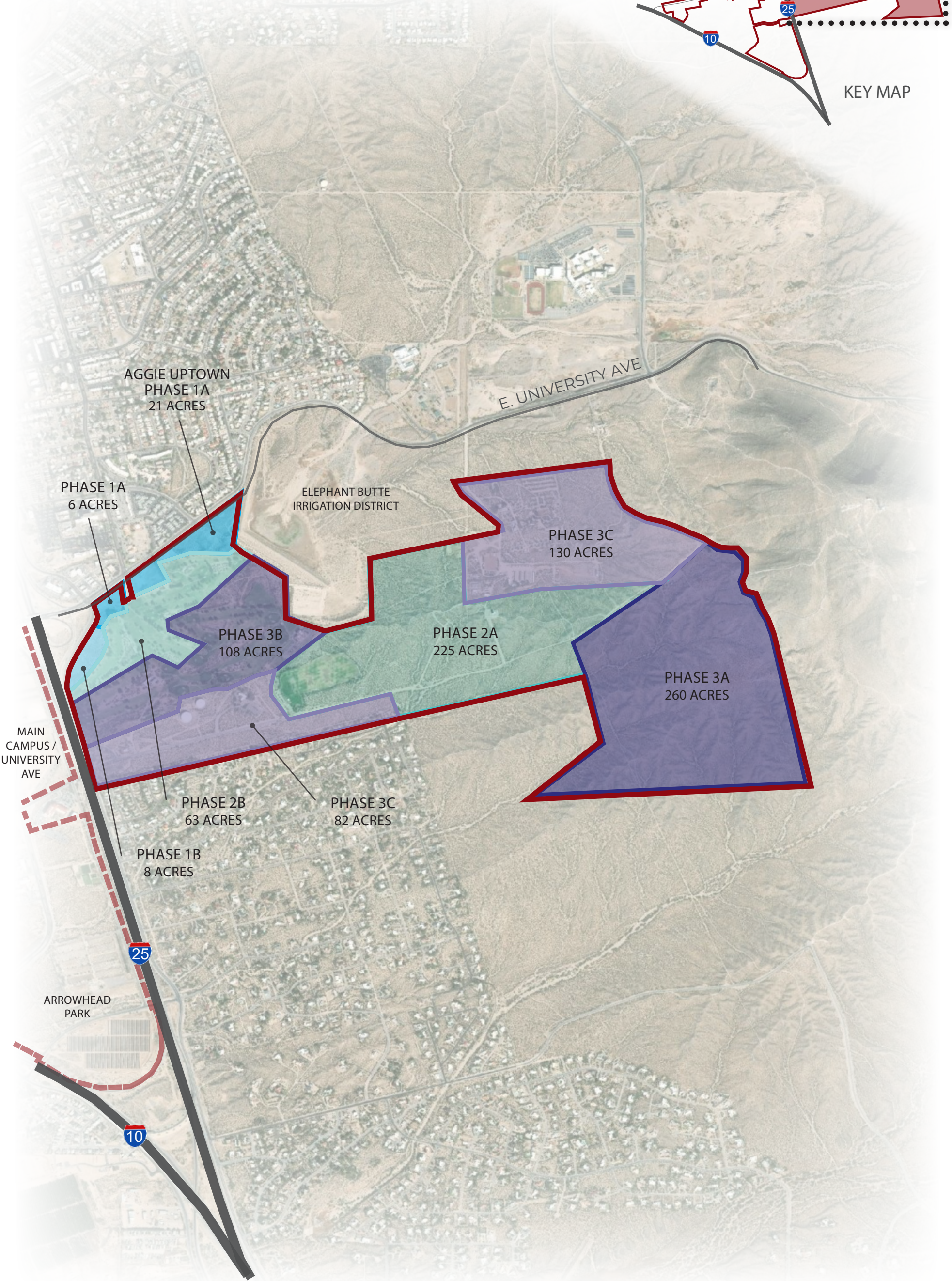
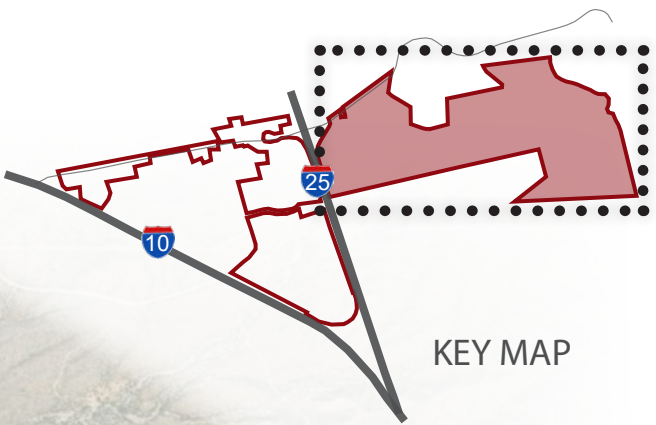
Land Use Program





AGGIE UPTOWN / EAST CAMPUS

Development Phasing



NMSU Tax Increment Public Financing Study

Aggie Uptown Arrowhead Park
E. University Avenue

Prepared by Sage Land Solutions LLC

Arrowhead Research Park

Aggie Development Inc.



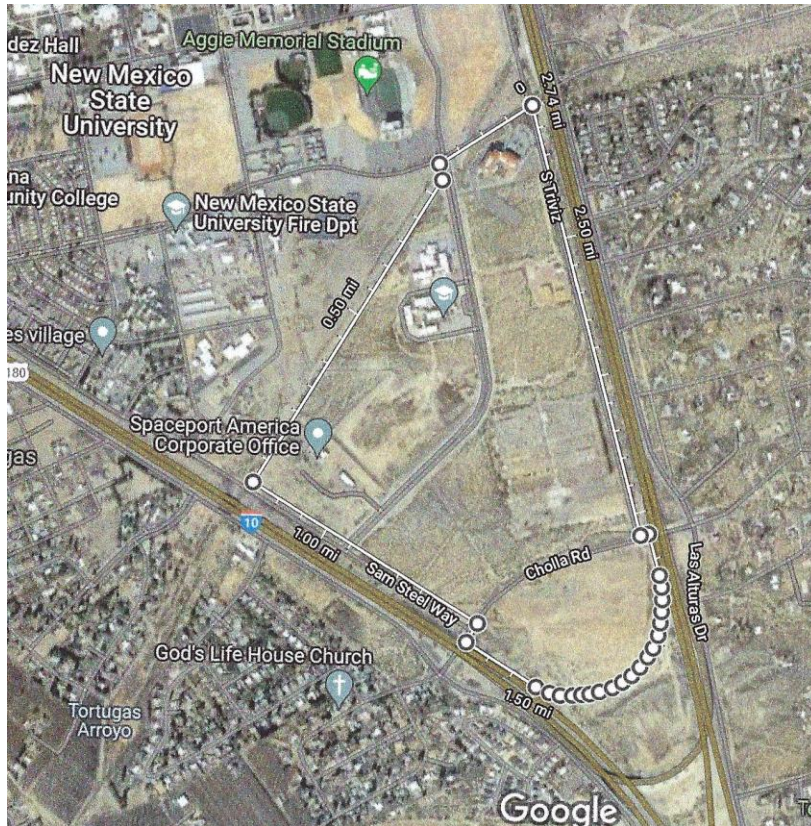
BE BOLD. Shape the Future.
New Mexico State University

Tax Increment Financial Feasibility Study

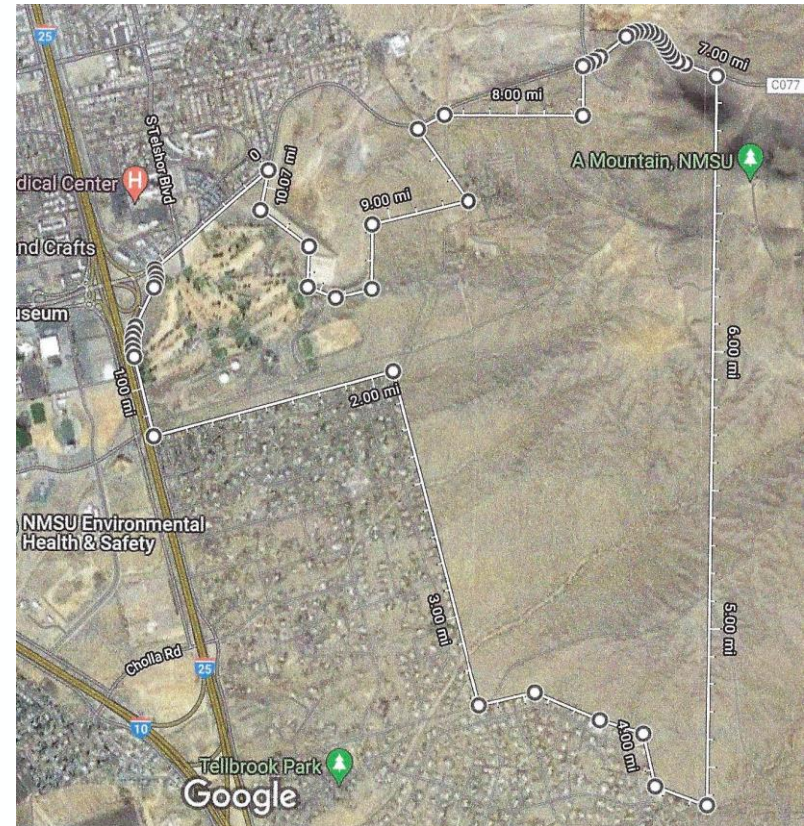
- Consultant: Sage Land Solutions LLC
 - Kim D. Murphy– Project Management & Real Estate Development Feasibility
 - Harry N. Relkin, Esq.– Public Finance Policies & Strategies
 - Brent F. Dupes, CPA– Financial Feasibility Analysis
- Clients: Arrowhead Research Park & Aggie Development Inc.
 - Wayne L. Savage, Executive Director, Arrowhead Park
 - Scott Eschenbrenner, President, Aggie Development Inc.
- Tax Increment Feasibility Study Objectives
 - Assess the feasibility for Tax Increment Development District (“TIDD”) financing to support development of NMSU property to meet institutional objectives
 - Aggie Uptown & Other Applicable East Campus Land
 - Arrowhead Research Park
 - E. University Avenue Corridor
 - Prepare recommendations for exploring with City of Las Cruces possible partnership for the formal creation of TIDD, if analysis supports

TIDD Feasibility Study Area

Arrowhead Research Park (235 ac.)



Aggie Uptown/East Campus (1951 ac.)



Summary Results: TIDD Feasibility Study

- As an economic development tool, the NMSU TIDD, in cooperation with the City and the State, can fund a wide-range of public improvements which assist in implementing the Campus Master Plan (2017):
 - Basic infrastructure (streets, utilities, drainage, etc.)
 - Project & campus amenities (plazas, parks, landscaping, recreation, etc.)
 - Research, innovation & entrepreneur-focused facilities
 - Parking structures
 - Regional transportation infrastructure
 - Energy systems, conservation & sustainability
- TIDD tax revenues from private commercial development activities support public investment, promoting regionally-significant economic development and job-creation

Summary Results: TIDD Feasibility Study (Cont.)

- NMSU TIDD has the potential to generate \$581 million of new tax revenue for local & state government over 28 years
 - District revenue for public improvements- \$374 million
 - General governmental revenue- \$207 million
- District tax revenue funds \$66 million in basic public infrastructure at Arrowhead Park and Aggie Uptown- a necessary first-step for further institutional and commercial development
- Basic infrastructure investment (\$66M) creates the opportunity for \$1.2 billion in private investment at Arrowhead Park and Aggie Uptown which generates tax revenue to the District (\$374M) and ground rent revenue to NMSU (\$105 million)

Summary Results: TIDD Feasibility Study (Cont.)

- Private investment (\$1.2B) enables \$252 million in additional public improvements at Arrowhead Park & Aggie Uptown beyond basic infrastructure (\$66 million)
 - Research, innovation & entrepreneur-focused facilities (400,000 sq. ft.)
 - Parking structures (1,700 spaces)
 - Project & campus amenities, including golf course re-location
 - Regional transportation improvements
 - Energy systems, conservation & sustainability
- Other study conclusions:
 - Support & cooperation from the City of Las Cruces & the State of New Mexico are critical for the creation of the District and realization of development opportunities
 - Residential uses will be vital in creating balanced, vibrant mixed-use development
 - Strategic land sales at Aggie Uptown/East Campus (unrestricted land) can generate \$29 million for the institution, in addition to \$105 million in ground rent

Tax Increment Development Districts in New Mexico

- Tax Increment Development District Act (Section 5-15-1 *et seq* NMSA 1978) was adopted in March 2006 to create a mechanism for financing public infrastructure for the purpose of supporting economic development & job creation through:
 - Establishment of a special area ("District") by City or County allowing new tax revenue created by economic activity in the District to finance public infrastructure
 - Dedication of local (and possibly state) gross receipts tax & property tax "increment" revenues above existing "base" revenues to the TID District
 - Pledge tax increment revenues within the District toward the issuance of District revenue bonds
 - District Board created to administer District finances as separate political subdivision from the City or the County
- TID District Application & Approval Process set forth in State TIDD Act and City of Las Cruces TIDD Policy (R20-069)

Examples: Tax Increment Development Districts

- Currently, eleven (11) TID Districts exist in New Mexico
 - City of Albuquerque (4)
 - City of Rio Rancho (3)
 - Bernalillo County (2)
 - City of Las Cruces (1)
 - Village of Taos Ski Valley (1)
- UNM South Campus TIDD (2021; State Approval Pending)
- Winrock Town Center TIDD (2008)
- Downtown Las Cruces TIDD (2008)
- Mesa del Sol TIDD (2007)

TIDD Supports NMSU Goals & Objectives

- TIDD facilitates development of Arrowhead Park and Aggie Uptown / East Campus with associated benefits:
 - Enhances visibility of NMSU as a community partner in economic development & job creation
 - Creates opportunities for research & industry collaborations
 - Activates campus life for students, faculty & staff with amenities & services
 - Vitalizes the Campus - Community interface along University Ave.
 - Monetizes real property assets for broad institutional use
 - Facilitates installation of needed campus infrastructure
- Institutional source documents
 - NMSU Leads 2025 (Refresh in progress)
 - NMSU Master Plan (2017-2027)
 - CRE Land Use Assumptions & Strategic Development Plan (2013)

TIDD Supports City Goals & Objectives

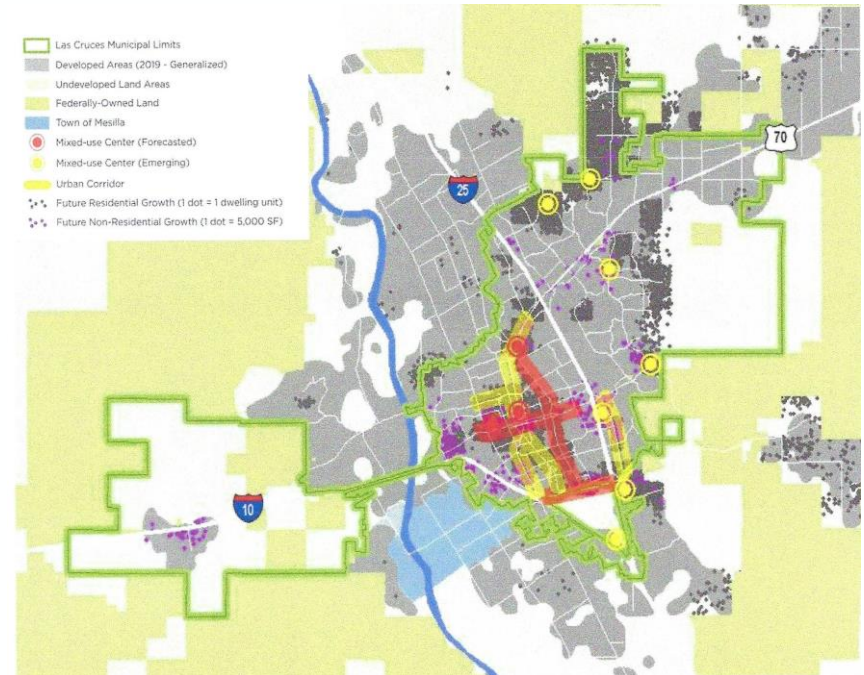
- Elevate Las Cruces Comprehensive Plan (2020) identifies the NMSU Campus as an “Area of Sustained or Special Investment” which would justify targeted economic development strategies such as TIDD
- NMSU TIDD aligns with many City goals & objectives articulated in Elevate Las Cruces in the following ways:
 - University Avenue Corridor and Aggie Uptown are identified as the “best potential locations to promote new urban development patterns in Las Cruces”
 - Calls for the City to “support placemaking at Aggie Uptown (Future Town Center), Arrowhead Park (Emerging Mixed-use Center) and along University Avenue (Mixed-use Corridor)”

TIDD Supports NMSU and City Goals & Objectives (Cont.)

NMSU General Land Use (2017)



Las Cruces Framework Plan (2020)



TIDD Feasibility Study Process

- Development Opportunities
 - Institutional-driven
 - Market-driven
- Proposed Land Use
- Proposed Infrastructure
- Financial Analysis
 - TIDD revenues
 - TIDD expenses
 - TIDD bonding
 - TIDD cash flow
- Landowner / Developer Funding
- Implementation Strategies

Institutional Development Opportunities

- Building on the strengths of a major research university, NMSU supports innovation, entrepreneurship and industry collaborations which create institution-driven development opportunities in these areas:
 - Life sciences & health
 - Film & creative media
 - Aerospace
 - Agri-business
 - Water & energy
- Education, research & business combine to create unique economic and development opportunities

Real Estate Market Opportunities

- Private real estate market responds to regional population and business job growth in creating development opportunities for:
 - Commercial retail & services
 - Housing
 - Office & industrial
 - Healthcare
 - Entertainment & recreation
- City of Las Cruces has projected private-sector demand through 2045 as follows:

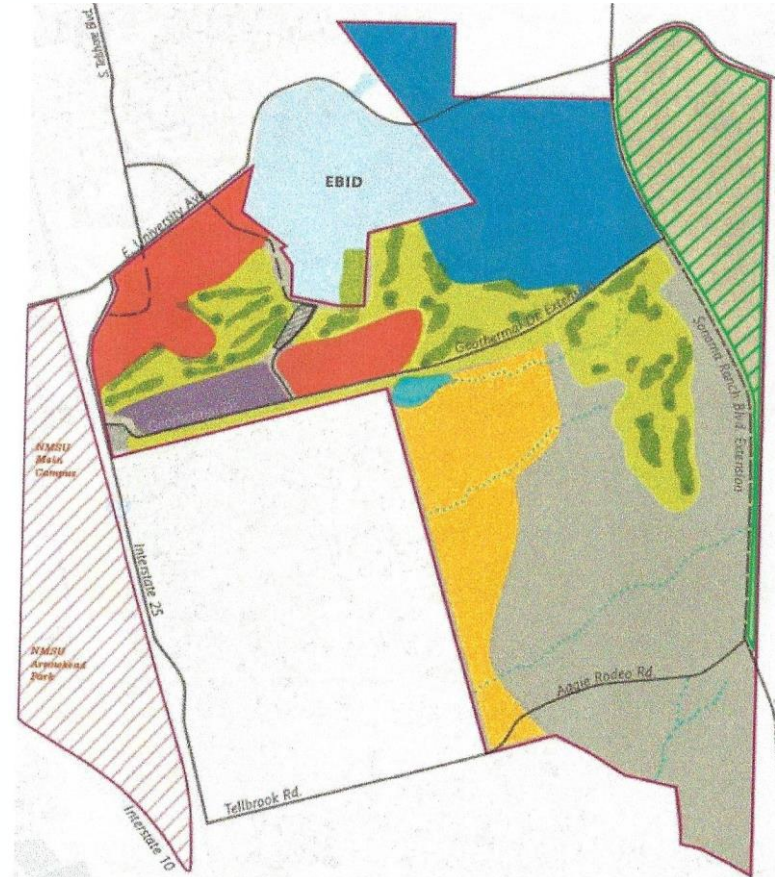
• Single Family	10,790 dwelling units
• Multifamily	5,310 dwelling units
• Retail/Commercial	1,607,000 square feet (space)
• Office/Employment	1,662,000 square feet (space)
- Aggie Uptown & Arrowhead Park can capture a significant portion of this growth with NMSU being the region's leader in higher education & employment proximate to several neighborhoods with the highest household income and net wealth

NMSU Proposed Land Use

Arrowhead Park Illustrative Plan (2020)



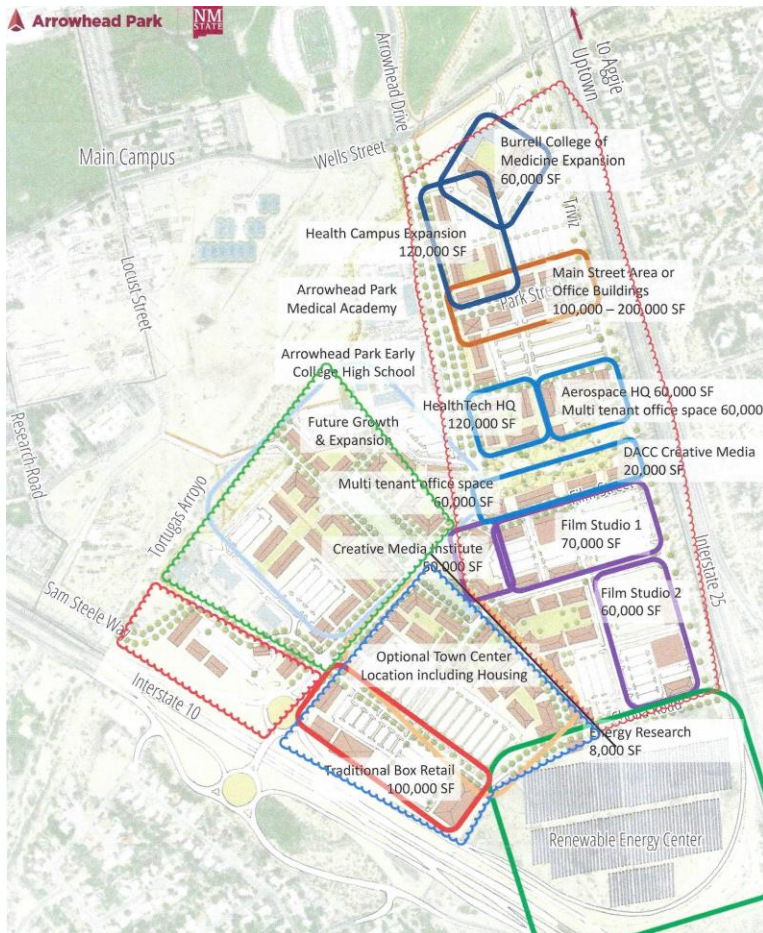
East Campus Land Use Plan (2016)



TIDD Combined Proposed Land Use

Land Use	Total	Aggie Uptown East Campus	Arrowhead Park	University Ave. Corridor
Commercial Uses:				
Retail	732,000 sf	380,000 sf	270,000 sf	82,000 sf
Employment (Private Uses)	1,085,000 sf	150,000 sf	905,000 sf	30,000 sf
Employment (Public Uses)	450,000 sf	0 sf	410,000 sf	40,000 sf
CCRC	204,000 sf	204,000 sf	0 sf	0 sf
Hotel	100,000 sf	100,000 sf	0 sf	0 sf
<i>Subtotal</i>	<i>2,571,000 sf</i>	<i>834,000 sf</i>	<i>1,585,000 sf</i>	<i>152,000 sf</i>
Residential Uses:				
Student Housing	350,000 sf 700 beds 280 dus	200,000 sf 400 beds 160 dus	0 sf	150,000 sf 300 beds 120 dus
Multifamily	855,000 sf 1020 dus	405,000 sf 450 dus	545,000 sf 570 dus	0 sf
Patio Homes/ Townhomes	420 dus	420 dus	0 sf	0 sf
Single Family	632 dus	632 dus	0 sf	0 sf
<i>Subtotal</i>	<i>2,352 dus</i>	<i>1,662 dus</i>	<i>570 dus</i>	<i>120 dus</i>
Other Uses:				
Parking Structures	595,000 sf 1700 spaces	0	140,000 sf 400 spaces	455,000 sf 1300 spaces
Summary Total:				
Commercial Space	2,571,000 sf	834,000 sf	1,585,000 sf	152,000 sf
Residential Space	1,205,000 sf	605,000 sf	545,000 sf	150,000 sf
Residential Units	2,352 dus	1,662 dus	570 dus	120 dus
Parking Structure	1700 spaces	0 spaces	400 spaces	1300 spaces

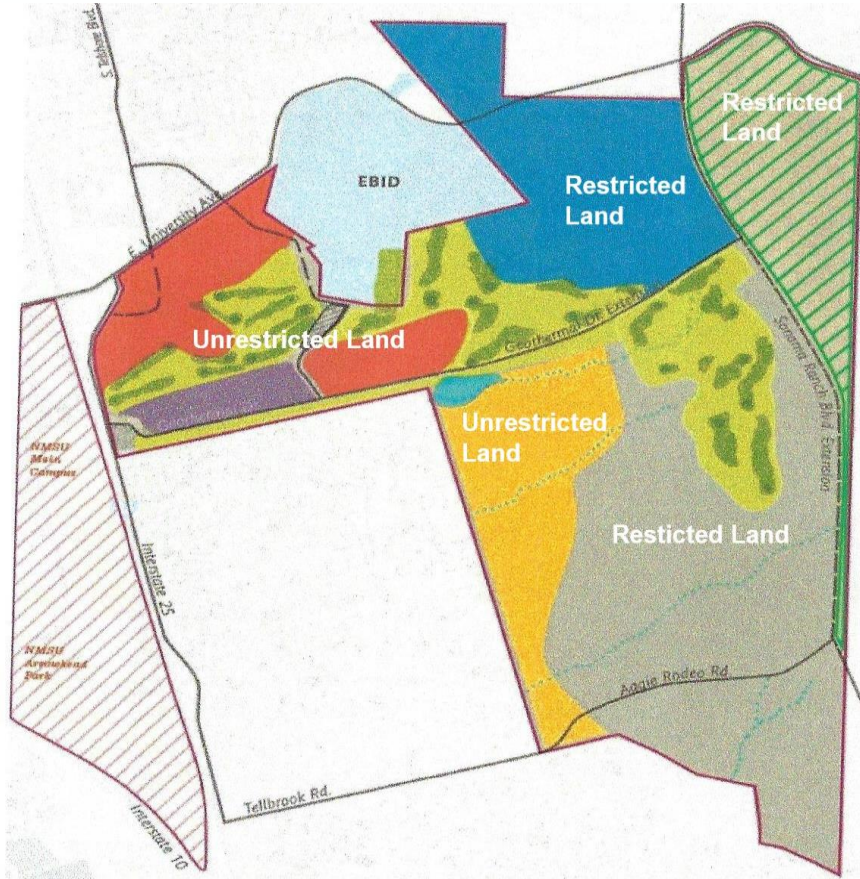
Arrowhead Park Proposed Land Use



• Health Campus	300,000 sf	22 acres
• Main St. Mixed Use	100,000 sf	7 acres
• Aerospace Campus	120,000 sf	5 acres
• Creative Campus	440,000 sf	37 acres
• Multi-tenant Office	90,000 sf	6 acres
• Town Center/Housing	655,000 sf	33 acres
• Energy & Water Research		30 acres
• Future Expansion	425,000 sf	31 acres
• Total	2,130,000 sf	171 acres

Note: Acreages are approximate. Totals exclude 250,000 sf /52 acres of existing uses and 20 acres of street ROW and drainage/open space.

Aggie Uptown / East Campus Proposed Land Use

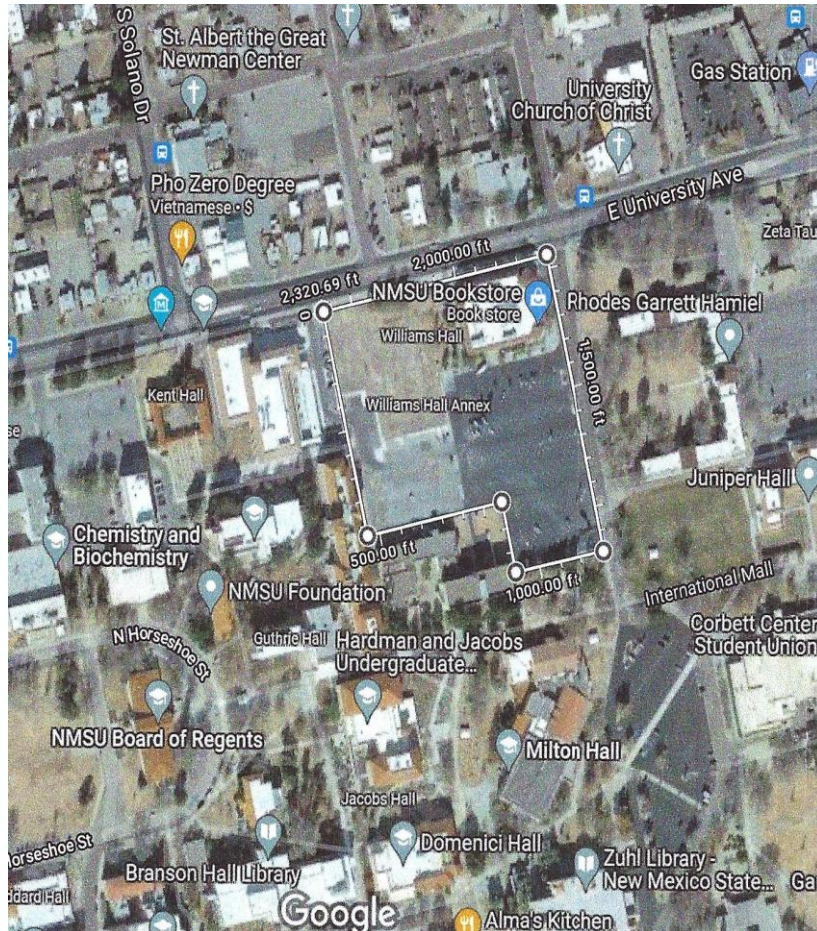


Unrestricted Land

• Retail	380,000 sf	36 acres
• Continuing Care	204,000 sf	8 acres
• Medical Office	100,000 sf	7 acres
• General Office	50,000 sf	3 acres
• Resort Hotel	100,000 sf	15 acres
• Student Housing	200,000 sf	12 acres
• Multifamily	405,000 sf	18 acres
• Patio/Townhomes	420 dus	45 acres
• Single Family	632 dus	79 acres
• Total	1,439,000 sf	223 acres
• Golf Course (9 holes)		106 acres

Note: Acreages are approximate. Additional 9-hole golf course located on Restricted Land to east.

E. University Ave. Proposed Land Use

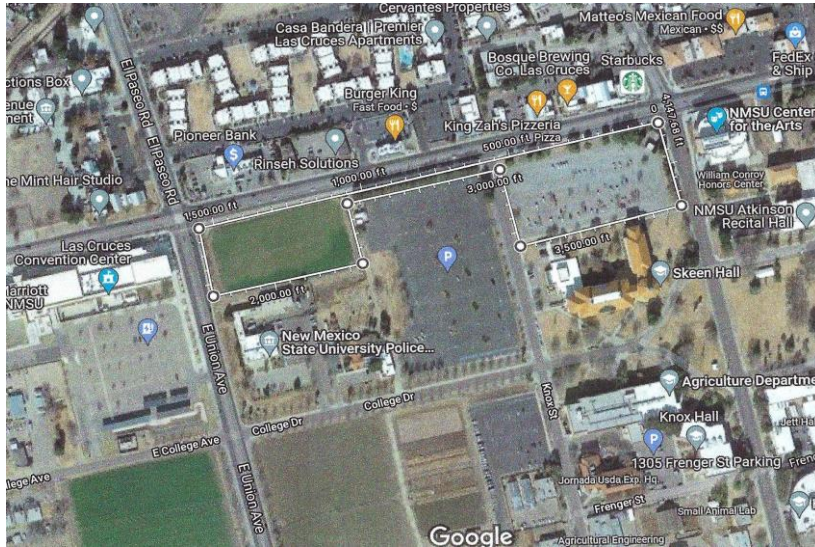


E. University & Jordan (SWC)

• Barnes & Noble (Existing)		1 acre
• Student Housing	150,000 sf	2 acres
• Institutional Office	40,000 sf	2 acres
• Parking Structure	600 spaces	2 acres
• Retail (Gr. Fl. PS)	30,000 sf	Incl.
• Total	220,000 sf	7 acres

Note: Acreages are approximate. Existing Barnes & Noble contains 26,000 sf and existing parking lots (#15 & 16) contain 336 spaces. Net parking gain equals 264 spaces.

E. University Ave. Proposed Land Use (Cont.)



Note: Acreages are approximate. Espina parking lot #4 contains 328 spaces. Net parking gain equals 372 spaces. Office total includes 30,000 building on Wisconsin Ave.

E. University & Espina (SWC)

• Parking Structure	700 spaces	3 acres
• Retail (Gr. Fl. PS)	25,000 sf	Incl.
• Total	25,000 sf	3 acres

E. University & Union (SEC)

• Retail Shops	15,000 sf	3 acres
• Restaurant / Pads	12,000 sf	Incl.
• Total	27,000 sf	3 acres

University Avenue Corridor Total

• Retail (Incl. PS)	82,000 sf	3 acres
• Office	70,000 sf	4 acres
• Student Housing	150,000 sf	2 acres
• Parking Structure	1300 spaces	5 acres
• Grand Total	302,000 sf	14 acres

Arrowhead Park Infrastructure & Facilities

Phase 1A (2023-2030 Absorption)

2023 Bike Path/Trail	\$1,100,000
2025 Tortugas Trail	\$1,500,000
2026 I-10 Interchange Design	\$2,500,000
2027 Electric Distribution/Charging	\$2,150,000
Phase 1A Total	\$7,250,000

Phase 1B (2031-39 Absorption)

2025 Roadways & Utilities	\$1,500,000
2027 Roadways & Utilities	\$1,500,000
2029 I-10 Interchange Const./Signs	\$3,000,000
2030 Arroyo Improvements	\$1,250,000
2030 Electric Distribution/Storage	\$8,300,000
2030 Water System Upgrade	\$5,000,000
2031 Event Plaza	\$435,000

Phase 1B (Continued)

2032 Cholla/Triviz Road	\$2,300,000
2033 Arroyo Improvements	\$1,250,000
Phase 1B Total	\$24,525,000

Phase 1C (2038-2045 Absorption)

2032-34 EBID Replacement	\$3,500,000
2035 Roadways & Utilities	\$1,050,000
2036 Locust Extension/Bridge	\$1,250,000
2037 Electric Distribution/Net Zero	\$5,000,000
Phase 1C Total	\$10,800,000

Infrastructure Total \$42,575,000

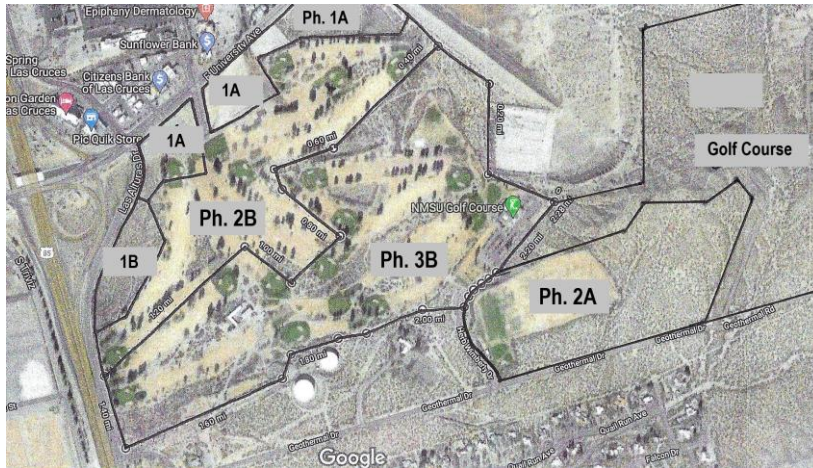
2030 Health Science Parking Garage	\$12,000,000
2035 Digital Media/Entrepreneur Ctr.	\$15,000,000

Infrastr. & Facilities Total \$69,575,000

Aggie Uptown/East Campus Infrastructure & Facilities

Phase 1A (27 Ac. 2023)	\$997,721	Phase 3A (1264 Ac. Restricted Land)	TBD
• Terrace Dr. Extension & Utilities			
Phase 1B (8 Ac. 2025)	\$1,859,422	Phase 3B (86 Ac. 2035)	\$11,067,599
• Sanitary Sewer Main & Lift Station		• Telshor Dr. Extension & Utilities	
• Water & Sewer Main		• Collector Rd. & Utilities	
		• Sanitary Sewer Main	
		• Arroyo Drainage	
Phase 2A (50 Ac. 2027)	\$2,452,823	Infrastructure Total	\$23,876,438
• Water & Sewer Main			
• Collector Rd. & Utilities			
Phase 2B (52 Ac. 2029)	\$7,498,973	Ph.1 Golf Course (2027/9 Holes)	\$5,500,000
• Telshor Dr. Extension & Utilities		Ph.2 Golf Course (2033/9 Holes)	\$5,500,000
• Collector Rd. & Utilities			
• Sanitary Sewer Main		Infrastructure & Facilities Total	\$34,876,438

Aggie Uptown/East Campus Development Phases



Unrestricted Land:

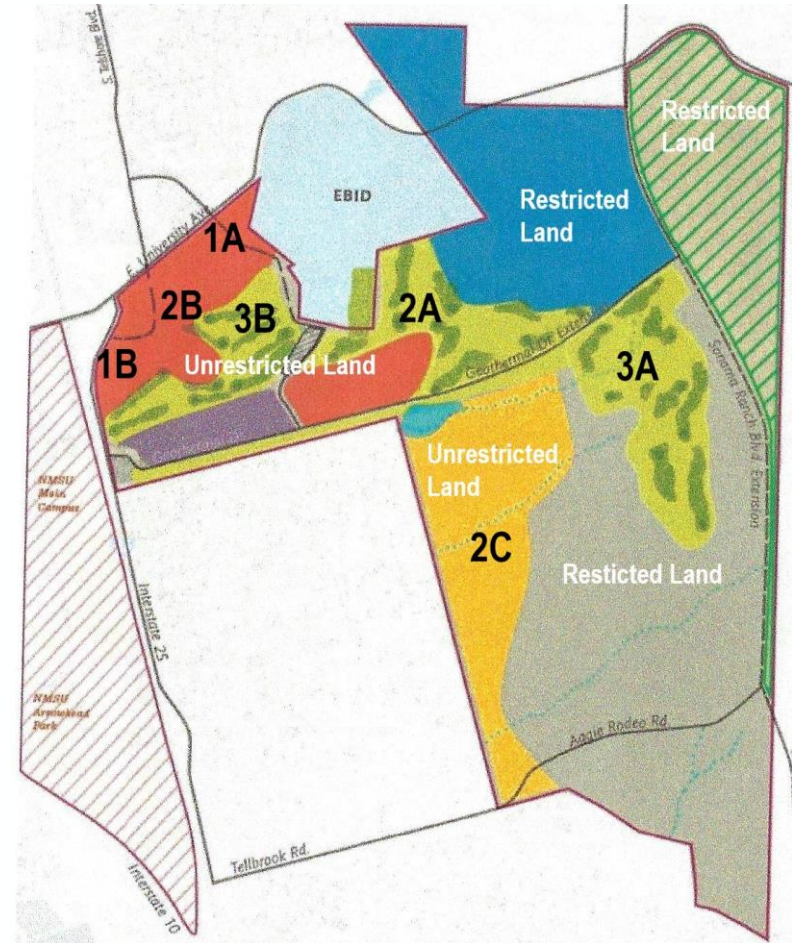
Phases 1A, 1B, 2A, 2B & 3B (223 Ac. Commercial & Residential)

Phase 2A (106 Ac. Golf Course)

Phase 2C (250 Ac. Rural Residential; Possible Sale)

Restricted Land (BLM):

Phase 3A (1264 Ac., excludes land north of Dripping Springs;
Golf Course & NMSU Institutional Use)



NMSU TIDD Financial Analysis Assumptions

- TIDD would be created by the City, which would dedicate 75% of certain new tax revenues within the District for 28 years to fund public infrastructure & improvements
- Future large-scale investment in public infrastructure could be timed to be funded by the TIDD from short-term "sponge" bonds or long-term bonds
- TIDD revenues are assumed from all sources: City, County & State

• City of Las Cruces	\$145.3M	39%
• Dona Ana County	\$91.7M	24%
• State of New Mexico	\$137.1M	37%
• Total	\$374.1M	100%
- If necessary, NMSU's land-based asset value, ie ground rent (\$105M) and possible land sales (\$29M) could be used to advance funds (or repay) the cost of large-scale public projects, subject to later reimbursement from the TIDD
- TIDD will reimburse landowner/developer for its investment in public infrastructure at the time sufficient TIDD tax revenues are collected
- Potential TIDD gross receipts tax revenue sources (75% max.)

• City of Las Cruces	2.2948%
• Dona Ana County	0.9070%
• State of New Mexico	2.9250%
• Total GRT	6.1268%
- Landowner/developer advances approximately \$2 to 3 million for initial TIDD infrastructure, which will be reimbursed in 3-4 years
- Potential TIDD property tax revenue (75% max.)- private owned improvements

• City of Las Cruces	6.794 mils (commercial)
• Dona Ana Ciunty	8.870 mils (commercial)
• State of NM	0
• Total PT	15.664 mils (commercial)

NMSU TIDD Financial Analysis Results

TIDD Revenue Sources

• Infrastructure GRT	\$2,129,000
• Construction GRT	\$65,089,000
• Retail Sales GRT	\$220,053,000
• Property Tax	\$86,849,000
• Total	\$374,120,000

TIDD Revenue Uses

• Capital Projects	\$318,177,000
• Admin & Financing	\$55,943,000
• Total	\$374,120,000

TIDD Project Funding

• Pay-as-you-go	\$12,476,000
• ST "Sponge" Bonds	\$226,901,00
• Long-term Bonds	\$78,800,000
• Total	\$318,177,000

TIDD Projects (Public)

• Basic Infrastructure	\$66,451,000
• AHP	\$42.6M
• AU/EC	\$23.8M
• Buildings / Facilities	\$176,881,000
• AU/EC Golf Course Re-location	
• AHP Buildings	
• Parking Structures	
• Other Improvements	\$74,845,000
• Regional Transportation	
• Geothermal Road	
• Sonoma Ranch Road	
• Water & Energy Systems	
• Recreation Fields & Facilities	
• Parks, Plazas & Landscape Amenities	
• Total	\$318,177,000

Note: Financial results (over 28 yrs.) are preliminary and illustrate revenue potential based on available information. Different results are to be expected with further study.

NMSU TIDD Implementation Considerations

- Local municipalities create TID Districts under the State TIDD Act, therefore it's vital that the City of Las Cruces support formation of the TIDD and commit to becoming a partner with NMSU in this transformative economic development initiative
- Once formed additional increment revenues from the County and the State will be important
- NMSU agreement to annex University land within the TIDD boundary
 - Regents maintain overall land use & development control, but land subdivision and dedication of City-owned infrastructure are City processes
 - Negotiation of "blended" public services, such as water, sewer, fire & police, when appropriate
- Arrowhead Park (through Arrowhead Center, Inc.) and Aggie Development, Inc. have the experience and capability to function as the master developer of the TIDD, with private sector partners as needed
- TIDD formation expenses (legal, surveys, engineering/planning, financial plan & fiscal impact) will be borne by NMSU, and are reimbursable from the TIDD when sufficient revenues are collected. Estimated 18-24 month timeframe for approvals.
 - City formation and increment dedication- \$550,000 ballpark estimate
 - County increment dedication- \$50,000 ballpark estimate
 - State increment dedication- \$200,000 ballpark estimate

NMSU TIDD Implementation Considerations (Cont.)

- Possible sale or long-term lease of certain unrestricted East Campus land could provide important funding of public improvements until TIDD reimbursement
- Identify sources of “working capital” for initial infrastructure development
 - TIDD reimbursable improvements: \$2 to 3 million, reimbursed in 3-4 years
 - Non-TIDD reimbursable improvements: \$3-4 million investment results in greater land values
- Relocation of the NMSU Championship Golf Course, funded from TIDD revenue, enables the creation of Aggie Uptown as an important mixed-use commercial & residential Town Center, which generates significant TIDD revenue
- Construction of the Arrowhead Drive/I-10 interchange benefits both Arrowhead Park and Main Campus
 - At AHP- enhances development potential and increases market absorption
 - For Main Campus- creates an attractive new campus “gateway” and greater accessibility

NMSU TIDD: Recommended Next Steps

- Decision by NMSU Leadership to explore TIDD opportunity further
 - Kathy Hansen, CEO & Arrowhead Center Board
 - Aggie Development Board
 - Ruth Johnson, Vice Chancellor & Lenny Martinez, Vice President
 - Dan Arvizu, Chancellor
- Make initial contact with the City of Las Cruces to gauge support for TIDD
 - Ken Miyagishima, Mayor
 - Ifo Pili, City Manager
 - Tessa Abeyta-Stuve, Councilor, District 2
- Engage Sage Land Solutions (\$20k contract extension) to facilitate communications with NMSU Leadership and initial contact with City of Las Cruces regarding TIDD opportunity
- Assuming favorable response from NMSU Leadership and the City, Sage Land Solutions would be pleased to prepare a detailed proposal addressing the process and costs (reimbursable from TIDD revenues) associated with the creation of the NMSU TIDD

NMSU TIDD: Recommended Next Steps (Cont.)

- NMSU – City Joint Memorandum of Understanding
 - Commitment to pursue formation of NMSU TIDD
 - Joint project of NMSU & City
 - Provide for Pre-annexation Agreement
 - Approval by both NMSU Leadership & City Council
- Pre-annexation Agreement
 - NMSU lands to be included in TIDD
 - Land use control by NMSU
 - Service agreements, as necessary
- Prepare & process City application for formation of NMSU TIDD consistent with State TIDD Act and City TIDD Policy R20-069, as further set forth in the NMSU-City Joint MOU
- Prepare & process request for tax increment from Dona Ana County and State of New Mexico

About Sage Land Solutions LLC



Harry N. Relkin, Principal

- A licensed New Mexico attorney with over 45 years of experience in both private and public practice
- Architect of multiple public-private partnerships including large-scale, mixed commercial & residential developments, industrial & technology parks, university student housing and renewable energy
- Instrumental in the drafting and adoption of the State TIDD Act, the creation of the Mesa del Sol TIDD in 2008 and the UNM South Campus TIDD in 2021
- Served as Sr. Vice President of Mesa del Sol where he put together extensive, complex successful real estate deals
- Previously, served as General Counsel and Assistant State Land Commissioner for the New Mexico State Land Office

About Sage Land Solutions LLC



Kim D. Murphy, Advisor

- Career real estate professional of 48 years serving both private businesses and public institutions
- Managing member of Altura Real Estate LLC and advisor to Sage Land Solutions LLC providing real estate consulting services to public institutions and private industry in project feasibility, market & economic analysis, strategic planning and transaction negotiations
- Clients include University of New Mexico, NM Highlands University, Albuquerque Academy, Bosque School, Albuquerque City Council, Presbyterian Health System & Forest City Realty Trust
- Served as Director of Real Estate for UNM for 23 years, responsible for public-private partnerships, including Mesa del Sol and American Campus Communities
- Project lead for UNM's South Campus TIDD approved by City of Albuquerque in October 2021
- Licensed NM real estate broker; member of Urban Land Institute & NAIOP/Commercial Real Estate

About Sage Land Solutions LLC



Brent F. Dupes, CPA

- Licensed Michigan Certified Public Accountant (inactive)
- Financial executive with 35 years experience in real estate acquisitions, development & management, including financial modeling and analysis
- Served as Chief Financial Officer for Mesa del Sol, where he was responsible for issuance of Tax Increment Development District Bonds, among other financial matters
- Currently provides consulting and advisory services for potential public-private partnerships and analysis of tax increment financial proposals, including UNM South Campus TIDD in created in 2021
- Serves as Treasurer of the Mesa de Sol TIDD
- MBA from Southern Methodist University

Exhibit C – City of Las Cruces Project Estimates

1. Las Cruces Convention Center Expansion – \$20 million
Feasibility study, design, engineering, and construction of a 20,000 square foot exhibition hall addition to the existing Las Cruces Convention Center. In addition, potentially a relocation of the parking lot.
2. University Avenue Complete - \$33 million
Complete redesign, engineering, and construction of University Avenue throughout the entire TIDD district, including new intersections signalization since the existing infrastructure is aged.
3. Intermodal Transfer Station - \$7 million
Design, engineering, and construction, based off the current intermodal center that was built in 2013.



City Council Action and Executive Summary

3043; Council
Bill No. 24-001

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	July 17, 2023	Adopted:	August 7, 2023
Drafter:	Christine Rivera	Department:	City Clerk
Program:	Compliance	Line of Business:	Office of City Clerk
Title:	AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, SUBDIVISION VII. CONVENTION AND VISITORS BUREAU ADVISORY BOARD OF THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To amend the Convention and Visitors Bureau Advisory Board.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The Convention and Visitors Bureau (CVB) Advisory Board was initially created in accordance with New Mexico Statutes, which establishes a Lodger's Tax to be collected by the city. One of the requirements of collecting a Lodger's Tax is the creation of a board to advise on the expenditure of those funds for advertising, publicizing and promoting tourist attractions and facilities through Visit Las Cruces. To be consistent with NMSA 1978, Section 3-38-22, the CVB Advisory Board is being amended to the Las Cruces Lodger's Tax Advisory Board.

SUPPORT INFORMATION:
[Exhibit "A" - Clean Version](#)
[Attachment "A" - Redline Version](#)
[Attachment "B" - Lodgers Tax Board State Statute](#)

PLAN(S):
Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:
None

DOES THIS AMEND THE BUDGET?:
☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?
☐ Yes
☒ No

Agenda Item #7.2.

Does this action align with Elevate Las Cruces?

- ☐ Yes
- ☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will change the Convention and Visitor's Bureau Advisory Board to the Las Cruces Lodger's Tax Advisory Board.
2. Vote "No"; the Convention and Visitor's Bureau Advisory Board will remain the same and not aligned with state statute.
3. Vote to "Amend"; this will require additional direction to staff.
4. Vote to "Table"; this will require additional direction to staff and may delay changes to the board.

REFERENCE INFORMATION:

Ordinance 0069

ORDINANCE 3043; COUNCIL BILL NO. 24-001

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, SUBDIVISION VII. CONVENTION AND VISITORS BUREAU ADVISORY BOARD OF THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED.

The City Council is informed that:

WHEREAS, the Convention and Visitors Bureau (CVB) Advisory Board was created to advise on the expenditure of Lodger's Tax funds for advertising, publicizing and promoting tourist attractions and facilities; and

WHEREAS, Visit Las Cruces works with the CVB Advisory Board to administer Lodger's Tax funds; and

WHEREAS, Visit Las Cruces is requesting consistency with the language in NMSA 1978, Section 3-38-22.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 2, Article IV, Subdivision VII. Convention and Visitors Bureau Advisory Board of the Las Cruces Municipal Code 1997 is hereby amended as indicated in Exhibit "A" and attached hereto.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Subdivision VII. Las Cruces Lodger's Tax Advisory Board

Sec. 2-519. Established.

There is established the Las Cruces lodger's tax advisory board.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-520. Appointment; composition; terms.

- (a) The mayor, with the advice and consent of the city council, shall appoint the five members of the Las Cruces lodger's tax advisory board. The board members are not required to be city residents, but each member must maintain a business within the city limits.
- (b) The Las Cruces lodger's tax advisory board shall be composed of five members, two of whom shall represent the lodging industry, two of whom are directly involved and in tourist-related industries, and one member at large who shall represent the general public.
- (c) Members shall serve three-year staggered terms. Members shall be limited to two, three-year terms.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-521. Duties.

The Las Cruces lodger's tax advisory board will advise the city council on the expenditure of those lodgers' tax funds collected for advertising, publicizing and promoting tourist attractions and facilities in the area. The board will assist Visit Las Cruces in establishing long range goals and objectives and will assist in the development of new programs and administrative policies.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Secs. 2-522—2-526. Reserved.

Subdivision VII. ~~Convention and Visitors Bureau~~ Las Cruces Lodger's Tax Advisory Board

Sec. 2-519. Established.

There is established the ~~convention and visitors bureau~~ Las Cruces lodger's tax advisory board.
(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-520. Appointment; composition; terms.

- (a) The mayor, with the advice and consent of the city council, shall appoint the five members of the ~~convention and visitors bureau~~ Las Cruces lodger's tax advisory board. The board members are not required to be city residents, but each member must maintain a business within the city limits.
 - (b) The convention and visitors bureau advisory board shall be composed of ~~five residents of the city~~, two of whom shall represent the lodging industry, two of whom are directly involved and in tourist-related industries, and one member at large who shall represent the general public.
 - (c) Members shall serve three-year staggered terms. Members shall be limited to two, three-year terms.
- (Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-521. Duties.

The ~~convention and visitors bureau advisory board~~ Las Cruces lodger's tax advisory board will advise the city council on the expenditure of those lodgers' tax funds collected for advertising, publicizing and promoting tourist attractions and facilities in the area. The board will assist the ~~convention and visitors bureau~~ Visit Las Cruces in establishing long range goals and objectives and will assist in the development of new programs and administrative policies.
(Ord. No. 2814, § II(exh. A), 5-15-17)

Secs. 2-522—2-526. Reserved.

Attachment “B”

NMSA 1978

3-38-22. Advisory boards created; duties.

A. The mayor of every municipality that imposes an occupancy tax pursuant to the Lodgers' Tax Act [[3-38-13](#) to [3-38-25](#) NMSA 1978] shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the municipality, two members who are owners or operators of industries located within the municipality that primarily provide services or products to tourists and one member who is a resident of the municipality and represents the general public.

B. The chairman of every county commission that imposes an occupancy tax pursuant to the Lodgers' Tax Act shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the unincorporated area of the county, two members who are owners or operators of industries located within the unincorporated area of the county that primarily provide services or products to tourists and one member who is a resident of the unincorporated area of the county who represents the general public.

C. Members of the boards created under Subsections A and B of this section shall serve at the pleasure of the respective appointing authorities. The boards shall advise the respective governing bodies on the expenditure of funds authorized by Section [3-38-15](#) NMSA 1978 for advertising, publicizing and promoting tourist attractions and facilities in the respective counties and municipalities.

D. The advisory board shall submit to the mayor and council or county commission recommendations for the expenditures of funds authorized pursuant to the Lodgers' Tax Act for advertising, publicizing and promoting tourist-related attractions, facilities and events in the respective counties and municipalities.

History: 1953 Comp., § 14-37-22.1, enacted by Laws 1977, ch. 294, § 2; [1996, ch. 58, § 9](#).



City Council Action and Executive Summary

3044; Council
Bill No. 24-002

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☒ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	August 7, 2023	Adopted:	August 21, 2023
Drafter:	Sara Gonzales	Department:	Community Development
Program:	Community Planning	Line of Business:	Community Planning
Title:	AN ORDINANCE AMENDING THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED (LCMC), SECTIONS 2-556 THROUGH 2-564 TO REVISE THE UNIVERSITY DISTRICT CITIZEN’S DESIGN REVIEW COMMITTEE (UD-CDRC), RESPECTIVELY, WITHIN CHAPTER 2, ARTICLE IV, DIVISION 3, NONSTANDARD BOARDS OF DIVISION OF THE LCMC.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To amend the Municipal Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On September 17, 2001, the City Council through Ordinance No. 1894 amended Chapter 2, Article IV, Division 8, Subdivision V of the Las Cruces Municipal Code by adding the University Avenue Corridor Citizen’s Design Review Committee.

On April 5, 2010, the City Council through Ordinance No. 2572 repealed and replaced Chapter 2, Section 2-1012 through 2-1020 and established the University Districts Citizen’s Design Review Committee.

Lastly, on May 15, 2017, the City Council through Ordinance No. 2814 amended Section 2-189, repealing and replacing Divisions 3, 4, and 5 of Chapter 2, Article IV, Boards, Commissions and Committees.

The University District Citizen's Design Review Committee (UD-CDRC) currently has seven (7) members who serve on the board. Unfortunately, there have been several vacancies to the board and the City has encountered difficulty filling these vacancies. The Community Development Department recently received a resignation from one member who has been on the board for twenty years, which in turn, leads to another vacancy. To meet the UD-CDRC quorum requirements and not hinder development applications, Community Development is recommending revising the membership representation and reducing the number of members.

This amendment also recommends changing the UD-CDRC meeting schedule frequency. The amendment will allow the UD-CDRC to schedule their meeting as necessary.

The revised membership would consist of representatives from each of the following groups:

1. University District area's district councilor (District 2);
2. New Mexico State University’s university architect or designee; and
3. Three (3) citizens who either own property, own a business, or reside in the overlay area.

Agenda Item #9.1.

The key changes include the following items: reduced committee size to five members, change in membership representation, and reduce monthly meetings to as necessary.

SUPPORT INFORMATION:

[Exhibit "A" - UD-CDRC Municipal Code \(Updated Version\)](#)

[Attachment "A" - UD-CDRC Municipal Code \(Redline Version\)](#)

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

University District DRC

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance within LCMC Chapter 2, Article IV, Division 3, Section 2-556 through 2-564, respectively and amend the citizen's design review committee.
2. Vote "No"; this will not approve the Ordinance within LCMC Chapter 2, Article IV, Division 3, Section 2-556 through 2-564, respectively nor amend the citizen's design review committee.
3. Vote to "Amend"; this would allow City Council to modify the proposed ordinance.
4. Vote to "Table"; this would postpone the decision to amend the ordinance and would allow City Council to provide further staff direction.

ORDINANCE 3044; COUNCIL BILL NO. 24-002

AN ORDINANCE AMENDING THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED (LCMC), SECTIONS 2-556 THROUGH 2-564 TO REVISE THE UNIVERSITY DISTRICT CITIZEN'S DESIGN REVIEW COMMITTEE (UD-CDRC), RESPECTIVELY, WITHIN CHAPTER 2, ARTICLE IV, DIVISION 3, NONSTANDARD BOARDS OF DIVISION OF THE LCMC.

The City Council is informed that:

WHEREAS, the University District Citizen's Design Review Committee (UD-CDRC) was created through Ordinance No. 2572 and further revised through Ordinance No. 2814; and

WHEREAS, the University District Overlay allows for greater flexibility to developers and landowners while encouraging the development of a vibrant, mixed-use area; and

WHEREAS, changes to the design review committee are needed to ensure future development is not delayed or hindered due to ongoing UD-CDRC vacancies.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Sections 2-556 through 2-564 within Chapter 2, Article IV, Division 3, Nonstandard Boards of the Las Cruces Municipal Code, as shown in Exhibit "A" attached hereto and made part of this Ordinance, are hereby amended and approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

Agenda Item #9.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

PART II - MUNICIPAL CODE
Chapter 2 - ADMINISTRATION
ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 3. - NONSTANDARD BOARDS
Subdivision XIII. University District Citizen's Design Review Committee

Subdivision XIII. University District Citizen's Design Review Committee

Sec. 2-556. Established.

There is established a University District citizen's design review committee.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-557. Membership.

- (a) The citizen's design review committee shall be comprised of members as follows: The University District area's district councilor; a New Mexico State University Campus architect or designee; and three citizens who either own a property, own a business, or reside in the overlay. The NMSU Campus architect staff person may select representatives/alternates, designated by this individual, to take their place as needed.
- (b) The community development department's project coordinator for the University District plan shall serve the committee as a contact to the city and a source of information to support the committee's review process.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-558. Term limits.

Because of the unique residency qualifications required to serve on the University District citizen's design review committee the term limit requirement found in subsection 2-188(b)(11) is waived. University District citizen's design review committee citizen members may serve unlimited terms. Citizen members serve at the will of the city council. The current University District's councilor and New Mexico State University Campus architect staff person are permanent appointments.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-559. Appointment procedure.

Citizens interested in participating on the citizen's design review committee shall apply through the city clerk's office. Applicants, including the New Mexico State University representative, will be recommended by the district's councilor to the mayor and appointed by the mayor upon the consent of the city council.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-560. Duties and procedure.

- (a) All new development shall require city approval. To ensure that the development standards of the University District overlay zone district are met, a citizen's design review committee, and a process for submittal and review of applications for development is hereby established. A citizen's design review committee is hereby

authorized to serve the University District overlay as an advisory body to the city for all development proposals in the district. The citizen's design review committee, together with city staff, shall provide a recommendation regarding site design, architecture, and landscaping on all development projects occurring in the University District overlay.

- (b) An applicant may submit an application for a building permit before meeting with the citizen's design review committee, but must wait until said application has been reviewed by the committee and city staff before receiving a building permit (it is preferred, however, that applicants wait until final acceptance by the committee and city staff so that any required changes to the project be made prior to building permit review).
- (c) The citizen's design review committee will also serve as an advisory body to the planning and zoning commission for all plan and code amendments special use permit requests and variances affecting the University District overlay.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-561. Meetings.

The citizen's design review committee shall hold meetings as necessary open to the public.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-562. Organization.

The University District citizen's design review committee shall elect a chair and a vice-chair, each of whom shall serve for one calendar year.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-563. Voting.

A simple majority vote of a quorum of the University District citizen's design review committee is required for approval on all University District citizen design review committee recommendations.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-564. Appeals.

- (a) An application for development must be approved by the city and the citizen's design review committee in order for a building permit to be issued. In the event that an application is denied by the city or the committee based on interpretation of the University District plan and ordinance's urban design requirements, the two entities shall meet to discuss the interpretation. In the event that an agreement cannot be reached to approve the application or an applicant or aggrieved person is not satisfied with the final determination made by the city and committee, the applicant may file for an appeal with the planning and zoning commission. An appeal must be initiated in writing to the community development department by an applicant or aggrieved person within 15 days after all other procedures established by this section have been exhausted. The petition will then be processed by the city to be considered at the next available public hearing in accordance with the notice requirements found in chapter 38, division 2, section 38-71 of the Land Development Code.

- (b) Any aggrieved person that is affected by a decision of the planning and zoning commission in the enforcement of the University District plan and this section may appeal such decision to the city council in accordance with chapter 38, division 2, section 38-236 of the Land Development Code.
- (c) Any person aggrieved by a determination of the city council may appeal to district court within 30 days after the determination made by the city council, in accordance with chapter 38, division 2, section 38-237 of the Land Development Code.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Secs. 2-565—2-569. Reserved.

PART II - MUNICIPAL CODE
Chapter 2 - ADMINISTRATION
ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES
DIVISION 3. - NONSTANDARD BOARDS
Subdivision XIII. University District Citizen's Design Review Committee

Subdivision XIII. University District Citizen's Design Review Committee

Sec. 2-556. Established.

There is established a University District citizen's design review committee.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-557. Membership.

- (a) The citizen's design review committee shall be comprised of ~~seven~~ members as follows: The University District area's district councilor; a New Mexico State University Campus architect ~~or designee; and three citizens who either own a property, own a business, or reside in the overlay~~ staff person; ~~one citizen who owns a business in the overlay; one citizen with design expertise such as in architecture, landscape architecture, interior design, or fine arts; three citizens who own property in the overlay; and one NMSU student representative. Two of the citizen participants shall be permanent residents within the overlay and the third citizen participant may or may not be a permanent resident of the overlay. Two additional citizens who own property or businesses within the University District may serve as alternates.~~ The NMSU Campus architect staff person may select representatives/alternates, designated by this individual, to take their place as needed.
- (b) The community development department's project coordinator for the University District plan shall serve the committee as a contact to the city and a source of information to support the committee's review process.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-558. Term limits.

Because of the unique residency qualifications required to serve on the University District citizen's design review committee the term limit requirement found in subsection 2-188(b)(11) is waived. University District citizen's design review committee citizen members may serve unlimited terms. Citizen members serve at the will of the city council. The current University District's councilor and New Mexico State University Campus architect staff person are permanent appointments.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-559. Appointment procedure.

Citizens interested in participating on the citizen's design review committee shall apply through the city clerk's office. Applicants, including the New Mexico State University representative, will be recommended by the district's councilor to the mayor and appointed by the mayor upon the consent of the city council.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-560. Duties and procedure.

- (a) All new development shall require city approval. To ~~ensure~~insure that the development standards of the University District overlay zone district are met, a citizen's design review committee, and a process for submittal and review of applications for development is hereby established. A citizen's design review committee is hereby authorized to serve the University District overlay as an advisory body to the city for all development proposals in the district. The citizen's design review committee, together with city staff, shall provide a recommendation regarding site design, architecture, and landscaping on all development projects occurring in the University District overlay.
- (b) An applicant may submit an application for a building permit before meeting with the citizen's design review committee, but must wait until said application has been reviewed by the committee and city staff before receiving a building permit (it is preferred, however, that applicants wait until final acceptance by the committee and city staff so that any required changes to the project be made prior to building permit review).
- (c) The citizen's design review committee will also serve as an advisory body to the planning and zoning commission for all plan and code amendments special use permit requests and variances affecting the University District overlay.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-561. Meetings.

The citizen's design review committee shall hold ~~regular monthly~~ meetings as necessary open to the public.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-562. Organization.

The University District citizen's design review committee shall elect a chair and a vice-chair, each of whom shall serve for one calendar year.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-563. Voting.

A simple majority vote of a quorum of the University District citizen's design review committee is required for approval on all University District citizen design review committee recommendations.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Sec. 2-564. Appeals.

- (a) An application for development must be approved by the city and the citizen's design review committee in order for a building permit to be issued. In the event that an application is denied by the city or the committee based on interpretation of the University District plan and ordinance's urban design requirements, the two entities shall meet to discuss the interpretation. In the event that an agreement cannot be reached to approve the application or an applicant or aggrieved person is not satisfied with the final determination made by the city and committee, the applicant may file for an appeal with the planning and zoning commission. An appeal must be initiated in writing to the community development department

by an applicant or aggrieved person within 15 days after all other procedures established by this section have been exhausted. The petition will then be processed by the city to be considered at the next available public hearing in accordance with the notice requirements found in chapter 38, division 2, section 38-71 of the Land Development Code.

- (b) Any aggrieved person that is affected by a decision of the planning and zoning commission in the enforcement of the University District plan and this section may appeal such decision to the city council in accordance with chapter 38, division 2, section 38-236 of the Land Development Code.
- (c) Any person aggrieved by a determination of the city council may appeal to district court within 30 days after the determination made by the city council, in accordance with chapter 38, division 2, section 38-237 of the Land Development Code.

(Ord. No. 2814, § II(exh. A), 5-15-17)

Secs. 2-565—2-569. Reserved.



**3045; Council
Bill No. 24-003**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A		
1st Reading:	August 7, 2023	Adopted:	August 21, 2023
Drafter:	Natalie Green	Department:	City Manager's Office
Program:	Housing and Neighborhood Services	Line of Business:	Housing and Neighborhood Services
Title:	AN ORDINANCE AMENDING CHAPTER 13, ARTICLE I. FAIR HOUSING OF THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Amend Las Cruces Municipal Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
In an effort to offer solutions to the current affordable housing crisis, which disproportionately impacts low- and moderate-income households, the City of Las Cruces Housing Policy Review Committee is proposing an amendment to the Chapter 13, Article I, Fair Housing of the Las Cruces Municipal Code, 1997 as amended. The amendment would add protections for tenants to prohibit “Source of income discrimination”. “Source of income discrimination” refers to the practice of refusing to rent to a housing applicant because of that person’s lawful form of income. A growing number of states and localities have enacted laws, known as “source of income protection laws” that prohibit discrimination based on lawful income sources such as social security, pension, alimony, child support, foster care subsidies, housing vouchers, and others. The New Mexico Human Rights Act, NMSA 1978, Chapter 28, Article 1, prohibits housing discrimination based on race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental handicap.

The City of Las Cruces LCMC Chapter 13, Article I, similarly prohibits discriminatory practices in housing. These protections for applicants seeking housing do not currently extend to prohibit discrimination related to applicants’ legal sources of income and implementing amendments to the Fair Housing Ordinance that prohibit owners from discriminating against tenants based on lawful sources of income will promote a general welfare of the City and its residents.

The availability of safe and affordable housing is an essential component of individual and community well-being. Applicants for housing are regularly asked to disclose their source of income in consideration of their ability to meet income requirements; this prohibition would also ensure that applicants with supplemental income are not denied access to housing opportunities. The City of Las Cruces currently facing a housing crisis and participants of Housing Choice Voucher program are routinely unable to find housing despite eligibility for the program. Prohibiting source of income discrimination will help expand the housing choices available to voucher holders and increase equitable access to housing opportunities for renters in our City. Similar legislation was enacted in Albuquerque in June 28, 2022 and other municipalities are exploring similar legislation.

SUPPORT INFORMATION:

[Exhibit "A" - Ch 13 ARTICLE I](#)

[Attachment "A" Ch 13 ARTICLE I- Redline](#)

[Attachment "B" Community Input](#)

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Housing PRC

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will approve the Ordinance to amend Chapter 13, Article I of the LCMC entitled Fair Housing.
2. Vote "No"; this action will deny the Ordinance to amend Chapter 13, Article I of the LCMC entitled Fair Housing.
3. Vote to "Amend"; this action could modify the Ordinance.
4. Vote to "Table"; Ordinance No. 2965 will remain in effect.

REFERENCE INFORMATION:

Ordinance No. 1225

Ordinance No. 1753

Ordinance No. 2208

Ordinance No. 2700

Ordinance No. 2800

Ordinance No. 2965

ORDINANCE 3045; COUNCIL BILL NO. 24-003

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE I. FAIR HOUSING OF THE LAS CRUCES MUNICIPAL CODE 1997, AS AMENDED.

WHEREAS, Chapter 13, Article I of the Las Cruces Municipal Code 1997, as amended (LCMC), entitled Fair Housing, sets out the details for the City to establish fair housing and effectively handle complaints when they are received; and

WHEREAS, Ordinance No. 2800 regarding fair housing was adopted in 2016; and

WHEREAS, Ordinance No. 2965 further amended Chapter 13 in 2021; and

WHEREAS, changes are proposed by the Housing Policy Review Committee and City staff to include the protections for lawful sources of income.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT Chapter 13, Article I of the LCMC, entitled Fair Housing, as shown in Exhibit "A", attached hereto and made part of this Ordinance, is hereby amended.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

Mayor

ATTEST:

City Clerk

Moved by:

Seconded by:

AYES

NAYS

PART II - MUNICIPAL CODE
Chapter 13 - HOUSING
ARTICLE I. FAIR HOUSING

ARTICLE I. FAIR HOUSING

Sec. 13-1. Definitions.

As used in this article:

Accessible, when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase "readily accessible to and usable by" is synonymous with accessibility.

Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a disability using a wheelchair, and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts.

Adaptable dwelling units, when used with respect to covered multifamily dwellings, means dwelling units that include the features of adaptable design specified in the Fair Housing Act of 1988, 24 CFR 100.205c.

Aggrieved person includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

Bathroom means a bathroom which includes a water closet (toilet), lavatory (sink), and bathtub or shower.

Clear means unobstructed.

Common use areas means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

Covered multifamily dwellings means:

- (1) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and
- (2) Ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

Disability means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment.

But such term does not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802. As used in this definition: (a) "physical or mental impairment" includes: (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning

disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

Discriminatory housing practice means an act that is unlawful under section 13-5 of this article.

Dwelling means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Entrance means any exterior access point to a building or portion of a building used by residents for the purpose of entering. An entrance does not include a door to a loading dock or a door used primarily as a service entrance.

Fair housing accessibility guidelines means those guidelines set forth in 24 CFR Chapter I, Department of Housing and Urban Development, Part VI.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other persons having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of 18 years.

Family includes a single individual.

Ground floor means a floor of a building with a building entrance on an accessible route. A building may have one or more ground floors. Where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor.

ICC/ANSI guidelines means those guidelines (commonly cited as ICC/ANSI A117.1-2003) set forth in the 2003 edition of the "Accessible and Usable Buildings and Facilities," providing accessibility and usability for persons with disabilities. These guidelines can be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code ("U.S.C."), receivers and fiduciaries.

Residential real estate-related transaction means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate.
- (2) The selling, brokering or appraising of residential real property.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Source of income means any verifiable money, compensation or housing assistance that is lawful in the State of New Mexico and paid to or on behalf of a renter or buyer including, but not limited to money or compensation

from any occupation or activity, from any contract, agreement, loan or settlement, from any court-ordered payment such as child support, court-ordered alimony, from any payment received from an annuity or life insurance policy, or from any federal, state or local payment, including a disability benefit and housing choice voucher, any other rent subsidy or rent assistance program and related program requirements, or other public assistance.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-2. Fair Housing Act adopted.

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988, the Fair Housing Accessibility Guidelines of 1991, are hereby adopted and incorporated herein by reference.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-3. Declaration of policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city. This fair housing ordinance is intended to compliment federal and state fair housing laws and should be interpreted consistently with such laws, unless otherwise stated.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-4. Exemptions.

- (a) Nothing in section 13-5 of this article shall apply to:
 - (1) Units in an owner-occupied building containing no more than two units.
 - (2) The rental of a room or rooms in a single-family dwelling unit if the owner actually maintains and occupies part of such living quarters as his/her residence.
- (b) Nothing in section 13-5 of this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin.
- (c) Nothing in section 13-5 of this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) Nothing in section 13-5 of this article limits the applicability of any reasonable governmental restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (e) Nothing in section 13-5 of this article regarding familial status shall apply with respect to housing for older persons.

Housing for older persons means housing:

- (1) Provided under any state or federal program that is specifically designed and operated to assist elderly persons; or

- (2) Intended for, and solely occupied by, persons 62 years of age or older; or
- (3) Intended and operated for occupancy by at least one person 55 years of age or older per unit, where at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older (except that newly constructed facilities need not comply with this requirement until 25 percent of the units in the facility are occupied), and where the facility meets other regulations adopted by the Federal Department of Housing and Urban Development as set forth in 24 C.F.R. 100.304; however
- (4) Housing shall not fail to meet the requirements for housing for older persons by reason of persons residing in such housing as of September 13, 1988, who do not meet the age requirements set forth in subsections (e)(2) or (3) above; provided that all new occupants of such housing meet the age requirements of subsections (e)(2) or (3); or unoccupied units; provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (e)(2) or (3) of this section.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-5. Discrimination in the sale or rental of housing and other prohibited practices.

Except as exempted by section 13-4 of this article, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (6) a. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
 1. That buyer or renter;
 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 3. Any person associated with that buyer or renter.

- b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - 1. That person;
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
 - c. For purposes of this subsection, discrimination includes:
 - 1. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications are necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - 2. A refusal to make reasonable modifications in rules, policies, practices, or services, when such modifications are necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - 3. In connection with the design and construction of covered multi-family dwellings for first occupancy, for which a city building permit is issued after adoption of the ordinance from which this article derives, a refusal to design and construct those dwellings in accordance with the 1988 Fair Housing Act, 2003 International Building Code and CABO/ANSI A117.1-1998, and their amendments, as made elsewhere within this Municipal Code.
 - d. Nothing in subsection (b) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (7) For any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, ethnicity, color, religion, sex, or gender identity, disability, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
 - (8) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation, on account of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
 - (9) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this article.
 - (10) A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on:

- a. The tenant, applicant, or a household member's status as a victim of domestic violence, sexual assault, or stalking; or
- b. The tenant or applicant having terminated a rental agreement under early lease termination clause.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-6. Early lease termination.

In any lease or rental agreement covering premises occupied for dwelling purposes, a lessee or tenant for whose benefit any order of protection has been issued by a court of competent jurisdiction, shall be permitted to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises, and of the land so leased or occupied pursuant to the provisions of this section and to be released from any liability to pay to the lessor or owner, rent or other payments in lieu of rent for the time subsequent to the date of termination of such lease.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-7. Administration and enforcement.

- (a) The authority and responsibility for administering the fair housing article shall be in the director of the administering department assigned by the city manager's office.
- (b) All city agencies and departments shall administer their programs and activities relating to housing in a manner to affirmatively further the purposes of this article and shall cooperate with the administering department to further such purposes.
- (c) The administering department shall review plans and construction of newly constructed covered multifamily dwellings for the purpose of making a determination as to whether the design and construction requirements of subsection 13-5(6)c.3. are met. No building permit shall be issued and no certificate of occupancy shall be issued for covered multifamily dwellings that do not meet those requirements. Notwithstanding the above, no one shall be denied a certificate of occupancy for failure to meet the requirements of subsection 13-5(6)c.3. if a city building permit was issued prior to the adoption of the ordinance from which this article is derived.
- (d) The director of the administering department or his or her designee shall be responsible for providing information to and assisting aggrieved persons who request assistance in filing complaints with the U.S. Department of Housing and Urban Development, and/or in accordance with reporting/complaint filing processes established for the city not inconsistent with this section and this article.
- (e) Whenever the director of the administering department or designee has reason to believe that any person has engaged in a discriminatory housing practice in violation of section 13-5, the director or designee may invite the person to discuss the violation and methods of correcting the cause of the violation.
- (f) Section 13-5 makes it unlawful to discriminate in the sale or rental of housing and other prohibited practices according to the Fair Housing Act. If a violation has occurred, the municipal court may assess a fine of not more than \$500.00 or impose imprisonment for not more than 90 days or both, in addition to any fines and/or other remedies afforded under separate civil remedies and/or state or federal law. Each separate violation shall constitute a separate offense, and in the case of a continuing violation, each day that a violation continues after notice from the city and request for correction shall constitute a separate offense.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Secs. 13-8—13-49. Reserved.

PART II - MUNICIPAL CODE
Chapter 13 - HOUSING
ARTICLE I. FAIR HOUSING

ARTICLE I. FAIR HOUSING

Sec. 13-1. Definitions.

As used in this article:

Accessible, when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase "readily accessible to and usable by" is synonymous with accessibility.

Accessible route means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a disability using a wheelchair, and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts.

Adaptable dwelling units, when used with respect to covered multifamily dwellings, means dwelling units that include the features of adaptable design specified in the Fair Housing Act of 1988, 24 CFR 100.205c.

Aggrieved person includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

Bathroom means a bathroom which includes a water closet (toilet), lavatory (sink), and bathtub or shower.

Clear means unobstructed.

Common use areas means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

Covered multifamily dwellings means:

- (1) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and
- (2) Ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

Disability means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment.

But such term does not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802. As used in this definition: (a) "physical or mental impairment" includes: (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning

disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

Discriminatory housing practice means an act that is unlawful under section 13-5 of this article.

Dwelling means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Entrance means any exterior access point to a building or portion of a building used by residents for the purpose of entering. An entrance does not include a door to a loading dock or a door used primarily as a service entrance.

Fair housing accessibility guidelines means those guidelines set forth in 24 CFR Chapter I, Department of Housing and Urban Development, Part VI.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) The designee of such parent or other persons having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual who has not attained the age of 18 years.

Family includes a single individual.

Ground floor means a floor of a building with a building entrance on an accessible route. A building may have one or more ground floors. Where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor.

ICC/ANSI guidelines means those guidelines (commonly cited as ICC/ANSI A117.1-2003) set forth in the 2003 edition of the "Accessible and Usable Buildings and Facilities," providing accessibility and usability for persons with disabilities. These guidelines can be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code ("U.S.C."), receivers and fiduciaries.

Residential real estate-related transaction means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate.
- (2) The selling, brokering or appraising of residential real property.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Source of income means any verifiable money, compensation or housing assistance that is lawful in the State of New Mexico and paid to or on behalf of a renter or buyer including, but not limited to money or compensation

from any occupation or activity, from any contract, agreement, loan or settlement, from any court-ordered payment such as child support, court-ordered alimony, from any payment received from an annuity or life insurance policy, or from any federal, state or local payment, including a disability benefit and housing choice voucher, any other rent subsidy or rent assistance program and related program requirements, or other public assistance.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-2. Fair Housing Act adopted.

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988, the Fair Housing Accessibility Guidelines of 1991, are hereby adopted and incorporated herein by reference.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-3. Declaration of policy.

It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city. This fair housing ordinance is intended to compliment federal and state fair housing laws and should be interpreted consistently with such laws, unless otherwise stated.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-4. Exemptions.

- (a) Nothing in section 13-5 of this article shall apply to:
 - (1) Units in an owner-occupied building containing no more than two units.
 - (2) The rental of a room or rooms in a single-family dwelling unit if the owner actually maintains and occupies part of such living quarters as his/her residence.
- (b) Nothing in section 13-5 of this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin.
- (c) Nothing in section 13-5 of this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) Nothing in section 13-5 of this article limits the applicability of any reasonable governmental restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (e) Nothing in section 13-5 of this article regarding familial status shall apply with respect to housing for older persons.

Housing for older persons means housing:

- (1) Provided under any state or federal program that is specifically designed and operated to assist elderly persons; or

- (2) Intended for, and solely occupied by, persons 62 years of age or older; or
- (3) Intended and operated for occupancy by at least one person 55 years of age or older per unit, where at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older (except that newly constructed facilities need not comply with this requirement until 25 percent of the units in the facility are occupied), and where the facility meets other regulations adopted by the Federal Department of Housing and Urban Development as set forth in 24 C.F.R. 100.304; however
- (4) Housing shall not fail to meet the requirements for housing for older persons by reason of persons residing in such housing as of September 13, 1988, who do not meet the age requirements set forth in subsections (e)(2) or (3) above; provided that all new occupants of such housing meet the age requirements of subsections (e)(2) or (3); or unoccupied units; provided that such units are reserved for occupancy by persons who meet the age requirements of subsections (e)(2) or (3) of this section.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-5. Discrimination in the sale or rental of housing and other prohibited practices.

Except as exempted by section 13-4 of this article, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
- (6) a. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
 1. That buyer or renter;
 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 3. Any person associated with that buyer or renter.

- b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - 1. That person;
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
 - c. For purposes of this subsection, discrimination includes:
 - 1. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications are necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - 2. A refusal to make reasonable modifications in rules, policies, practices, or services, when such modifications are necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - 3. In connection with the design and construction of covered multi-family dwellings for first occupancy, for which a city building permit is issued after adoption of the ordinance from which this article derives, a refusal to design and construct those dwellings in accordance with the 1988 Fair Housing Act, 2003 International Building Code and CABO/ANSI A117.1-1998, and their amendments, as made elsewhere within this Municipal Code.
 - d. Nothing in subsection (b) requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (7) For any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, ethnicity, color, religion, sex, or gender identity, disability, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
 - (8) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or conditions of such access, membership, or participation, on account of race, ethnicity, color, religion, sex, or gender identity, disability, lawful source of income, familial status, sexual orientation, spousal affiliation, ancestry, or national origin.
 - (9) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this article.
 - (10) A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially on:

- a. The tenant, applicant, or a household member's status as a victim of domestic violence, sexual assault, or stalking; or
- b. The tenant or applicant having terminated a rental agreement under early lease termination clause.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-6. Early lease termination.

In any lease or rental agreement covering premises occupied for dwelling purposes, a lessee or tenant for whose benefit any order of protection has been issued by a court of competent jurisdiction, shall be permitted to terminate such lease or rental agreement and quit and surrender possession of the leasehold premises, and of the land so leased or occupied pursuant to the provisions of this section and to be released from any liability to pay to the lessor or owner, rent or other payments in lieu of rent for the time subsequent to the date of termination of such lease.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Sec. 13-7. Administration and enforcement.

- (a) The authority and responsibility for administering the fair housing article shall be in the director of the administering department assigned by the city manager's office.
- (b) All city agencies and departments shall administer their programs and activities relating to housing in a manner to affirmatively further the purposes of this article and shall cooperate with the administering department to further such purposes.
- (c) The administering department shall review plans and construction of newly constructed covered multifamily dwellings for the purpose of making a determination as to whether the design and construction requirements of subsection 13-5(6)c.3. are met. No building permit shall be issued and no certificate of occupancy shall be issued for covered multifamily dwellings that do not meet those requirements. Notwithstanding the above, no one shall be denied a certificate of occupancy for failure to meet the requirements of subsection 13-5(6)c.3. if a city building permit was issued prior to the adoption of the ordinance from which this article is derived.
- (d) The director of the administering department or his or her designee shall be responsible for providing information to and assisting aggrieved persons who request assistance in filing complaints with the U.S. Department of Housing and Urban Development, and/or in accordance with reporting/complaint filing processes established for the city not inconsistent with this section and this article.
- (e) Whenever the director of the administering department or designee has reason to believe that any person has engaged in a discriminatory housing practice in violation of section 13-5, the director or designee may invite the person to discuss the violation and methods of correcting the cause of the violation.
- (f) Section 13-5 makes it unlawful to discriminate in the sale or rental of housing and other prohibited practices according to the Fair Housing Act. If a violation has occurred, the municipal court may assess a fine of not more than \$500.00 or impose imprisonment for not more than 90 days or both, in addition to any fines and/or other remedies afforded under separate civil remedies and/or state or federal law. Each separate violation shall constitute a separate offense, and in the case of a continuing violation, each day that a violation continues after notice from the city and request for correction shall constitute a separate offense.

(Ord. No. 2965 , § I(Exh. A), 4-5-21)

Secs. 13-8—13-49. Reserved.

Natalie Green

From: Lee
Sent: Wednesday, April 12, 2023 7:06 AM
To: Natalie Green
Subject: Section 8

Hello Ms. Green.

There is a shortage of rental housing in Las Cruces. Adding the burden of requiring landlords to accept Section 8 vouchers will cause even more landlords to sell their rentals, thus reducing the number of available affordable rentals even more. It's already happening since the pandemic started.

The solution is to encourage the building of more rentals by developers and builders. Las Cruces especially needs the building of basic houses. Builders now build big fancy, unaffordable houses or they build tiny, dense apartment complexes. Thus, we have the missing middle.

I follow the rental market online. Folks are looking for smaller houses with small yards. Duplexes and triplexes and quadplexes would fit the bill but we have very few houses like that here.

Do you have any authority to get units built? Do you know who I could talk to to advocate for this?

Thx for all you do.

Natalie Green

From: Lucca
Sent: Wednesday, April 12, 2023 8:35 PM
To: Natalie Green
Subject: Recommendations from a tenant: rent limitations, 5% of monthly rent increase as max

Hi Natalie,

I saw you make recommendations to the city, and as a tenant of two years in Las Cruces, I'd like to provide recommendations from me based on my experience as a tenant that should help protect tenants while the landlords still make money off of the housing services they provide. Last year, my landlord at Quail Ridge Apartments (251 N. Roadrunner Parkway, Las Cruces, NM 88011) increased my rent by nearly \$100 per month when I renewed my lease for another year - between the housing market and moving, I couldn't afford to move and had to stomach that very large increase. Please correct me if I'm wrong: I know landlords can increase rent to whatever they want in New Mexico, and I'd like to propose a limit on landlords in Las Cruces, so they cannot exploit tenants but instead simply continue to regularly make money like they want. I'd like to propose that they cannot increase rent more than 5% of the rent the tenant is paying per month at the time of renewal -- that way, the increase isn't too much for the tenant, but the landlord still gets a substantial increase for whatever costs they claim - and I'm sure they'd still be making a good amount of revenue. I would love to hear your thoughts, and I'm open to meeting in person and having a conversation about this.

Thank you,
Lucca

--

Natalie Green

From: Grim ;
Sent: Friday, July 7, 2023 12:46 PM
To: Fair Housing
Subject: Fwd: Section 8 nightmares

----- Forwarded message -----

From: Grim
Date: Thu, Jul 6, 2023, 11:34 AM

Hello, my name is Christine I am a Las Cruces native and why I haven't left I don't know. I do know that I have a big mouth and was recently voted, MVPH Tenant Advocate for the Board of Commissioners, here in Las Cruces NM. I am a Grad student and have worked and went to school a big portion of my life. I want to help my community so I'm working towards a Master's in Clinical Metal Health that will be contribution to the collective. We have a lot of problems with MVPH whether is be not being able to get ahold of someone (at all) or rude belittling behavior by the staff. I understand money is an issue we are one of the poorest states. I understand theres an economic downturn and we also are dealing with Co-Vid BUTif you are a Section 8 Voucher recipient in Las Cruces NM it pretty much means your homeless. I have contacted over 70 rental property in the past 2 months and 50 have responded back to me. Out of the 50 responses I received not one of them say yes or even a maybe. The rental property owners are allowing for accomodations to the LGBTQ communities vouchers. The opposite is true of Section 8 vouchers the owners are specifically identifying that they will NOT honor or work with Section 8 Vouchers.

I CAN ONLY TELL FROM MY OWN EXPERIENCE AND WHAT IS HAPPENING TO ME RIGHT NOW.

I am not getting my lease renewed because my landlord does not want to get the home up to housing standards. Wouldnt you say that speaks volumes to what we, the underprivileged, are dealing with. I never had heat in my home because there is no ventilation underneath my home. I don't even know if the heater is functioning. I also don't have an air conditioner. I was kicked off Section 8 for no heat when I complained the landlord turned off my water.

SIDENOTE:I was even supposed to pay water. I did pay the water after all and the landlord didn't turn the money in to the utility.

I appealed and got my voucher back I'm just glad I know how to articulate my situation. HUD and MVPH are both entities that were created so that everyone could be afforded the same treatment which is all we are asking for. Now MVPH is being used against us as a weapon by the slumlords to keep us quiet. I have been threatened by my landlord that I would lose my assistance if I didn't just leave when he said. He didn't want to pay for court. I have ERAP (my landlord is registered with) willing to help me but my landlord is retaliating against be for not keeping quiet and not listening to his fake threats and fake paperwork he's been leaving at my door. He has broken at least 10 states and federal laws and when I talk to my caseworker she basically said, "if he's evicting you we need that paper." That was the extent of our conversation. Well my landlord never gave me one until now.....I tried to avoid all this but the agencies put in place to protect us are now the agencies that have joined forces against us. I now have running water, I don't have a working refrigerator, I don't have a heater, I don't have someone fixing minor things around the house. I don't think I'm asking a lot. I have had the kitchen window broken for 2 years. My neighbor keeps calling the cops on me and one more than one occasion has made reference to the fact they didnt like I was on assistance. There's something really wrong when the people that are supposed to be helping are causing the harm. We have enough to content with just being homeless this is not helping me get to place where I no longer need assistance. I have person after person with similar stories. Please help. I have court tomorrow with no where to go and I'm probably going to be thrown out into his street with my two kids. Thank you for your time.

Best regards,



**3046; Council
Bill No. 24-004**

City Council Action and Executive Summary

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	August 7, 2023	Adopted:	August 21, 2023
Drafter:	Jan Lauterbach	Department:	City Manager's Office
Program:	Housing & Neighborhood Services	Line of Business:	Housing & Neighborhood Services
Title:	AN ORDINANCE TO AUTHORIZE THE CONVEYANCE OF A CITY-OWNED VACANT PARCEL KNOWN AS LOT NUMBER 1B HOPE SUMMARY SUBDIVISION (AKA 2245 E. GRIGGS AVENUE) TO CATHOLIC CHARITIES HOUSING INC.,/ CHelsea INVESTMENT CORPORATION FOR THE DEVELOPMENT OF THE THREE SISTERS AFFORDABLE HOUSING COMPLEX AS AUTHORIZED UNDER THE STATE OF NEW MEXICO'S AFFORDABLE HOUSING ACT (THE ACT) NMSA 1978 CHAPTER 104, IN CONJUNCTION WITH THE CITY OF LAS CRUCES' AFFORDABLE HOUSING GENERAL OVERSIGHT ORDINANCE.		

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
Approve ordinance for land donation for affordable housing.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
Catholic Charities Housing Inc. (CC Housing Inc.) and Chelsea Investment Corporation are the development partners for The Three Sisters apartment complex, a new 70-unit low-income housing tax credit (LIHTC) project for families to be constructed at 130 N. Walnut. The City, in conjunction with the New Mexico Mortgage Finance Authority, is supportive of the development to bring much-needed affordable housing to Las Cruces.

The City owns an adjoining vacant parcel of land known as Lot 1B of Hope Summary Subdivision (AKA 2245 E. Griggs Avenue). CC Housing Inc. and Chelsea Investment Corporation, approved Qualifying Grantees, and the partnering developers of The Three Sisters apartment complex desire to acquire the City-owned parcel as part of development for site improvements including the community center and access to the complex.

The donation of a parcel of land for affordable housing development to an approved Qualifying Grantee agency is allowed under the State of New Mexico's Affordable Housing Act (The Act) NMSA 1978 Chapter 104 and in conjunction with the City of Las Cruces (City) Affordable Housing General Oversight Ordinance Chapter 13, Sec 13-103 (1)(a) of the City's Municipal Code.

With the approval of the ordinance, at title transfer from the City to CC Housing Inc. / Chelsea Investment Corp., the warranty deed will include a reversionary clause stipulating that the property will be used for the development of affordable housing and if construction is not completed by January 2025, title to the parcel will revert back to the City.

Agenda Item #9.3.

Donation of this vacant parcel will allow for the development to proceed in a manner that meets construction timeline restrictions.

SUPPORT INFORMATION:

[Exhibit "A" Warranty Deed](#)

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Affordable Housing Committee

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the ordinance for the donation of a parcel of City-owned property to CC Housing Inc., / Chelsea Investment Corporation for affordable housing development.
2. Vote "No"; this will not approve the ordinance allowing for the donation of the parcel to CC Housing Inc. / Chelsea Investment Corporation which could cause development delays and possibly cancel the entire development.
3. Vote to "Amend"; this will direct staff to modify the proposed ordinance.
4. Vote to "Table"; the will direct staff to modify the proposed ordinance.

ORDINANCE 3046; COUNCIL BILL NO. 24-004

AN ORDINANCE TO AUTHORIZE THE CONVEYANCE OF A CITY-OWNED VACANT PARCEL KNOWN AS LOT NUMBER 1B HOPE SUMMARY SUBDIVISION (AKA 2245 E. GRIGGS AVENUE) TO CATHOLIC CHARITIES HOUSING INC.,/ CHELSEA INVESTMENT CORPORATION FOR THE DEVELOPMENT OF THE THREE SISTERS AFFORDABLE HOUSING COMPLEX AS AUTHORIZED UNDER THE STATE OF NEW MEXICO'S AFFORDABLE HOUSING ACT (THE ACT) NMSA 1978 CHAPTER 104, IN CONJUNCTION WITH THE CITY OF LAS CRUCES' AFFORDABLE HOUSING GENERAL OVERSIGHT ORDINANCE.

The City Council is informed that:

WHEREAS, Catholic Charities Housing Inc. (CC Housing) and Chelsea Investment Corporation are the partnering developers for The Three Sisters apartment complex, a new 70-unit low-income housing tax credit (LIHTC) project for families, to be constructed at 130 N. Walnut; and

WHEREAS, the City of Las Cruces (City) is the owner of a vacant parcel known as Lot 1B of Hope Summary Subdivision (AKA 2245 Griggs Avenue); and

WHEREAS, the donation of a parcel of vacant land to an approved Qualifying Grantee for affordable housing development is allowed under the State of New Mexico's Affordable Housing Act (The Act) NMSA 1978 Chapter 104, and in conjunction with the City's Affordable Housing General Oversight Ordinance Chapter 13, Sec 13-103 (1)(a) of the City's Municipal Code; and

WHEREAS, CC Housing Inc. and Chelsea Investment Corporation, are approved Qualifying Grantee and partnering developers of the adjoining parcel known as 130 N. Walnut, desire to acquire the City-owned parcel known as Lot 1B of Hope Summary Subdivision (AKA 2245 E. Griggs Avenue) for affordable housing development; and

WHEREAS, the acquisition of Lot 1B of Hope Summary will allow for site improvements such as the community center and access to affordable housing development.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the City Manager or his designee is authorized to execute a deed as shown in "Exhibit A" with reversionary clause upon Ordinance approval without further consideration by City Council.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

City of Las Cruces, whose address is, 700 N. Main Street, Las Cruces, NM 88001 for consideration paid, grant(s) to **Catholic Charities Inc. a New Mexico Non-Profit Corporation whose address is 3301 Candelaria Road NE., Suite B, Albuquerque, NM 87107 /Chelsea Investment Corporation, a California Corporation**, whose address is, **339 Paseo Del Lago, Carlsbad, CA 92011**, the following described real estate in **Dona Ana County, New Mexico**:

Ownership of and title to the Property shall revert to the Grantor if: the Grantee, or Developer, or its successors and/or assigns, fails to complete construction of affordable housing on either this conveyance, or any future replated lot which this conveyance is made a part of within 2 years from the date of filing of this Warranty Deed with the County Clerk of Dona Ana County which is _____, _____, 2023. The City shall exercise the right of reversion by the City by filing an affidavit indicating that the City has exercised it's right of reversion. Upon filing of such affidavit and Warranty Deed, the Property shall automatically, without further action, vest in fee simple to the City. However, the City shall not exercise its Reversionary Interest on any portions of the Property if and to the extent that Grantee has commenced construction and is diligently pursuing the same to completion (for the period not to exceed 24 months from this conveyance). Grantee's acceptance of this Deed evidence Grantees agreement to and acceptance of said right of reversion, and Grantee further waives any objection to the form or operation of the right of reversion as well as any effect said right of reversion may have of the marketability of title to said Property.

With warranty covenants.

City of Las Cruces

Acknowledgement for Corporation

Notary Public

My Commission Expires: