

SPECIAL CITY COUNCIL MEETING AGENDA

Friday, April 10, 2020 at 9:30 AM



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

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

Mayor
Ken Miyagishima

Mayor Pro-Tem
Kassandra Gandara

Councilors
Tessa Abeyta-Stuve
Gabriel Vasquez
Johana Bencomo
Gill Sorg
Yvonne Flores

**Individuals may view meetings live at
lascruces.civicweb.net**

The health, safety and well-being of our residents and businesses are a top priority for City Council and the leadership in Las Cruces. As such, and consistent with and in support of the direction from Gov. Michelle Lujan Grisham and the New Department of Health public health order the Special Council Meeting will be held via video conference. In an effort to seek public input we ask that if you have comments/concerns/questions please e-mail your Councilor as follows:

District 1 – kgandara@las-cruces.org
District 2 – tstuve@las-cruces.org
District 3 – gvasquez@las-cruces.org
District 4 – jbencomo@las-cruces.org
District 5 – gsorg@las-cruces.org
District 6 – yflores@las-cruces.org
Mayor – mayor@las-cruces.org

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).

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THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020
BUDGET.

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3. UPDATES

3.1. Federal monies awarded to the City of Las Cruces.

4. ADJOURNMENT

**20-133****Type of Action:**☒ Resolution☐ Ordinance☐ TIDD Resolution**Council Action and Executive Summary**

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading:	Adopted: April 10, 2020
Drafter: Jennifer Vega-Brown	Department: Legal
Program:	Line of Business:
Title:	A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION.

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial**PURPOSE(S) OF ACTION:**

To extend the term of the Mayor's Emergency Proclamation.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On March 11, 2020, Governor Michelle Lujan Grisham issued an Executive Order declaring a state of public health emergency and invoked her executive powers as authorized by the All Hazard Emergency Management Act and the Emergency Licensing Act. This action was taken in response to a declared pandemic of the COVID-19 virus. Since that time, the New Mexico Department of Health has issued at least two separate Public Health Emergency Orders in an effort to slow or halt transmission of the virus.

On March 27, 2020, the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Chapter 9, Art. III Sections 9-35 through 9-41. It provides the Mayor and Mayor Pro Tem the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations. It also allows the City Council to authorize limited action in response to an emergency situation. The Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation. The term of the proclamation is three (3) days, but can be extended for up fourteen (14) days at a time.

On April 7, 2020 the Mayor issued an Emergency Proclamation, which will expire in three days on noon April 10, 2020 pursuant to LCMC 1997, Section 9-38(B). This action was taken so that the City may have the potential to receive reimbursement for funding and programs from the Federal Emergency Management Agency (FEMA) based on qualified expenses as Federal assistance is ordered. The proposed resolution extends the term of the Emergency Proclamation by fourteen (14) days to expire on April 24, 2020 pursuant to Section 9-38(C). The term of this extension to the Emergency Proclamation is to run concurrent with the New Mexico Governor's Executive Order 2020-022 (Attachment "A") issued on April 6, 2020, which extends the declared state of public health emergency to address the pandemic.

SUPPORT INFORMATION:[Exhibit "A" Proclamation](#)[Attachment "A" EO 2020_022](#)**ANNUAL BUDGET APPROVAL:**☐ Yes

Agenda Item #2.1.

- ☐ No
- ☒ N/A

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

- ☐ Yes
- ☐ No
- ☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote yes, this would approve the Resolution and allow the term of the Mayor's Emergency Proclamation would be extended an additional fourteen (14) days until April 24, 2020.
2. Vote no, this would not approve the Resolution nor the term of the Mayor's Emergency Proclamation would not be extended an additional fourteen (14) days.
3. Vote to amend would delay extending the the Mayor's Emergency Proclamation.
4. Vote to table, this will postpone consideration of the Resolution and staff will require direction from City Council.

RESOLUTION 20-133

A RESOLUTION EXTENDING THE TERM FOR THE MAYOR'S EMERGENCY PROCLAMATION.

The City Council is informed that:

WHEREAS, at least 686 New Mexicans have tested positive for the novel coronavirus, COVID-19 and at least twelve have died; and

WHEREAS, at least thirty residents of Doña Ana County have tested positive of the novel coronavirus, COVID-19; and

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans can spread via droplets from person to person; and

WHEREAS, on March 11, 2020 the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of COVID-19 a "Pandemic"; and

WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham proclaimed a public health emergency and invoked all powers under the All Hazards Emergency Act (§§12-10-1 through 12-10-10, NMSA 1978), for a minimum period of thirty (30) days; and

WHEREAS, on March 27, 2020 the City Council passed the Emergency Declaration Ordinance, LCMC 1997, Art. III Sections 9-35 through 9-41, which provides the Mayor and Mayor Pro Tem the authority to take immediate action for the protection of life and property, and for the preservation of public peace, safety, health, welfare, and for the continuity of efficient government operations and allows the City Council to authorize limited action in response to an emergency situation; and

WHEREAS, the Emergency Declaration Ordinance authorizes the Mayor and Council to exercise their emergency powers through a proclamation for term of three (3) days, but can be extended for up fourteen (14) days at a time; and

WHEREAS, on April 7, 2020, Mayor Miyagishima issued an Emergency Proclamation pursuant to the Emergency Declaration Ordinance and attached as Exhibit A. This action was taken so that the City may have the potential to receive reimbursement for funding and programs from the Federal Emergency Management Agency (FEMA) based on qualified expenses as Federal assistance is ordered; and

WHEREAS, pursuant to LCMC 1997, Section 9-38(B), the Emergency Proclamation expires at noon on Friday, April 10, 2020; and

WHEREAS, the City Council wishes to extend the Proclamation for an additional fourteen (14) days pursuant to LCMC 1997, Section 9-38(C) and to run concurrent with the Governor of the State of New Mexico's Executive Order 2020-022.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Las Cruces:

(I)

THAT the Emergency Proclamation (Exhibit "A") issued by Mayor Miyagishima on April 7, 2020 is hereby extended by fourteen (14) days, expiring on April 24, 2020 pursuant to LCMC 1997, Section 9-36.

(II)

Agenda Item #2.1.

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

DONE AND APPROVED this 10 day of April 2020

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Tessa Abeyta-Stuve

Seconded by: Gill Sorg

AYES Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa Abeyta-Stuve, Johana Bencomo

NAYS



Office of the Mayor

KENNETH D. MIYAGISHIMA
MAYOR

CITY OF LAS CRUCES

CITY OF LAS CRUCES

PROCLAMATION OF EMERGENCY

WHEREAS, pursuant to LCMC Art. III, Sec. 9-35, Emergency Declaration Ordinance, the Mayor has the authority to proclaim that a state of emergency exists in the municipality, after consultation with the emergency manager, chief of police, or fire chief; and

WHEREAS, such proclamation allows the Mayor to prohibit and/or require certain actions to maintain the public peace, health, welfare, or safety, and if desired, to request that the Governor of New Mexico proclaim a state of emergency pursuant to the Riot Control Act; and

WHEREAS, LCMC Art. III, Sec. 9-41, defines a public health emergency as an emergency need for health care, medical services, or public health, welfare, or safety initiatives to respond to disaster, significant outbreak of infectious disease, bioterrorist attack, or other significant catastrophic event; and

WHEREAS, LCMC Art. III, Sec. 9-41, defines a civil emergency, as conditions of unrest, including but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage; civil emergency may include actions that evidence mass panic which causes a shortage of basic food, water, health and hygiene products, or other basic life necessities; and

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019, referred to as "COVID-19", that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and from one county to another; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency as a precautionary tool to facilitate preparation and availability resources to assure that the federal government had appropriate resources to combat the spread of the COVID-19 virus in the nation through its support of state and community-led preparedness and response efforts; and

WHEREAS, the New Mexico Department of Health continues to identify a growing number of individuals infected with COVID-19 in New Mexico, including cases in Dona Ana County; and

WHEREAS, on March 11, 2020, Governor Michelle Lujan Grisham, declared in Executive Order 2020-004 that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act and invoked the All Hazards Emergency Management Act by directing all cabinets, departments, and agencies to comply with the directives of the declaration and the further instructions of the Department of Health; and

WHEREAS, on March 12, 2020, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, declared the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24-1-2, as an infection, a disease, a syndrome,

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a symptom, an injury or other threat that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico, and

WHEREAS, the further spread of COVID-19 in the City of Las Cruces poses a threat to the health, safety, and well-being to the residents of the City, including the potential loss of life, serious illness resulting from exposure to the COVID-19 virus, significant negative impact on the social, economic, and overall quality of life of the residents of Las Cruces;

NOW THEREFORE, I, Kenneth Miyagishima, Mayor of the City of Las Cruces, New Mexico, hereby declare that an emergency exists in the City. As a result of the emergency, events have caused or are causing danger of injury or damage to persons and property within the City. I hereby invoke LCMC Sections 9-35 through 9-41, to preserve the peace, health, welfare, and safety in the City of Las Cruces. In particular, I am invoking the following actions:

- I. I order the following:
 - a. The residents of the City of Las Cruces shall comply with all current State of New Mexico Executive orders and New Mexico Department of Health Public Health Emergency Orders, including the Stay Home Health Order issued by Governor Michelle Lujan Grisham that extends until April 30, 2020.
 - b. This order is intended to run concurrently with the State of New Mexico Executive Order 2020-022 and all renewals of Executive Order 2020-004, other powers invoked in that Order, and all other Orders and Directives contained in the Executive Orders Tied to the Public Health Emergency.
 - c. The City Manager shall direct city employees, as he deems appropriate and necessary, to perform emergency functions.
 - d. All available resources of the City shall be used to address the emergency as reasonably necessary and as allowed by City ordinance.
 - e. Mayor Pro Tem Kasandra Gandara, Interim City Manager David Maestas, Assistant City Manager David Dollahon, and Interim Assistant City Manager Barbara DeLeon, respectively are my substitute signatories in my absence, for emergency obligation of funds during the pendency of the declared emergency.
- II. Further, based on the recommendations of the Centers for Disease Control, National Institutes of Health, and other governmental, medical, and public health experts, I advise residents and visitors to the City to take the following precautions in their day to day activities:
 - a. For those at high risk (elderly and immune compromised individuals), secure three (3) months of all necessary medical prescriptions;
 - b. Avoid contact with people who are sick;
 - c. Wash your hands often with soap and water for at least 20 seconds, especially after blowing your nose, coughing, or sneezing, or having been in a public place;
 - d. If soap and water are not available, use a hand sanitizer that contains at least 60% alcohol;
 - e. To the extent possible, avoid touching high-touch surfaces in public places, such as door handles and handrails;
 - f. Use a tissue or sleeve to cover your hand or finger if you must touch something;

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- g. Avoid handshaking;
- h. Avoid touching our face, nose, and eyes;
- i. Clean and disinfect your home to remove germs: practice routine cleaning of frequently touched surfaces (for example: tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, cell phones, and other electronic devices);
- j. Follow all Executive Orders and Public Health Emergency Orders for social distancing and self-quarantine;
- k. Practice social distancing, remaining six (6) feet apart from others and avoiding all unnecessary trips to public places such as grocery stores and pharmacies. Such travel should be limited to only necessary food and medication.
- l. Avoid all non-essential travel.

III. Effective Date

I hereby declare that this Proclamation will become effective upon my signature and direct the City Manager to disseminate the contents hereof to the public by appropriate news media, government media and website, and other means available.

IV. Term.

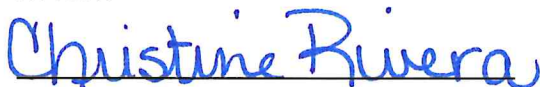
This Proclamation of Emergency may be extended for such additional periods of time as determined necessary by Resolution of the Governing Body of the City of Las Cruces, New Mexico.

DONE at Las Cruces, New Mexico this 7th day of April, 2020, at the hour of 1:15 pm (MST).



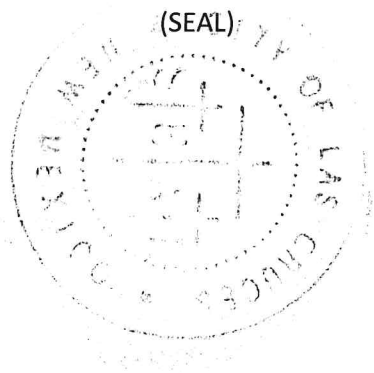
KENNETH MIYAGISHIMA, MAYOR
City of Las Cruces, New Mexico

ATTEST:



CHRISTINE RIVERA, ACTING CITY CLERK

(SEAL)





State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2020-022

**RENEWING THE STATE OF PUBLIC HEALTH EMERGENCY DECLARED IN
EXECUTIVE ORDER 2020-004, OTHER POWERS INVOKED IN THAT ORDER, AND
ALL OTHER ORDERS AND DIRECTIVES CONTAINED IN EXECUTIVE ORDERS
TIED TO THE PUBLIC HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization ("WHO"). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to "COVID-19."

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states.

On March 11, 2020, I issued Executive Order 2020-004, which declared a state of public health emergency under the Public Health Emergency Response Act and invoked powers provided by the All Hazards Emergency Management Act and the Emergency Licensing Act. That public health emergency was declared for a period of 30 days.

Now, less than four weeks later, the world is reeling from staggering increases in cases of COVID-19 and deaths related to COVID-19. The WHO reports more than 1.2 million worldwide infections and at least 67,5994 related deaths. According to the United States Centers for Disease Control and Prevention ("CDC"), at least 330,891 people have been infected in the United States,

including confirmed cases in every state, with at least 8,910 related deaths. The numbers of cases and deaths are continuing to increase exponentially throughout many parts of the world and in many parts of the United States. That is why the President of the United States declared a national state of emergency for COVID-19 on March 13, 2020.

The numbers have also risen dramatically in our State since I declared a public health emergency. As of April 5, 2020, the New Mexico Department of Health reported at least 624 confirmed cases of COVID-19 in New Mexico and at least 12 related deaths. There are confirmed cases of COVID-19 in 23 of New Mexico's 33 counties. Despite proactive measures taken by the State and our citizens, these numbers are increasing at a dangerous rate and COVID-19 is expected to continue its spread in New Mexico.

Public health organization have implemented emergency measures intended to slow the spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO similar declared a Public Health Emergency of International Concern shortly thereafter. Nearly all of our sister states have declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its potentially devastating effects. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State's response to COVID-19, including the New Mexico Department of Health. All State agencies are undertaking efforts in response to this pandemic.

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Due to the continued spread of the COVID-19, it is necessary for all branches of State government to continue taking actions to minimize the spread of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico, hereby ORDER and DIRECT:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004 is renewed and extended through April 30, 2020.
2. All other powers invoked, directives, and orders contained in Executive Order 2020-004 remain in effect.
3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency shall continue with the same effect. This includes Executive Orders 2020-006, -007, -008, -009, -010, -011, -013, -014, -015, -016, -017, -018, -019, -020.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until May 1, 2020 unless renewed or until the Governor rescinds it.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 6TH DAY OF APRIL 2020

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Michelle Lujan Grisham
MICHELLE LUJAN GRISHAM
GOVERNOR





**2924; Council
Bill 20-032**

Council Action and Executive Summary

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District: ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6

1st Reading:

Adopted:

April 10, 2020

Drafter: Jose Cardona

Department:

Financial Services

Program:

Line of Business:

Procure To Pay

Title: **AN EMERGENCY ORDINANCE AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO AMEND THE PROCUREMENT CODE, UNDER CHAPTER 24 OF THE MUNICIPAL CODE, TO ACCOMMODATE EMERGENCY PROCUREMENT MEASURES.**

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

PURPOSE(S) OF ACTION:

To amend the City's Procurement Code.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On April 3, 2020 the City Council approved \$1,072,500 in emergency assistance to assist with the impact to City residents caused by the Public Health Order to address the Coronavirus. The City's response to the Public Health Order allows City management and staff to assure an adequate local public health infrastructure, promote a healthy community and healthy behavior, minimize the spread of communicable disease, protect against environmental health hazards, prepare for and respond to emergencies, and assure health services to its residents.

The City Manager's Office received guidance from City Council to amend the City's Procurement Code to accommodate emergency proclamations. Article V, Section 5.10. Procurement, of the City of Las Cruces Charter stipulates that City Council shall adopt a Procurement Code consisting of procurement rules, regulations and procedures. City staff has reviewed the Procurement Code, LCMC, Chapter 24, and recommends revisions based on a state of emergency.

The recommended changes include adding the definition of an emergency, specifically when there exists an immediate threat to public health, welfare, or safety and adding an exemption for the procurement of services, and supplies and construction materials when such an authorized state of emergency exists. This includes but is not limited to: health care related goods or services; food and water; health and hygiene products; or other basic life necessities. The City Manager may authorize emergency procurement under this provision.

The amendment to the City's Procurement Code will streamline and improve the emergency procurement process and assist in meeting the needs of the City.

SUPPORT INFORMATION:

[Exhibit A - Amended Procurement Code for Council packet \(Emergency Procurement\) 04.07.2020 \(A\)](#)

ANNUAL BUDGET APPROVAL:

- ☐ Yes
- ☐ No
- ☒ N/A

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

- ☐ Yes
- ☐ No
- ☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote “Yes”; this will approve the Emergency Ordinance and amend the Procurement Code to make the necessary changes.
2. Vote “No”; this action will not approve the Emergency Ordinance and the Procurement Code will remain as status quo.
3. Vote to “Amend”; this could modify the Ordinance based on direction from City Council to Staff.
4. Vote to “Table”; this will impact the City’s response to the current Public Health Order and City Council will need to provide direction to Staff.

ORDINANCE 2924; COUNCIL BILL 20-032

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO AMEND THE PROCUREMENT CODE, UNDER CHAPTER 24 OF THE MUNICIPAL CODE, TO ACCOMMODATE EMERGENCY PROCUREMENT MEASURES.

The City Council is informed that:

WHEREAS, on April 3, 2020 the City Council approved \$1,072,500 in emergency assistance to assist with the impact to City residents caused by the Public Health Order to address the Coronavirus and the City's response to the Public Health Order allows City management and personnel to act: to assure an adequate local public health infrastructure, to promote a healthy community and healthy behavior, to minimize the spread of communicable disease, to protect against environmental health hazards, to prepare for and respond to emergencies, and to assure health services to its residents; and

WHEREAS, the City Manager's Office received guidance from City Council to amend the City's Procurement Code to accommodate to the current Public Health Order; and

WHEREAS, Article V, Section 5.10. Procurement, of the City of Las Cruces Charter stipulates that City Council shall adopt a Procurement Code consisting of procurement rules, regulations and procedures which is codified in the Las Cruces Municipal Code (LCMC), 1997, as amended in Chapter 24, Procurement Code; and

WHEREAS, City staff has reviewed the Procurement Code, LCMC, Chapter 24, and recommends revisions based on a state of emergency; and

WHEREAS, the recommended changes include adding the definition of an emergency, specifically when there exists an immediate threat to public health, welfare, or safety and adding an exemption for the procurement of services, and supplies and construction materials when such an authorized state of emergency exists, which includes but is not limited to: health care related goods or services; food and water; health and hygiene products; or other basic life necessities and the City Manager may authorize emergency procurement under this provision.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the City of Las Cruces:

(I)

THAT, Chapter 24, Procurement Code, Sections 24-1 and 24-4 of the LCMC is hereby amended and adopted, as shown in Exhibit "A", attached hereto and made a part of this Emergency Ordinance.

(II)

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

DONE AND APPROVED this 10 day of April 2020

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Yvonne Flores

Seconded by: Gabe Vasquez

AYES Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa
Abeyta-Stuve, Johana Bencomo

NAYS

Sec. 24-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

All definitions listed within New Mexico Statutes sections 13-1-21 through 13-1-199, NMSA, 1978, plus, sections 13-4-1 through 13-4-43, NMSA, 1978, are incorporated herein by reference. Wherever difference exists between such statutory definitions and any definitions within this chapter, the definition of this chapter shall prevail.

Agreement means two or more persons having common understanding about responsibilities, obligations, duties and rights.

Approved equals means approved specifications as established by the industry or the using agency.

Bid means a response to a procurement solicitation issued pursuant to section 24-91 of this chapter.

Bidder means a person who submits a quote/bid in response to a solicitation for respective, competitive quotes/bids.

Blind trust means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other disposition of the property subject to the trust.

Brand name or equal specifications means a specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Calendar days means all days in a month including weekend, holidays, etc.

Contingency means an amount set aside to address unforeseen issues.

Contract means agreement between two or more persons authorized to legally bind their interests by setting forth what each person will or will not do in the procurement of tangible personal property, professional or nonprofessional services, or construction.

Contract limitations and change orders means a construction related written order directing the contractor to make a change, which the contract authorizes with or without the contractor's consent.

Emergency. For the purposes of this section, an emergency is (a) when an emergency procurement of supplies, services, or construction items is necessary when there exists an immediate threat to public health, welfare, or safety; or (b) or as defined by Article III, Sec. 9-41, and authorized in accordance with LCMC Article III, et. seq.

Agenda Item #2.2.

Employee means an individual drawing salary or wages from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the city; and any uncompensated individual serving as an elected official of the city.

Financial interest means:

- (1) Ownership of one percent or more of any property or business; or
- (2) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether or not the consideration is less than, equal to or greater than the value presented or promised.

Invitation for bid/invitation to bid (IFB or ITB) means all documents, whether attached or incorporated by reference, used for soliciting sealed bids whereby award is based upon the lowest price that meets specifications.

Local business means a business that has a valid city business certificate issued through the City of Las Cruces Community Development Department.

Offerer (offeror) means a person submitting a proposal in response to a competitive request for proposals.

Person means any business, individual, union, committee, club, or other organization, or group of individuals.

Pricing data means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Procurement means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, service, or construction, including needs analysis, specification development, competitive or noncompetitive solicitation of sources, contract development, negotiation and execution, and all phases of contract administration.

Proposal means a response to a competitive procurement solicitation issued pursuant to section 24-92 of this chapter.

Public agency means an administrative division of city, state or federal government.

Qualified products list means an approved list of tangible goods, services, or construction items described by model or catalog numbers, which, prior to competitive solicitation, a determination was made that the list met applicable specification requirements.

Quote means a response to a procurement solicitation issued pursuant to section 24-94 of this chapter.

Agenda Item #2.2.

Request for proposals (RFP) means a competitive solicitation of proposals conducted for the purchase of goods/services/construction whereby the responses are evaluated considering multiple, weighted criteria and the resulting contract is awarded based upon the response ranked highest considering such criteria.

Request for quote (RFQ) means a competitive solicitation quotes conducted for the purchase of goods/services/construction, whereby award is based upon the lowest price that meets specifications from a local business or non-local business as deemed practical.

Supplies includes tangible goods including, but is not limited to, equipment, materials, rolling stock, books, fuel, tools, printed media.

Technical services means research and development (R&D) work, the development and installation of management information systems (MIS), materials requirement planning (MRP) systems, and the development of technical manuals, printing services, and repair services.

Using agency means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this chapter.

Working days means only those days per City calendar in which City staff are available to address, observe, or otherwise handle contractual issues as they arise. The following days are normally not considered working days: City Holidays, Saturdays, Sundays, and days in which the City Manager has closed City Offices due to inclement weather or some other specified emergency.

Sec. 24-4. - Authorized exemptions.

This chapter shall not apply to the following:

- (1) Procurement of goods, services or construction from state agencies, public bodies or external procurement units.
- (2) Procurement of publicly provided or publicly regulated gas, electricity, water, sewer or refuse collection services.
- (3) Purchases of books and periodicals from publishers or copyright holders thereof to include publications offered on CDs, videos, or the Internet.
- (4) Travel or shipping by common carrier or by private conveyance, or to meals and lodging. Payment for conference registrations, membership dues, or any other similar items, which are administrative in nature and are determined to be non-competitive by the city purchasing manager.
- (5) Purchase of livestock.
- (6) Art objects or artifacts or for their creation.
- (7) Procurement from self-determination corporations or other such enterprises designed and operated to assist in the care or maintenance of the sick and indigent and the prevention thereof, and aided by state or federal antipoverty programs or through private philanthropy.

Agenda Item #2.2.

(8) Leases, exchanges or purchases of real property or a permanent interest in land.

(9) Services of bond underwriters.

(10) Services of expert witnesses needed in conjunction with litigation, court reporting services and legislative activities.

(11) Purchases, rentals, leases (personal and real property), and professional/technical services contracts necessary for the investigation of criminal activities. The police department may purchase such materials and services without quotations, requests for proposals, or bids if such would compromise a criminal investigation as determined by the chief of police in writing. All funds expended for this type activity will be properly receipted and accounted for with supporting documentation. All documentation will be maintained by the police department and shall be subject to internal audit. Rentals, leases, and professional/technical services will be limited to the term of an investigation.

(12) Contracts with professional entertainers.

(13) Advertising in all media.

(14) Promotional goods intended for resale or for the procurement of printing services for materials produced and intended for resale.

(15) Subscription services.

(16) Contracts for retirement and other benefits.

(17) Services provided by lobbyists or legislative experts.

(18) Contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration.

(19) Contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts.

(20) Procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act.202

(21) Procurement of services, supplies, and construction materials when an emergency exists as defined by LCMC Art. I, Sec. 24-1. The duration for this exemption shall occur in accordance with the state of emergency as authorized by Art. III, Sec. 9-38, and shall terminate concurrently with the authorized state of emergency. Procurement under this section shall be limited to emergency services, supplies, and construction materials for the provision of public health, welfare, or safety, including but not limited to: health care related goods or services; food and water; health and hygiene products; or other basic life necessities. The city manager may authorize the purchasing manager or designee to make emergency procurement under this provision up to an amount of \$250,000. This provision shall otherwise comply with LCMC Sec. 24-65 and Sec. 24-96.

**20-134**

Type of Action:

☒ Resolution☐ Ordinance☐ TIDD Resolution

Council Action and Executive Summary

District:	☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6
1st Reading:	Adopted: April 10, 2020
Drafter: Natalie Green	Department: Community Development
Program: Community Improvement	Line of Business: Community Improvement

Title: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A BUDGET ADJUSTMENT FOR EMERGENCY ASSISTANCE FOR THE IMPACT FROM COVID-19 TO VARIOUS PROGRAMS FROM THE TELSHOR FUND FOR \$684,000 THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020 BUDGET.

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

PURPOSE(S) OF ACTION:

To adjust City budget.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On April 03, 2020, the Las Cruces City Council allocated \$1,072,500 in emergency assistance from the Telshor Facility Fund to support activities related to COVID-19 emergency response.

COVID-19 continues to pose a threat to the health, safety, well-being and property of residents. The City Council recognizes that necessary mitigation measures have a devastating impact on the Las Cruces community. Furthermore, the Council acknowledges the continued need to support the community through local non-profit organizations and other essential service providers being impacted by the COVID-19 pandemic.

The City Council desires to allocate an additional \$500,000 in emergency assistance from the Telshor Facility Fund. A budget adjustment would allow for funds to be available to provide funding for essential and critical services to combat the effects of COVID-19 across the Las Cruces community.

SUPPORT INFORMATION:

[EXHIBIT A FUND SUMMARIES COVID](#)

[ATTACHMENT A RECOMMENDED USES](#)

ANNUAL BUDGET APPROVAL:

☐ Yes

☒ No

☐ N/A

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT:
\$684,000.00

AVAILABLE AMOUNT:
\$684,000.00

EXPENDITURE AMOUNT:
\$684,000.00

Agenda Item #2.3.

Additional Budgetary Information:

Funds are proposed to be taken from the Telshor Facility Fund (2705) and transferred to the Health Care Fund (2700) pending adoption.

Funding Source(s):

Health Services (FUND 2700) 20453016-721080-COVID

Overall Budget Impact:

Funds are proposed to be taken from the Telshor Facility Fund (2705) and transferred to the Health Care Fund (2700) pending adoption to provide funding for essential and critical services to combat the effects of COVID-19 across our Las Cruces Community. Agreements will be amended or developed and executed as necessary in accordance with established City Policy.

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

☐ Yes

☐ No

☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and accept the budget adjustment as presented and adjust the City's FY2020 budget.
2. Vote "No"; this will not approve the Resolution, nor adjust the budget as presented.
3. Vote to "Amend"; this would modify the Resolution based on City Council's direction and then vote "Yes" on the amended Resolution.
4. Vote to "Table"; this would postpone the Resolution and City Council would need to provide direction to staff.

RESOLUTION 20-134

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A BUDGET ADJUSTMENT FOR EMERGENCY ASSISTANCE FOR THE IMPACT FROM COVID-19 TO VARIOUS PROGRAMS FROM THE TELSHOR FUND FOR \$684,000 THROUGH AN AMENDMENT TO THE CITY'S ADOPTED FY2020 BUDGET.

The City Council is informed that:

WHEREAS, on April 03, 2020, the Las Cruces City Council allocated \$1,072,500 in emergency assistance from the Telshor Facility Fund to support activities related to COVID-19 emergency response; and

WHEREAS, COVID-19 continues to pose a threat to the health, safety, well-being and property of residents. The City Council recognizes that necessary mitigation measures have a devastating impact on the Las Cruces community; and

WHEREAS, the City has identified a continued need to support the community through local non-profit organizations and other essential service providers being impacted by the COVID-19 pandemic; and

WHEREAS, the City Council desires to allocate funding from the Telshor facility fund; an

WHEREAS, a budget adjustment is necessary for funds to be available to provide essential and critical services to combat the effects of COVID-19 across our Las Cruces Community.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Las Cruces:

(I)

THAT the Las Cruces City Council supports essential and critical services to combat the effects of COVID-19 across our Las Cruces community.

(II)

THAT the City Council allocates \$684,000 in emergency assistance from the Telshor Facility Fund specific to the support of essential and critical services to combat the effects of COVID-19 across the Las Cruces community.

(III)

THAT the budget adjustments as indicated in Exhibit "A" and recommended uses as indicated in Attachment "A", attached hereto and made a part of this Resolution, are hereby approved.

(IV)

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

DONE AND APPROVED this 10 day of April 2020

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Gabe Vasquez

Seconded by: Gill Sorg

AYES Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa
Abeyta-Stuve, Johana Bencomo

NAYS

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2019-20

Exhibit "A"

	2700 HEALTH CARE SERVICES MMC LEASE			
	2019-20			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 202,912	202,912	0	202,912
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	0	0	0	0
TOTAL RESOURCES	\$ 202,912	202,912	0	202,912
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	500,000	0	500,000
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	1,050,000	2,250,000	500,000	2,750,000
Quality of Life	1,200,000	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 2,250,000	2,750,000	500,000	3,250,000
Other Resources				
Operating Transfers In	2,185,757	2,685,757	500,000	3,185,757
Operating Transfers Out	0	0	0	0
Total Other Resources	\$ 2,185,757	2,685,757	500,000	3,185,757
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 138,669	138,669	0	138,669

Agenda Item #2.3.

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2019-20

	2705 TELSHOR FACILITY			
	2019-20			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 47,065,797	47,065,797	0	47,065,797
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Internet Sales Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	400,000	400,000	0	400,000
Miscellaneous Revenues	0	0	0	0
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Total Revenues	400,000	400,000	0	400,000
TOTAL RESOURCES	\$ 47,465,797	47,465,797	0	47,465,797
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Economic Development	0	0	0	0
Internal Audit	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Fleet	0	0	0	0
Operations	0	0	0	0
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Quality of Life	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Total Expenditures	\$ 0	0	0	0
Other Resources				
Operating Transfers In	0	0	0	0
Operating Transfers Out	(2,785,757)	(3,285,757)	(500,000)	(3,785,757)
Total Other Resources	\$ (2,785,757)	(3,285,757)	(500,000)	(3,785,757)
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 44,680,040	44,180,040	(500,000)	43,680,040

ATTACHMENT "A"

Council Recommended Uses for COVID-19 Emergency Assistance

Community Partners

Agency/Organization	Up to*	Proposed Use
Community Foundation of SNM	\$ 150,000.00	COVID-19 Emergency Relief Fund
Families and Youth Inc	\$ 100,000.00	Expanded Meal Service
Catholic Charities	\$ 74,500.00	Poverty Assistance Program
Cruces Creatives	\$ 9,600.00	Production of PPE
Dona Ana Communities United	\$ 9,500.00	Los Amigos COVID-19 Connections

City of Las Cruces

City Department	Up to*	Proposed Use
Economic Development	\$ 74,500.00	Microloans technical support
Various Departments	\$ 25,000.00	Hygiene Stations/Sanitation kits
Various Departments	\$ 56,900.00	Hotel rooms for 1st responders

Total	\$ 500,000.00
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