

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

DEPARTMENT: City Attorney's Office

AGENDA DATE: May 23, 2023

PUBLIC HEARING DATE: May 23, 2023

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karla M. Nieman; 915-212-0033

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 8

SUBGOAL: 8.1

SUBJECT:

Discussion and action to approve a RESOLUTION approving amendments to the Articles of Incorporation and to the By-Laws of the City of El Paso Health Facilities Development Corporation and containing other provisions relating to the subject.

BACKGROUND / DISCUSSION:

The City of El Paso Health Facilities Development Corporation was duly created and organized by the City of El Paso, Texas pursuant to and in accordance with the provisions of the Health Facilities Development Act, Chapter 221, Texas Health and Safety Code, as amended, for the purpose of providing, expanding, and improving health facilities that the Corporation determines are needed to improve the adequacy, cost, and accessibility of health care, research, and education.

PRIOR COUNCIL ACTION: Numerous

AMOUNT AND SOURCE OF FUNDING: N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? ___ YES ___ NO

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

DEPARTMENT HEAD:



Karla M. Nieman, City Attorney

A RESOLUTION APPROVING AMENDMENTS TO THE ARTICLES OF INCORPORATION AND TO THE BY-LAWS OF THE CITY OF EL PASO HEALTH FACILITIES DEVELOPMENT CORPORATION AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Health Facilities Development Act, Chapter 221, Texas Health and Safety Code, as amended, (the “Act”), authorizes the creation of development corporations for acquiring, constructing, providing, improving, financing and refinancing health facilities in order to assist the maintenance of the public health; and

WHEREAS, on September 1, 1981, the City Council of the City of El Paso, Texas (the “City”), by a resolution, authorized the creation of the City of El Paso Health Facilities Development Corporation (the “Corporation”); and

WHEREAS, the Secretary of State of the State of Texas (the “Secretary of State”) duly accepted for filing on September 2, 1981, Articles of Incorporation of the Corporation which were subsequently amended on November 12, 1985 (as amended, the “Articles of Incorporation”) which Articles of Incorporation are incorporated herein by reference thereto for all purposes; and

WHEREAS, Section 221.016 of the Act provides that the Articles of Incorporation may be amended to contain any provision that is lawful under the Act if the governing body of the City, by appropriate resolution, determines that such amendment is advisable and authorizes or directs that such amendment be made; and

WHEREAS, the City Council of the City finds that an amendment to the Articles of Incorporation to increase the number of directors on the Board of Directors of the Corporation from six (6) to nine (9) members is advisable and further that the Corporation’s By-Laws should be amended to reflect such change.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS HEREBY FINDS, DECLARES AND RESOLVES THAT:

SECTION 1: That the findings and declarations contained in the preambles to this Resolution are hereby repeated and incorporated herein as a part of this Resolution.

SECTION 2: That the City Council hereby finds and determines that the amendment to the Articles of Incorporation and to the By-Laws of the Corporation to increase the number of directors on the Board of Directors from six (6) to nine (9) members are advisable, and the City Council hereby authorizes and directs that such amendments be made to the Articles of Incorporation and By-Laws.

SECTION 3: That the City Council hereby approves the amendment to the Articles of Incorporation in substantially the form attached hereto as Exhibit “A” and authorizes the Mayor and City Clerk of the City to execute the Articles of Amendment to the Articles of Incorporation and to cause the same to be filed with the Secretary of State in accordance with the requirements and provisions of Section 221.017 of the Act.

SECTION 4: That, pursuant to the amendment to the Articles of Incorporation, the Board of Directors and officers of the Corporation shall consist of the following individuals:

Oscar Leeser, President of the Corporation
Brian Kennedy
Alexsandra Annello, Vice President of the Corporation
Cassandra Hernandez
Joe Molinar, Treasurer of the Corporation
Isabel Salcido
Art Fierro
Henry Rivera
Chris Canales

The City Clerk of the City is hereby appointed as Secretary of the Corporation.

SECTION 5: That this Resolution shall take effect immediately from and after its adoption.

PASSED, ADOPTED AND APPROVED on May 23, 2023.

CITY OF EL PASO, TEXAS

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine, City Clerk

(SEAL)

APPROVED AS TO FORM:
City Attorney's Office



Juan S. Gonzalez

Senior Assistant City Attorney

EXHIBIT A
ARTICLES OF AMENDMENT

**ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION OF
CITY OF EL PASO HEALTH FACILITIES DEVELOPMENT CORPORATION**

Pursuant to the provisions of Section 221.016 of the Health Facilities Development Act, Texas Health and Safety Code, as amended, the undersigned public nonprofit Corporation adopts the following Articles of Amendment to its Articles of Incorporation which increases the number of its Board of Directors from six (6) to nine (9).

ARTICLE ONE

The name of the Corporation is City of El Paso Health Facilities Development Corporation.

ARTICLE TWO

Article VI of the Articles of Incorporation is hereby amended so as to read as follows:

“A. All powers of the Corporation shall be vested in a Board of Directors consisting of nine (9) persons, or such greater or lesser number (if then permitted by the Health Facilities Development Act), to be equivalent at all times with the total number of positions constituting the City Council of the City of El Paso, Texas (including the Mayor of the City). The Board of Directors shall be composed in its entirety of persons who are members of the City Council of the City of El Paso, Texas (including the Mayor of the City), and whose terms of office shall be fixed by and coterminous with, their respective terms of office as members of the City Council of the City of El Paso, Texas (but in no event, shall any term exceed six (6) years). Each Director shall hold office for the term for which he or she is appointed and until his or her successor shall have been appointed and qualified. All vacancies from whatever cause shall be filled by the governing body of the City of El Paso, Texas. The Directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties for and on behalf of the Corporation.

B. All other matters pertaining to the internal affairs of the Corporation shall be governed by the By-Laws of the Corporation as adopted by its Board of Directors, so long as such By-Laws are not inconsistent with these Articles of Incorporation, the Health Facilities Development Act, or any other laws of the State of Texas. The power to alter, amend, or repeal the By-Laws or to adopt new By-Laws shall be vested in the Board of Directors so long as the same is approved by the governing body of the City of El Paso, Texas.”

ARTICLE THREE

The name and current address of the sponsoring entity for this Corporation is the City of El Paso, Texas, and its current address is: 300 N. Campbell, El Paso, Texas 79901. On May 23, 2023, the governing body of the City of El Paso, Texas, duly adopted a Resolution specifically authorizing the amendments set forth herein to the Corporation’s Articles of Incorporation (as evidenced by a copy of such Resolution attached hereto as an exhibit) and has approved these Articles of Amendment to the Articles of Incorporation.

Dated this _____ day of _____, 2023.

CITY OF EL PASO, TEXAS

BY: _____
Oscar Leeser, Mayor

BY: _____
Laura D. Prine, City Clerk

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

The undersigned, a Notary Public, hereby represents and certifies each of the signatures of Oscar Leiser and Laura D. Prine are known to me to be the Mayor and City Clerk, respectively, of the City of El Paso, Texas, appearing above is genuine.

Given under my hand and seal of office, this _____ day of _____, 2023.

Notary Public, State of Texas

[NOTARY SEAL]

EXHIBIT B

**ARTICLES OF AMENDMENT
APPROVED BY CITY COUNCIL ON OCTOBER 15, 1985**

J U N 2 4
FILED
In the Office of the
Secretary of State of Texas
NOV 12 1985

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION OF
CITY OF EL PASO HEALTH FACILITIES DEVELOPMENT CORPORATION

Clerk III-K
Corporations Section

Pursuant to the provisions of Sec. 2.05 of the Health Facilities Development Act (Art. 1528j, Texas Revised Civil Statutes), the undersigned public nonprofit Corporation adopts the following Articles of Amendment to its Articles of Incorporation which increases the number of its Board of Directors from five (5) to six (6) and changes the address of its initial registered office.

ARTICLE ONE

The name of the Corporation is City of El Paso Health Facilities Development Corporation.

ARTICLE TWO

Article VI of the Articles of Incorporation is hereby amended so as to read as follows:

"A. All powers of the Corporation shall be vested in a Board of Directors consisting of six (6) persons, each of whom shall be appointed by written Resolution of the governing body of the City of El Paso, Texas. Each Director shall serve for a term of no more than six (6) years, and each of whom shall be removable by the governing body of the City of El Paso, Texas, for cause or at will. Each Director shall hold office for the term for which he or she is appointed and until his or her successor shall have been appointed and qualified unless sooner removed. All vacancies from whatever

cause, shall be filled by the governing body of the City of El Paso, Texas. The Directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties for and on behalf of the Corporation.

"B. All other matters pertaining to the internal affairs of the Corporation shall be governed by the By-Laws of the Corporation as adopted by its Board of Directors, so long as such By-Laws are not inconsistent with these Articles of Incorporation, the Health Facilities Development Act, or any other laws of the State of Texas. The power to alter, amend, or repeal the By-Laws or to adopt new By-Laws shall be vested in the Board of Directors so long as the same is approved by the governing body of the City of El Paso, Texas."

ARTICLE THREE

Article VII of the Articles of Incorporation is hereby amended so as to read as follows:

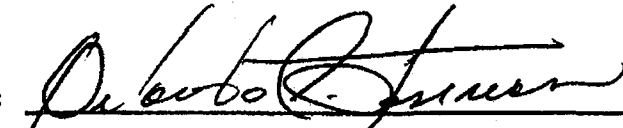
"The street address of the registered office of the Corporation is 725 First City National Bank Building, 300 E. Main Drive, El Paso, Texas 79901, and the name of its registered agent at such address is Alan V. Rash".

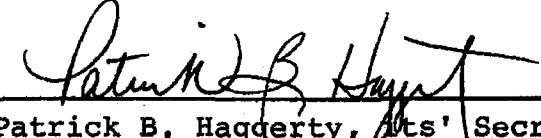
ARTICLE FOUR

The name and current address of the sponsoring entity for this Corporation is the City of El Paso, Texas, and its current address is: 2 Civic Center Plaza, El Paso, Texas 79999. On October 15, 1985, the governing body of the City of El Paso, Texas, duly adopted a Resolution specifically authorizing the amendments set forth herein to the Corporation's Articles of Incorporation (as evidenced by a copy of such Resolution attached hereto as an exhibit), and has approved these Articles of Amendment to the Articles of Incorporation.

Dated this 28th day of October, 1985.

CITY OF EL PASO HEALTH FACILITIES
DEVELOPMENT CORPORATION

BY: 
Orlando Fonseca, its' President

AND: 
Patrick B. Haggerty, its' Secretary

STATE OF TEXAS, §
COUNTY OF EL PASO. §

Before me, a notary public, on this day personally appeared Orlando Fonseca, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this 28th day of October, A.D., 1985.

Alan V. Raab
Notary Public, State of Texas

My Commission Expires:
3/8/89

(SEAL)

SEP 2 1981

CLERK II A
Corporation Division

ARTICLES OF INCORPORATION

OF

CITY OF EL PASO HEALTH FACILITIES DEVELOPMENT CORPORATION

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age, a citizen of the State of Texas, and a resident of the City of El Paso, Texas, acting as incorporators of a Corporation under the Health Facilities Act, adopted by the 67th Texas Legislature, Regular Session, 1981, do hereby adopt the following Articles of Incorporation for such Corporation:

ARTICLE I.

The name of the Corporation is: City of El Paso Health Facilities Development Corporation.

ARTICLE II.

The Corporation is a non-profit public corporation.

ARTICLE III.

The duration of the Corporation shall be perpetual.

ARTICLE IV.

The Corporation is organized solely for the purposes hereinafter set forth so that it might acquire, construct, provide, improve, finance and refinance health facilities to assist the maintenance of the public health, all to be done as the duly constituted authority of the City of El Paso, Texas, and so that the Corporation may issue its bonds on behalf of the City of El Paso for said purposes, and which said bonds shall not constitute obligations of the State of Texas, the City of El Paso, or any other political subdivision or agency of this State, or a pledge of the faith and credit of any of them, and all this to be done in accordance with the powers granted under the Health Facilities Development Act adopted by the 67th Texas Legislature, Regular Session, 1981.

ARTICLE V.

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

ARTICLE VI.

A. All powers of the Corporation shall be vested in a Board of Directors consisting of five (5) persons, each of whom shall be appointed by written resolution of the governing body of the City of El Paso, Texas. Each Director shall serve for a term of no more than six (6) years, and each of whom shall be removable by the governing body of the City of El Paso, Texas, for cause or at will. Each Director shall hold office for the term for which he or she is appointed and until his or her successor shall have been appointed and qualified unless sooner removed. All vacancies from whatever cause, shall be filled by the governing body of the City of El Paso, Texas. The Directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties for and on behalf of the Corporation.

B. All other matters pertaining to the internal affairs of the Corporation shall be governed by the By-Laws of the Corporation as adopted by its Board of Directors, so long as such By-Laws are not inconsistent with these Articles of Incorporation, the Health Facilities Development Act, or any other laws of the State of Texas. The power to alter, amend, or repeal the By-Laws or to

adopt new By-Laws shall be vested in the Board of Directors so long as the same is approved by the governing body of the City of El Paso, Texas.

ARTICLE VII.

The street address of the initial registered office of the Corporation is 1208 First City National Bank Building, 300 East Main Street, El Paso, Texas, 79901; and the name of the initial registered agent at such address is Alan V. Rash.

ARTICLE VIII.

The number of Directors constituting the initial Board of Directors of the Corporation is five (5). The names and street addresses of the initial Directors are:

<u>Name</u>	<u>Address</u>
1. Jim Scherr	Civic Center Plaza, El Paso, Texas, 79999
2. Orlando R. Fonseca	Civic Center Plaza, El Paso, Texas, 79999
3. Patrick B. Haggerty	Civic Center Plaza, El Paso, Texas, 79999
4. David Escobar	Civic Center Plaza, El Paso, Texas, 79999
5. E.W. Divis	Civic Center Plaza, El Paso, Texas, 79999

ARTICLE IX.

The names and street addresses of the incorporators, each of whom is at least eighteen (18) years of age and a resident of the City of El Paso, Texas, are:

<u>Name</u>	<u>Address</u>
1. Jon Garrido	605 Las Olas, El Paso, Texas, 79932
2. Carole Hunter	10804 Pico Norte, El Paso, Texas, 79935
3. Dwight Culver	4013 Skyline, El Paso, Texas, 79904.

ARTICLE X.

The name of the sponsoring entity for this Corporation is the City of El Paso, Texas, and its address is: Civic Center Plaza, El Paso, Texas, 79999. On September 1, 1981, the governing body of the City of El Paso, Texas, duly adopted a Resolution specifically authorizing the Corporation to act on its behalf to further the public purpose set forth in Article IV of these Articles of Incorporation and has approved these Articles of Incorporation.


ARTICLE XI.


No dividends shall ever be paid by the Corporation and no part of its net earnings (beyond that necessary for retirement of the indebtedness of the Corporation or to implement the public purpose of the City for which the Corporation has been created) shall be distributed to inure to the benefit of its directors or officers or any private person, firm, corporation, or association except in reasonable amounts for services rendered. No substantial part of the Corporation's activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and it shall not participate in, or intervene in (including publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.


ARTICLE XII.

If the Corporation should ever be dissolved, the title to all funds and properties then owned by this Corporation shall automatically vest in the City of El Paso, Texas, without any further conveyance, transfer or act of any kind whatsoever.

IN WITNESS WHEREOF, we have hereunto set our hands this 1st day of September, 1981.



JON GARRIDO



CAROLE HUNTER


DWIGHT CULVER

THE STATE OF TEXAS,)
)
COUNTY OF EL PASO.)

I, the undersigned, a Notary Public, do hereby certify that on this the 1st day of September, 1981, personally appeared before me JON GARRIDO, CAROLE HUNTER and DWIGHT CULVER, who, each being by me first duly sworn, severally declared that they are the persons who signed the foregoing document as incorporators, and that the statements therein contained are true.

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



Notary Public in and for
El Paso County, Texas

BARBARA WELCH, Notary Public
In and for the State of Texas
My commission expires Dec. 29, 1984

My commission expires:

12/29/84

(NOTARY PUBLIC SEAL)