

OSCAR LEESER
MAYOR

CARY WESTIN
INTERIM CITY MANAGER



CITY COUNCIL
BRIAN KENNEDY, DISTRICT 1
ALEXSANDRA ANNELLO, DISTRICT 2
CASSANDRA HERNANDEZ, DISTRICT 3
JOE MOLINAR, DISTRICT 4
ISABEL SALCIDO, DISTRICT 5
ART FIERRO, DISTRICT 6
HENRY RIVERA, DISTRICT 7
CHRIS CANALES, DISTRICT 8

CITY COUNCIL WORK SESSION MINUTES
July 17, 2023
COUNCIL CHAMBERS, CITY HALL AND VIRTUALLY
9:05 A.M.

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The City Council of the City of El Paso met at the above place and date. Meeting was called to order at 9:15 a.m. Mayor Oscar Leeser was present and presiding and the following Council Members answered roll call: Brian Kennedy, Aleksandra Annello, Joe Molinar, Henry Rivera, and Chris Canales. Late Arrival: Art Fierro at 9:16 a.m. Cassandra Hernandez and Isabel Salcido requested to be excused.
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AGENDA

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ITEMS 1 AND 2 WERE TAKEN TOGETHER
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1. ORDINANCE 019524

**AN EMERGENCY ORDINANCE EXTENDING EMERGENCY
ORDINANCE NO. 019333 AUTHORIZING THE CITY MANAGER TO ASSIGN
PERSONNEL AND RESOURCES TO ASSIST IN ADDRESSING THE
HUMANITARIAN AND PUBLIC SAFETY CRISIS RESULTING FROM A MASS
MIGRATION THROUGH EL PASO**

WHEREAS, on May 23, 2022, the Mayor and City Council of the City of El Paso (the "City") passed an Emergency Ordinance No. 019333 "Authorizing the City Manager to Assign Personnel and Resources to Assist in Addressing the Humanitarian and Public Safety Crisis Resulting from a Mass Migration through the City of El Paso"; and

WHEREAS, thousands of migrants from Latin America gathered at or near the U.S.- Mexico border in hopes that President Biden would ease immigration restrictions that will make it easier to enter the United States; and

WHEREAS, the Biden administration ended the COVID-19 public health emergency on May 11, 2023 ending all use of Title 42 as a mechanism to control the border; and

WHEREAS, on the eve of the expiration of Title 42, there were an estimated 152,000 migrants in northern Mexico with approximately 60,000 in the State of Chihuahua, and 35,000 in Ciudad Juarez according to U.S. federal statistical records; and

WHEREAS, the Southwest had 169,244 land border encounters in the month of May, 2023; and

WHEREAS, the El Paso sector of U.S. Customs and Border Patrol ("CBP") had 26,057 land border encounters in the month of May, 2023 and a total of 334,283 encounters for federal fiscal year 2023; and

WHEREAS, when the CBP Central Processing Center is over capacity and the non-governmental organizations (NGOs) space is unavailable, that is when the potential for street releases arises; and

WHEREAS, CBP has released many migrants onto downtown streets leaving many migrants without shelter; and

WHEREAS, in the month of June 2023, approximately 200 migrants have been released into the community weekly; and

WHEREAS, in response to the street releases, the El Paso City-County Office of Emergency Management ("OEM") reallocated twenty-nine COVID-19 Operations staff to assist as migrant shelter surge staff, and on May 17, 2022, this staff began orientation training at Casa del Refugiado, the NGO's largest hospitality site; and

WHEREAS, OEM has created a job specification, for general disaster operations to include humanitarian relief duties to hire and assign staff to assist with NGO capacity with over 40 staff currently assigned; and

WHEREAS, beginning in late August 2022, the El Paso sector experienced a surge of over 2,000 migrants presenting themselves daily to CBP, primarily made up of unsponsored single adults from Venezuela, resulting in over 1,000 street releases by CBP; and

WHEREAS, in the Fall of 2022, the City expended significant resources to create and staff a Welcome Center to assist with transportation assistance, providing long-distance charter services and over 39,000 meals to over 19,300 migrants through October 20, 2022; and

WHEREAS, due to this high volume, the number of refugees and asylum seekers released to the NGO and the City's Migrant Welcome Center, was over 1,000 on a daily basis; and

WHEREAS, on September 7, 2022, the City and OEM stood up a migrant Welcome Center to assist with transportation assistance providing services and meals to over 19,300 migrants through October 20, 2022, and

WHEREAS, the release of mass groups of people without access to potable water, food, or shelter exposes the migrants and El Paso residents to the origination and spread of potential and actual disease; and

WHEREAS, in response to the number of migrants arriving at the border, on January 5, 2023, the Department of Homeland Security created a humanitarian parole program for migrants from Cuba, Haiti, and Nicaragua similar to the program already available to Venezuelans; and

WHEREAS, on January 8, 2023, President Biden visited the border to assess the situation in part because the number of migrants has gained the attention of the media and national leadership; and

WHEREAS, there are significant public safety and security concerns related to the wave of migration, including but not limited to the risk to injury or loss of life with migrants in

El Paso streets with little or no resources on days that reach hot or cold temperatures and the inherent risks that come with increased demand on local shelters; and

WHEREAS, on March 12, 2023, border officials barricaded and closed down the Paso del Norte bridge due to a breach of public safety involving hundreds of migrants present on the bridge due to rumors about the relaxation of immigration restrictions circulated on social media sites; and

WHEREAS, for these reasons, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region; and

WHEREAS, there is the potential for loss of property for both residents and migrants due to those who would take financial advantage of this wave of migrants; and

WHEREAS, the Director of Aviation has the authority, as granted by the El Paso City Council, to manage the day-to-day operation of the El Paso International Airport ("EPIA") and to ensure that those operations are conducted in compliance with the rules and regulations regarding airports under Title 14 of the Code of Federal Regulations, Chapter 22 of the Texas Transportation Code, and Title 14 of the El Paso City Code, as well as federal, state, and local health and safety regulations to ensure the health, safety, and welfare of all occupants and travelers making use of EPIA facilities; and

WHEREAS, EPIA in recent past, became saturated with migrants awaiting air travel and could need to take measures to preserve the health and safety of its customers, employees and the public, as well as measures to secure its facilities as the demand for air travel increases exponentially; and

WHEREAS, the City of El Paso is home to 4 international ports of entry between Texas and Mexico; and

WHEREAS, based on mass migration events in the recent past, the City anticipates significant delays at the international ports-of-entry to include trade; and

WHEREAS, the encampment of large groups of migrants on City rights of way, parks and other City property has led to street closure and cessation of the streetcar service; and

WHEREAS, in awaiting the due support of the federal government, the City finds that the expenditure of public funds for staff to coordinate resources and supplies, serve as shelter surge staff and transport migrants released in the City of El Paso accomplishes a valid public purpose of protecting public infrastructure, and protecting the health, safety and welfare of the citizens of El Paso; and

WHEREAS, in order to protect the health of persons in the municipality, the City Council wishes to continue to assist the local NGO with surge staff, coordination of resources and supplies, and transportation in light of the continued high number of community releases; and

WHEREAS, OEM and the City have and will continue to prepare and evaluate the need for mass emergency sheltering thanks to the expiration of Title 42 and other regional migration surges that may impact the El Paso region; and

WHEREAS, the El Paso City Charter Section 3.10, allows for the adoption of one or more emergency ordinances to meet a public emergency affecting life, health, property, or the public peace; and

WHEREAS, Section 121.003 of the Texas Health & Safety Code states that a municipality may enforce any law that is reasonably necessary to protect public health; and

WHEREAS, Section 122.006 of the Texas Health & Safety Code provides home-rule municipalities express authority to adopt rules to protect the health of persons in the municipality, including quarantine rules to protect the residents against communicable disease; and

WHEREAS, this Ordinance shall remain in effect until otherwise terminated, re-enacted, superseded by a conflicting ordinance, El Paso Local Health Authority Ordinance, state or federal law, or repealed automatically as of the 31st day following the date on which it was adopted unless re-enacted pursuant to City Charter Section 3.10.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the Emergency Ordinance No. 019333 passed and adopted by the City Council of the City of El Paso on May 23, 2022 is hereby re-enacted and shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by City Council, whichever is sooner.
2. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10.

2.

ORDINANCE 019525

**AN EMERGENCY ORDINANCE
EXTENDING EMERGENCY ORDINANCE NO. 019485 DUE TO A
HUMANITARIAN, SECURITY, AND ECONOMIC CRISIS
RESULTING FROM A MASS MIGRATION THROUGH EL PASO**

WHEREAS, on May 8, 2023, the El Paso City Council passed Emergency Ordinance No. 019485 "Due to a Humanitarian, Security, and Economic Crisis Resulting from a Mass Migration through the City of El Paso (the "City")"; and

WHEREAS, for federal fiscal year 2023, Southwest encounters were at 1,410,801 of which 545,409 were Title 42; and

WHEREAS, the El Paso sector of CBP had 29,285 land border encounters in the month of May, 2023; and

WHEREAS, thousands of migrants from Latin America gathered at or near the U.S.-Mexico border awaiting processing after Title 42, which is a COVID-19 era mechanism, ended along with the expiration of the Public Health Emergency for COVID-19; and

WHEREAS, prior to the expiration of Title 42, there were an estimated 152,000 migrants in northern Mexico with approximately 60,900 in the State of Chihuahua, and 35,000 in Ciudad Juarez according to U.S. federal statistical records; and

WHEREAS, DHS has created an immigration benefit through which migrants from certain nations can request asylum and be paroled into the country; and

WHEREAS, upon the migrants' arrival into the United States, they are held by CBP who processes, sets for hearing and then releases migrants onto El Paso streets with little to no resources; and

WHEREAS, the number of migrants in need of shelter has exceeded the shelter space available through local, state, and federal partnerships; and

WHEREAS, the City lacks an extensive transportation infrastructure to facilitate the movement of migrants out of the region further increasing demand on shelters; and

WHEREAS, state and federal infrastructure and support is critical to support local efforts to effectively and safely care for mass groups of migrants entering the City; and

WHEREAS, U.S. Customs and Border Protection (CBP) has surged its personnel and resources along the southern border to increase processing capacity to ensure a humane environment for those being processed; and

WHEREAS, the primary challenge for the non-governmental organizations (NGOs) assisting in the effort is that the NGOs do not have the volunteer base to sustain or increase current capacity at their current hospitality sites; and

WHEREAS, the Office of Emergency Management has created a job specification, for general disaster operations to include humanitarian relief duties to hire and assign staff to assist with migrant operations; and

WHEREAS, in the Fall of 2022, the City expended significant resources to create and staff a Welcome Center to assist with transportation assistance, providing long-distance charter services and over 39,000 meals to over 19,300 migrants through October 20, 2022; and

WHEREAS, the number of migrants released into the community has been as high as 1,700 in a single day; and

WHEREAS, the volume of migrants at the border and released into the United States has gained the attention of international and national media; and

WHEREAS, there are significant public safety and security concerns related to the wave of migration, including but not limited to the risk to injury or loss of life with migrants in El Paso streets with little or no resources on days that reach extremely high or freezing low temperatures and the inherent risks that come with increased demand on local shelters; and

WHEREAS, donations to the migrants from the public are best received at the assisting NGOs and shelters in lieu of delivery to spaces where migrants gather; and

WHEREAS, additional shelter space is being prepared for the thousands of migrants released into the community; and

WHEREAS, camping in public spaces is prohibited under Section 48.05 of the Texas Penal Code; and

WHEREAS, the City is faced with the imminent threat of widespread injury or loss of life resulting from a surge in transient migrants traveling to the region; and

WHEREAS, there is potential for loss of property for both residents and migrants due to those who would take advantage of this wave of migrants; and

WHEREAS, in recent months, the El Paso International Airport became saturated with migrants awaiting air travel and shelter, and the City of El Paso may need to take measures to preserve the health and safety of its customers, employees and the public, as well as measures to secure, clean and comply with all related legal requirements regarding its facilities as the demand for air travel can increase exponentially; and

WHEREAS, the City of El Paso is home to 4 of the 28 international ports of entry between Texas and Mexico; and

WHEREAS, based on mass migration events in the recent past including protests and closures of the international bridges, the City has experienced several significant delays at the international ports-of-entry to include trade delays; and

WHEREAS, the City of El Paso has determined that extraordinary measures must be taken to protect all people in and coming through the City; and

WHEREAS, City Charter Section 3.10 allows for the City Council to adopt an emergency ordinance to meet a public emergency affecting life, health, property or the public peace; and

WHEREAS, pursuant to City Charter Section 3.10, every emergency ordinance shall stand repealed automatically as of the 31st day following the date on which it was adopted, but may be re-enacted to continue a Disaster Declaration; and

WHEREAS, the condition necessitating the declaration of a state of disaster continues to exist.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EL PASO, TEXAS:

1. That an emergency exists as described in clear and specific terms in the recitals above, which are incorporated herein.
2. That the state of disaster proclaimed for the City of El Paso by the Mayor on May 8, 2023 and extended by unanimous vote of City Council shall continue for thirty (30) days unless re-enacted in accordance with City Charter Section 3.10 or until terminated by order of the City Council, whichever is sooner.
3. This ordinance is adopted as an emergency measure with the unanimous vote of the City Council Representatives present and the consent of the Mayor and pursuant to City Charter Section 3.10 and is effective upon adoption.

Assistant Fire Chief Jorge Rodriguez, presented a PowerPoint presentation (copy on file in the City Clerk's Office).

Mayor Leeser and Representative Rivera commented.

Ms. Karla Nieman, City Attorney, commented.

Motion made by Alternate Mayor Pro Tempore Molinar, seconded by Representative Fierro, and unanimously carried to **ADOPT** the Emergency Ordinances.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

Mayor Leeser consented to the adoption of the Emergency Ordinances.

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3. Provide a quarterly presentation to the City Council on operations of the water and wastewater utilities.

Mr. John E. Balliew, El Paso Water President and CEO, presented a PowerPoint presentation (copy on file in the City Clerk’s Office).

Mr. Cary Westin, City Manager, commented.

Mayor Oscar Leeser and Representatives Annello, Molinar, Rivera, and Canales commented.

Mr. Rene Leon, El Paso Water Legislative Liaison, commented.

NO ACTION was taken on this item.

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4. For Notation Only: Formal Report of the Financial Oversight and Audit Committee meeting held on June 7, 2023.

1. Discussion and action on 2023 City Council Fuel Card Purchases Report.

· Motion made by Representative Molinar, seconded by Representative Annello and approved by Representative Kennedy, Representative Annello, Representative Fierro and Representative Molinar to accept the results of the 2023 City Council Fuel Card Purchases Report and send it forward to City Council.

Mr. Edmundo Calderon, Chief Internal Auditor, provided a briefing of the June 7, 2023 meeting.

Mayor Leeser commented.

NO ACTION was taken on this item.

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EXECUTIVE SESSION

Motion made by Representative Rivera, seconded by Representative Fierro, and unanimously carried that the City Council **RETIRE** into **EXECUTIVE SESSION** at 10:07 a.m. pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 - 551.089 to discuss the executive session items:

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.072 DELIBERATION REGARDING REAL PROPERTY
- Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

Motion made by Representative Rivera, seconded by Representative Molinar, and unanimously carried to **ADJOURN** the Executive Session at 12:14 p.m. and **RECONVENE** the meeting of the City Council at which time motions were made:

AYES: Representatives Kennedy, Annello, Molinar, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Fierro

ABSENT: Representatives Hernandez and Salcido

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EX1. Bryant Byrd; Claim 55; (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera, and carried that the City Attorney's Office be authorized to **DENY** the claim of Bryant Byrd, in Matter Number 55, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Annello, Molinar, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Fierro

ABSENT: Representatives Hernandez and Salcido

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EX2. Jessica Weaver individually and as representative of the Estate of A.M., minor v. ASM Global, LLC d/b/a Destination El Paso, ASM Global Parent, Inc., and City of El Paso; Cause No. 2023DCV2119 (551.071)

NO ACTION was taken on this item.

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EX3. The City of Houston v. the State of Texas; (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Molinar, and carried that the City Attorney be authorized to **FILE** an amicus curiae brief, or in consultation with the City Manager, to join the lawsuit filed by the City of Houston, in the City of Houston v. The State of Texas and to hire and retain outside counsel in the matter, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Annello, Molinar, Rivera, and Canales

NAYS: None

NOT PRESENT FOR THE VOTE: Representative Fierro

ABSENT: Representatives Hernandez and Salcido

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EX4. El Paso Electric Company's Notice of Application to Reconcile Fuel Costs; HQ # UTILITY-15 (551.071)

NO ACTION was taken on this item.

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EX5. TGS GRIP Reimbursement; HQ#UTILITY-13 (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera, and carried that:

Texas Gas Service Company, a division of One Gas, Inc, provides natural gas distribution service within the City of El Paso.

The City of El Paso has original jurisdiction over the rates and services of Texas Gas Service Company.

On March 11, 2022, Texas Gas Service Company filed a request with the City of El Paso for an interim rate increase pursuant to Texas. Utility Code Sec. 104.401 for gas service within the City of El Paso.

On June 22, 2022, the City Council denied the requested interim increase.

Texas Gas Service Company started charging its requested rates for bills rendered between July 1, 2022 and August 30, 2022, without authorization by law or from any regulatory authority.

Texas Gas Service Company appealed the decision of the City Council to the Railroad Commission of Texas which case was docketed as Case No 000010195.

By Order dated August 30, 2022, the Railroad Commission of Texas granted the Appeal and approved rates for bills rendered on or after August 30, 2022.

Texas Gas Service Company estimated the additional revenues it was charging were approximately \$91,730 per week, or an approximate total of \$770,532 for the period between July 1, 2022 and August 30, 2022.

Now therefore be it resolved by the City Council of the City of El Paso that Texas Gas Service Company is hereby **ORDERED TO APPEAR BEFORE THE CITY COUNCIL ON AUGUST 29, 2023** to show cause why it should not immediately refund the revenues collected from the unlawful charges between July 1, 2022 and August 30, 2022 with interest.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representatives Hernandez and Salcido

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EX6. Application of El Paso Electric Company to Implement a Voluntary Texas Business Solar Power Program; HQ#UTILITY-14 (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Molinar, and carried that the City Attorney in consultation with the City Manager be authorized to **RETAIN OUTSIDE COUNSEL** and any other necessary consultants, to file an intervention, and to suspend the rates in the Application of El Paso Electric Company to Implement a Voluntary Texas Business Solar Power Program filed on June 26, 2023, under the Texas Public Utility Commission, Docket No. 55176, in Matter Number UTILITY-14, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales
NAYS: None
ABSENT: Representatives Hernandez and Salcido

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EX7. E.R., a minor, and Olga Alcantara, as her next friend and on her own behalf v.

Marco Jasso, Jose Rivas, Ricardo Villagran, and Jane Doe; USDC; 3:18-CV-298-FM; Matter No. 18-1026-9962 (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Molinar, and carried that the City Attorney's Office be authorized to **ENGAGE IN SETTLEMENT DISCUSSIONS** in the case of E.R., a minor, and Olga Alcantara, as her next friend and on her own behalf v. Marco Jasso, Jose Rivas, Ricardo Villagran, and Jane Doe; in Matter Number 18-1026-9962, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Annello, Molinar, Rivera, Fierro, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

EX8. Aguilar Jolande v. City of El Paso et. al; Cause No. 2017DCV3624; Matter No. 17-1049-328.001 (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera, and carried that the City Attorney's Office in consultation with the City Manager, be authorized to **ENGAGE IN SETTLEMENT DISCUSSIONS** in the case of Aguilar, Jolande A. vs. Charles Ortega, City of El Paso, John Doe, Employee of the City Parks & Recreation Department and United Services Automobile Association, in Matter Number 17-1049-328.001, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

EX9. Albert Lopez and Lexby Lopez v. City of El Paso. Matter No. 17-1036-1318 (551.071)

NO ACTION was taken on this item.

EX10. Robert Kaufman v. TDPS, Steve McCraw, City of El Paso, Mayor Dee Margo, Officer Ruvalcaba, El Paso Police Department, Cause No.:2019DCV4173; Matter No. 19-1026-10878 (551.071)

NO ACTION was taken on this item.

EX11. Guadalupe Ramirez, et al v. the City of El Paso and the State of Texas, Cause No. 2007-2568; Matter No. 07-1005-001 (551.071)

Motion made by Mayor Pro Tempore Annello, seconded by Representative Molinar, and carried that the City Attorney's Office, in consultation with the City Manager, be authorized to **ENGAGE IN SETTLEMENT NEGOTIATIONS** in the case of Guadalupe Ramirez, et al v. the City of El Paso, Cause No. 2007-2568, in Matter No. 07-1005-001, and to take all steps necessary, including the execution of any required documents, in order to effectuate this authority, should a settlement be reached in the case.

AYES: Representatives Kennedy, Molinar, Rivera, Fierro, and Canales

NAYS: Representative Annello

ABSENT: Representatives Hernandez and Salcido

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**EX12. Discussion on potential economic development opportunities in Central El Paso,
HQ 23-1056 (551.072) (551.087)**

Motion made by Mayor Pro Tempore Annello, seconded by Representative Rivera, and carried, to **APPROVE** a term sheet for a performance-based incentive of \$1,205,000.00 for the establishment of a Proteus Design Center by Hiller Measurements, LLC at the Innovation Factory located at the El Paso International Airport. The Center will create student internship opportunities, 6 quality full-time engineering positions and leverage the University of Texas at El Paso's technical and research assets in aerospace and additive manufacturing to expedite mission-critical prototype design and testing for growing industries, including aero/defense, telecommunication, and power storage, using industry-leading digital tools.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

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ADJOURN

Motion made by Alternate Mayor Pro Tempore Molinar, seconded by Representative Canales, and unanimously carried to **ADJOURN** the meeting at 12:23 p.m.

AYES: Representatives Kennedy, Annello, Molinar, Fierro, Rivera, and Canales

NAYS: None

ABSENT: Representatives Hernandez and Salcido

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APPROVED AS TO CONTENT:



Laura D. Prine, City Clerk