

Commission Meeting Agenda



Mayor

Samuel D. Cobb

City Commission

Marshall R. Newman

Christopher R. Mills

Patricia A. Taylor

Joseph D. Calderón

Dwayne Penick

Don R. Gerth

Acting City Manager

Manny Gomez

May 7, 2018



Hobbs City Commission
Regular Meeting
City Hall, City Commission Chamber
200 E. Broadway, 1st Floor Annex, Hobbs, New Mexico

Monday, May 7, 2018 - 6:00 p.m.

Sam D. Cobb, Mayor

Marshall R. Newman
Commissioner - District 1

Christopher R. Mills
Commissioner - District 2

Patricia A. Taylor
Commissioner - District 3

Joseph D. Calderón
Commissioner - District 4

Dwayne Penick
Commissioner - District 5

Don R. Gerth
Commissioner - District 6

A G E N D A

*City Commission Meetings are
Broadcast Live on KHBX FM 99.3 Radio
and Available via Livestream at www.hobbsnm.org*

CALL TO ORDER AND ROLL CALL

INVOCATION AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes of the April 9, 2018, Regular Commission Meeting
2. Minutes of the April 13, 2018, Special Commission Meeting
3. Minutes of the April 16, 2018, Commission Work Session
4. Minutes of the April 16, 2018, Regular Commission Meeting

PROCLAMATIONS AND AWARDS OF MERIT

5. Presentation of Plaque of Appreciation to Outgoing City Commissioner Cynthia Calderon (January 2017 - March 2018) *(Mayor Sam Cobb)*
6. Proclamation Proclaiming the Week of May 6 - 12, 2018, as "Arson Awareness Week" *(Shawn Williams, Fire Marshal)*
7. Proclamation Proclaiming the Month of May, 2018, as "Building Safety Month" *(Ben Maynes, Building Official)*
8. Proclamation Proclaiming Saturday, May 19, 2018, as "Kids to Parks Day" *(Doug McDaniel, Parks and Recreation Director)*
9. Proclamation Proclaiming the Week of May 13 - 19, 2018, as "Police Week" *(Chris McCall, Police Chief)*

PUBLIC COMMENTS *(For non-agenda items.)*

CONSENT AGENDA *(The consent agenda is approved by a single motion. Any member of the Commission may request an item to be transferred to the regular agenda from the consent agenda without discussion or vote.)*

10. Resolution No. 6653 - Authorizing Appointments to the City of Hobbs Advisory Boards *(Mayor Sam Cobb)*
11. Consideration of Bid No. 1570-18 to Furnish Polyelectrolyte Coagulant Aids and Recommendation to Accept the Bid of Polydyne, Inc., in the Amount of \$52,891.00 *(Tim Woomeer, Utilities Director)*
12. Resolution No. 6654 - Authorizing Approval of an Encroachment Agreement with Playa Escondida Housing, LLP, Concerning the Placement of a Monument Sign Within Public Right-of-Way *(Kevin Robinson, Development Director)*
13. Resolution No. 6655 - Consideration of RFP No. 500-18 for FY 2018 Audit Services and Recommendation to Award the Proposal to Hinkle + Landers in the Amount of \$63,646.00 *(Todd Randall, City Engineer)*
14. Consideration of Approval of Change Order No. 1 with CDR, Inc., for City Park Improvements in the Amount of \$29,227.80 *(Todd Randall, City Engineer)*

15. Consideration of Approval of an Agreement with Lea County for Roadway Improvements on West County Road Within the City Limits (*Shelia Baker, General Services Director*)

DISCUSSION

16. Report on Activities at the Hobbs Industrial Air Park (*Denise Layton, Soaring Society of America*)

ACTION ITEMS (Ordinances, Resolutions, Public Hearings)

17. Resolution No. 6656 - Adopting Police Recruitment and Retention Incentives (*Chris McCall, Police Chief*)
18. Resolution No. 6657 - Authorizing FY 19 Funding Appropriations and Professional Service Agreements with Various Social Service Agencies (*Mayor Sam Cobb*)
19. Resolution No. 6658- Authorizing Modification of the Hobbs Express Fixed Route Bus Service (*Jan Fletcher, City Clerk, and Jacque Pennington, Transportation Supervisor*)
20. Consideration of Approval of Contract Amendment No. 4 (GMP Change Order No. 1) in the Amount of \$675,229.00 with Haydon Building Corporation Related to Construction of the CORE (*Todd Randall, City Engineer*)
21. Resolution No. 6659 - Approval of a Development Agreement with Gold Creek Homes Concerning the Development of Market Rate Single Family Housing Units Located Within the Homestead Subdivision (*Kevin Robinson, Development Director*)
22. **PUBLICATION**: Proposed Ordinance Adopting Right-of-Way Management Regulations (*Kevin Robinson, Development Director*)
23. **PUBLICATION**: Proposed Ordinance Amending Chapter 5.04 and Chapter 5.20 of the Hobbs Municipal Code Relating to Mobile Vendors (*Kevin Robinson, Development Director*)

COMMENTS BY CITY COMMISSIONERS, CITY MANAGER

24. Next Meeting Date:

- ▶ City Commission Regular Meeting
Monday, May 21, 2018, at 6:00 p.m.

ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the above meeting, please contact the City Clerk's Office at (575) 397-9207 at least 72 hours prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: City Commission Meeting Minutes

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The following minutes are submitted for approval:

- ▶ Regular Commission Meeting of April 9, 2018
- ▶ Special Commission Meeting of April 13, 2018
- ▶ Commission Work Session of April 16, 2018
- ▶ Regular Commission Meeting of April 16, 2018

Fiscal Impact:

Reviewed By: _____
Finance Department

N/A

Attachments:

Minutes as referenced under "Summary".

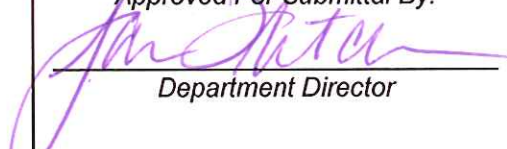
Legal Review:

Approved As To Form: _____
City Attorney

Recommendation:

Motion to approve the minutes as presented.

Approved For Submittal By:



Department Director

City Manager

**CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN**

Resolution No. _____	Continued To: _____
Ordinance No. _____	Referred To: _____
Approved _____	Denied _____
Other _____	File No. _____

Minutes of the regular meeting of the Hobbs City Commission held on Monday, April 9, 2018, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico.

Call to Order and Roll Call

Mayor Cobb called the meeting to order at 6:00 p.m. and welcomed everyone in attendance to the meeting. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb
Commissioner Marshall R. Newman
Commissioner Christopher Mills
Commissioner Patricia A. Taylor
Commissioner Joseph D. Calderón
Commissioner Garry A. Buie
Commissioner Don Gerth

Also present:

Manny Gomez, Acting City Manager/Fire Chief
Mike Stone, City Attorney
Chris McCall, Police Chief
Michael Walker, Police Captain
Shane Blevins, Police Lieutenant
Toby Spears, Finance Director
Barry Young, Deputy Fire Chief
Ron Roberts, Information Technology Director
Todd Randall, City Engineer
Shelia Baker, Senior Engineer
Tim Woomer, Utilities Director
Britt Lusk, Administrative Services Director
Missy Funk, Hobbs Animal Adoption Center Manager
Raymond Bonilla, Community Services Director
Art De La Cruz, Code Enforcement Superintendent
Doug McDaniel, Parks and Recreation Director
Lindsay Chism-McCarter, CORE Marketing Director
Nicholas Goulet, Human Resources Director
Sandy Farrell, Library Director
Ann Betzen, Risk Manager/Executive Assistant
Mollie Maldonado, Deputy City Clerk
Jan Fletcher, City Clerk
51 citizens

Invocation and Pledge of Allegiance

Commissioner Taylor delivered the invocation and Commissioner Calderón led the Pledge of Allegiance.

Approval of Minutes

Commissioner Calderón moved that the minutes of the regular meeting held on March 19, 2018, be approved as presented. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Buie yes, Cobb yes. The motion carried.

Proclamations and Awards of Merit

Presentation of Plaque of Appreciation to Outgoing City Commissioner Garry Buie (2010 - 2018).

Mayor Sam Cobb presented a Plaque of Appreciation to City Commissioner Garry Buie. He stated Commissioner Buie has done a great job in his role as a City Commissioner and has been a part of the vision set for the future of Hobbs. Mayor Cobb stated he can see all the great things and accomplishments of which Commissioner Buie has been a part.

Commissioner Buie stated he has made some great friends by being a Commissioner for the City of Hobbs. He stated he has had the opportunity to work with a great Commission. Commissioner Buie expressed his appreciation to the Commissioners and the Mayor individually. He thanked everyone and stated they all will be missed.

Proclamation Proclaiming April 9, 2018, as "Hobbs Lady Eagles Day".

Mayor Cobb proclaimed April 9, 2018, as "Hobbs Lady Eagles Day". He presented the proclamation to Coach Joey Carpenter and the Hobbs Lady Eagles. Mayor Cobb stated the Lady Eagles have made Hobbs very proud. Coach Carpenter thanked the Commission for its support.

Proclamation Proclaiming the Month of April, 2018, as "Fair Housing Month".

Mayor Cobb proclaimed the month of April, 2018, as "Fair Housing Month". Reverend B. J. Choice accepted the proclamation on behalf of Lea County Housing.

Reverend Choice thanked Commissioner Buie for his service to the community. Reverend Choice stated he will keep Mayor Cobb and family in his prayers.

Public Comments

There were no public comments.

Consent Agenda

Mayor Cobb explained the Consent Agenda and the process for removing an item from the Consent Agenda and placing it under Action Items.

Commissioner Calderón moved for approval of the following Consent Agenda Item(s):

Resolution No. 6643 - Authorizing Adoption of the Required Community Development Block Grant (CDBG) Annual Certifications and Commitments (2018).

Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. A copy of the resolution and supporting documentation are attached and made a part of these minutes.

Discussion

Lea County Communication Authority - Revisions to the Radio Memorandum of Agreement to Include the New Mexico Junior College.

Police Chief Chris McCall explained the revisions to the Radio Memorandum of Agreement with the LCCA to include a radio channel for the New Mexico Junior College (NMJC). He stated access to the radio system is provided to several entities connecting them to the Lea County Communications Authority and NMJC would like to be included. Police Chief McCall stated the cost to NMJC is a 3% contribution and the City and Lea County will split the savings difference.

In response to Commissioner Newman's inquiry, Police Chief McCall stated NMJC is outside the city limits.

Commissioner Newman stated NMJC has its own security force but adding it to the Radio MOA is a safety issue. Acting City Manager/Fire Chief Manny Gomez agreed.

Discussion of Proposed Fees at the CORE:

- Proposed Batting Cage Fees
- Proposed Swim Lane Usage Fees
- Proposed Daily/Weekly Pass Discount Fees for Groups
- Proposed Fees for Additional Family Members/Family Memberships/Adult Couple/Senior Couple

Mr. Doug McDaniel, Parks and Recreation Director, presented the proposed fees at the CORE for the usage of the batting cage, swim lanes, daily/weekly pass discount for groups and additional family members/family memberships for adult couples and senior couples.

Ms. Lindsay Chism-McCarter, CORE Marketing Director, stated CORE staff is tracking information from the website on how many views the site is getting from mobile devices, Facebook, computers/laptops and tablets. She further stated there are a lot of clicks for job opportunities. Ms. Chism-McCarter stated a good portion of the feedback is from out-of-town views. She added there have been no complaints received regarding rates to participate in activities at the CORE.

Commissioner Calderón stated there were so much vehicles with Texas license plates at the turf fields last weekend for the baseball tournament and they will also be coming to the CORE. Mr. McDaniel stated there were a total of 122 baseball teams participating in the tournament. He stated because of the turf fields, participants/spectators think Hobbs has the finest facility in the surrounding area.

Mayor Cobb stated that he, Ms. Chism-McCarter and Mr. McDaniel visited with the Hotel Industry Committee and they are excited to work with the Committee to create economic development in Hobbs. Mr. McDaniel stated reaching out to hotel guests is important to the economy.

Commissioner Taylor stated it is a great time to build Taylor Ranch. Commissioner Calderón agreed and stated monies need to be set aside for Taylor Ranch and discussions need to begin on the process.

Mr. McDaniel stated the proposed fees at the CORE are as follows:

Batting Cage Fee

\$35 per hour for both non-profit and for-profit groups/individuals

Competition Pool Lanes

\$11 per hour/non-profit; \$18 per hour/for-profit (maximum of 10 swimmers per lane)

Group Discounts

10% discount on daily or weekly passes for groups 25 or more

Adult Couple

Defined as two persons between the ages of 18-61 residing at the same address

Senior Couple

Defined as two persons 62 years of age and older residing at the same address

Family Options

\$45 Monthly for Single; Family; to include one adult and up to five dependents under 18 years of age all residing at the same address

\$55 Monthly for Family; to include two adults and up to four dependents under 18 years of age all residing at the same address

Family Plus; Single Family or Family membership as defined above with an additional \$10 for each person for families with more than six family members residing at the same address.

Mr. McDaniel stated a resolution regarding the CORE fees will follow at the next Commission meeting. He stated the Grand Opening for the CORE is scheduled for June 2, 2018.

Commissioner Calderón stated the Teen Center was built 18 years ago and it continues to be in really good condition today because of good maintenance and upkeep. He stated the same upkeep and maintenance needs to be done at the CORE.

Mr. McDaniel introduced Ms. Lindsay Henderson, CORE Sports Coordinator, who is new to the community. He credited Ms. Henderson with development of the concept for using unoccupied space at the CORE as batting cages.

Action Items

Consideration of Approval to Purchase Traffic Signal Equipment from Gades Sales Company, Inc., in the Amount of \$118,587.00 Utilizing the State of New Mexico GSA Price Agreement No. 60-805-15-13798 for Improvements at Five Existing Traffic Signals.

Mr. Todd Randall, City Engineer, stated the City was awarded the Local Government Road Fund (COOP) Grant to the New Mexico Department of Transportation (NMDOT) in the amount of \$133,000.00. He further stated the project is for improvements to existing traffic signals located at: (1) Dal Paso/Sanger; (2) Dal Paso/Clinton; (3) Dal Paso/Main; (4) Bender/Grimes; and (5) Bender/Michigan. Mr. Randall stated the improvements at the signalized intersections include the installation of new video detection systems replacing controller cabinets. He further stated City staff would like to utilize a State of New Mexico price agreement with Gades Sales Company, Inc., for purchase of the equipment.

After a discussion regarding synchronized lights, Commissioner Newman moved to approve to purchase traffic signal equipment from Gades Sales in the amount of \$118,587.00. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Buie yes, Cobb yes. The motion carried. Copies of the supporting documentation are attached and made a part of these minutes.

PUBLIC HEARING: Resolution No. 6644 - Regarding the Transfer of Ownership and Location of Liquor License No. 0414 from New Holiday Corporation d/b/a Holiday, 2827 North Dal Paso, Hobbs, New Mexico, to Allsup's Convenience Stores, Inc., d/b/a Allsup's 36 and Located at 2810 Lovington Highway, Hobbs, New Mexico

Mr. Mike Stone, City Attorney, was appointed as the Hearing Officer. Ms. Deborah Carr, representative of Allsup's Convenience Stores, Inc., d/b/a Allsup's 36, presented testimony in the hearing regarding the application of transfer of ownership and location of Liquor License No. 0414 from New Holiday Corporation d/b/a Holiday, located at 2827 North Dal Paso, Hobbs, New Mexico, to Allsup's Convenience Stores, Inc., d/b/a Allsup's 36 and located at 2810 Lovington Highway, Hobbs, New Mexico.

In response to Mr. Stone's inquiry, no members of the audience requested to speak in support of the application or against the application for transfer of ownership and location of Liquor License No. 0414 to be located at 2810 Lovington Highway.

Mr. Stone recognized Ms. Carr as the representative for Allsup's Convenience Stores, Inc., d/b/a Allsup's 36. He stated the State of New Mexico Alcohol and Gaming Division has granted preliminary approval to the application for transfer of ownership and location of the liquor license and a public hearing has to be held within 45 days of receipt of the application on whether or not the proposed transfer of ownership and location of the license should be granted. He further stated the application can be denied for only three reasons which are as follows: (1) if the location is within 300 feet of a church or school, which is not applicable here; (2) if it is in violation of a zoning or other ordinance of the governing body, which is not applicable here; and (3) if the issuance would be detrimental to the public health, safety or morals of the residents of the local option district. He further stated disapproval by the governing body on public health, safety or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or locations and a copy of the record must be submitted to the Alcohol and Gaming Division. Ms. Carr stated that Allsup's Convenience Stores, Inc., d/b/a Allsup's 36, has not been cited for any alcohol violations by the State of New Mexico Alcohol and Gaming Division. She testified that all the above statements made by Mr. Stone are true and correct to her knowledge. She added there are ten Allsup's Stores in Hobbs and approximately 315 stores throughout New Mexico and Texas.

In reply to Commissioner Newman's question, Mr. Stone stated a transfer application for a new liquor license at Holidaze has not been received by the City at this time.

In answer to Commissioner Gerth's inquiry, Mr. Stone stated the resolution before the Commission will transfer full ownership and location of the liquor license from New Holidaze Corporation to Allsup's Convenience Stores, Inc., d/b/a Allsup's 36.

Proper publication having been made, and there being no further discussion, and no comments from the audience, Commissioner Buie moved that Resolution No. 6644 be adopted approving transfer of the location and ownership of the license as described. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Calderón yes, Taylor yes, Gerth yes, Buie yes, Cobb yes. The motion carried. Copies of the resolution and application packet are attached and made a part of these minutes.

Resolution No. 6645 - Establishing Corporate Membership Fees at the CORE.

Mr. McDaniel explained the CORE corporate membership fees as recommended by staff. He stated the corporate membership fees were discussed during the March 19, 2018, City Commission meeting. He further stated in the interim, after careful consideration, and with input from the CORE Partners, City staff is now recommending that corporate members submit a list of their employees wishing to join the CORE as part of the Corporate Membership Program. Mr. McDaniel outlined the cost per number of employees participating in the program and stated the annual corporate membership fees must be paid in full at time of enrollment by either the corporation or employee.

In answer to Commissioner Newman's question, Mr. McDaniel stated the corporate rate will be based on the number of employees enrolling in the program. He further stated the fee is approximately \$2.00 per person which will make the corporate rate consistent whether there are 100 or 500 employees participating in the membership program.

In response to Commissioner Taylor's inquiry, Mr. McDaniel stated it will be at the discretion of the employee to sign up for membership. He added the employee may choose the type of membership desired and will then receive a discount based on their employer's corporate membership.

In response to Commissioner Newman's question, Mr. McDaniel stated the Guest Services staff at the CORE will oversee the administration and supervision of the Corporate Membership Program and the fees as described will greatly reduce the amount of time required by staff to conduct this program. He stated the Corporate Membership Program will be reviewed annually.

Mayor Cobb compared the corporate membership fees to health care and benefits often provided by an employer and stated not every employee will choose to participate in the program.

Mr. McDaniel agreed with Mayor Cobb and stated participation at the CORE will improve the overall wellness of the employee.

In response to Mayor Cobb and Commissioner Taylor's questions, Mr. McDaniel confirmed the membership cost will allow the employee into the facility at a discounted rate. He further stated the cost of any additional programs will be the responsibility of the employee.

Commissioner Mills stated the intent of the Corporate Membership Rate is to encourage larger groups of people to sign up for memberships.

In reply to Commissioner Mills' inquiry, Mr. McDaniel stated corporate memberships are absolutely designed to bring in larger groups and revenue which will decrease the amount of operational expense subsidized by the City's General Fund.

Mayor Cobb stated the CORE is intended as a community center where people of all ages can mingle and be a part of the community.

In response to Commissioner Newman's question, Mr. McDaniel stated an employer who joins the 501 plus program will pay the \$1,000 membership fee which is approximately \$2 per person. He stated the employee would then pay the appropriate rate for the type of membership they desire less the 30% discount from the corporate membership. Acting City Manager/Fire Chief Gomez stated the discount will not apply to an individual unless their employer has signed up for the corporate membership rate.

In reply to Commissioner Mills' question, Mr. McDaniel confirmed the CORE staff has reviewed the numbers and feels more revenue can be generated with these corporate membership discounts. He stated the primary focus has always been to generate the most revenue possible to reduce the subsidy from the General Fund.

In further response to Commissioner Mills' inquiry, Mayor Cobb stated the corporate membership fees are being proposed with a resolution and can always be changed by the Commission if it feels the prices are not appropriate.

There being no further discussion, Commissioner Gerth moved to approve Resolution No. 6645 as presented. Commissioner Mills seconded the motion and the vote was recorded as follows: Newman no, Mills yes, Taylor yes, Calderón yes, Gerth yes, Buie yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Resolution No. 6646 - Establishing Facility Usage Fees at the CORE.

Mr. McDaniel stated the CORE Facility Usage Fees were unanimously approved by the Community Affairs Board. He further stated the Competition Pool Lanes and Batting Cage fees will come before the Commission at a later date once recommendation are made by the Community Affairs Board. Mr. McDaniel stated the fees are for facility usage opposed to facility rental.

In response to Commissioner Mills' inquiry, Mr. McDaniel stated organizations wishing to utilize the CORE using the non-profit facility usage fees must produce a copy of their 501(C)(3) tax certification.

There being no further discussion, Commissioner Gerth moved to approve Resolution No. 6646 as presented. Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Buie yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Comments by City Commissioners, City Manager

Mayor Cobb thanked everyone for their attendance at tonight's meeting. He stated a special meeting has been scheduled on Friday, April 13, 2018, at 11:00 a.m., for the Canvass of Runoff Election Returns. He further stated the next regular Commission meeting is scheduled on Monday, April 16, 2018. Mayor Cobb encouraged everyone to vote in the Runoff Election to be held on April 10, 2018.

Acting City Manager/Fire Chief Gomez reminded the Commission of the Lodgers' Tax Board meeting scheduled for Wednesday, April 11, 2018, at 3:00 p.m., in the Commission Chamber. He stated the Commission has received a copy of the FY 18-19 preliminary budget book for review. He thanked HFD staff for providing the Hobbs Fire Department Annual Report for 2017.

Acting City Manager/Fire Chief Gomez congratulated Rockwind Community Links for their rating on Golfweek's "Best Courses in New Mexico" having moved from number seven to number three. He stated Rockwind has been an improvement to the quality of life for the residents of Hobbs and those who are visiting.

Ms. Jan Fletcher, City Clerk, stated four Voting Convenience Centers will be open from 7:00 a.m. to 7:00 p.m. on Tuesday, April 10, 2018, for the Runoff Election. She encouraged everyone to get out and cast their vote.

Commissioner Gerth stated golf play at Rockwind Community Links on weekends usually includes groups of 15-20 people who come in from out of town to play the course. He added it is becoming a very well known golf course. Commissioner Gerth further stated the quality of life amenities being offered in Hobbs are well received.

Commissioner Gerth thanked Commissioner Buie for his service and stated some of the best advice he got was to "sit, listen and learn" about what's going on in the community.

Commissioner Mills stated he attended a training session on Saturday but on Sunday, he was at the baseball complex with his son's team who won their baseball championship game. He stated the tournament was full of people from Texas, and he added it was difficult to even get into a restaurant because of the crowds. Commissioner Mills stated feedback from the players shows the teams love coming to Hobbs to play on the turf fields.

Commissioner Mills expressed his appreciation to Commissioner Buie for his years of service.

Commissioner Taylor thanked everyone for their participation at the baseball complex during the tournament. She stated Hobbs is becoming a destination place and Taylor Ranch would make a great impression on visitors.

Commissioner Taylor also thanked Commissioner Buie for his assistance over the years.

Commissioner Calderón thanked Commissioner Buie for his service and sincerity.

Commissioner Buie thanked everyone for their support and help.

Commissioner Newman commended Mr. Todd Bailey and Ms. Fletcher for their advertisement of the Runoff Election. He stated Commissioner Buie has been a very good friend over the years. Commissioner Newman stated a police retiree, Mr. Raoul McPeters, recently passed away and thanked Police Chief McCall for all of his hard work. He also acknowledged the loss of a great lady, Ms. Rhonda Cobb.

Mayor Cobb echoed the comments of the Commissioners and thanked Commissioner Buie for his service. He also thanked Ms. Cynthia Buie for her time while Commissioner Buie was serving the public.

Mayor Cobb stated the citizens of Hobbs are phenomenal. He and his family have felt loved during this time of loss. He added his wife, Ms. Rhonda Cobb, was a great lady and will be dearly missed. He thanked everyone for their support through this last week.

Adjournment

There being no further discussion or business, Commissioner Calderón moved that the meeting adjourn. Commissioner Newman seconded the motion. The vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Buie yes, Cobb yes. The motion carried. The meeting adjourned at 7:45 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Minutes of the special meeting of the Hobbs City Commission held on Friday, April 13, 2018, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico.

Call to Order and Roll Call

Mayor Cobb called the meeting to order at 11:00 a.m. and welcomed everyone in attendance to the meeting. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb
Commissioner Marshall R. Newman
Commissioner Patricia A. Taylor
Commissioner Joseph D. Calderón
Commissioner Garry A. Buie
Commissioner Don Gerth

Absent: Commissioner Christopher R. Mills

Also present: Manny Gomez, Acting City Manager/Fire Chief
Mike Stone, City Attorney
Efren Cortez, Assistant City Attorney
Chris McCall, Police Chief
Toby Spears, Finance Director
Todd Randall, City Engineer
Doug McDaniel, Parks and Recreation Director
Ron Roberts, Information Technology Director
Meghan Mooney, Director of Communications
Sandy Farrell, Library Director
Ann Betzen, Executive Assistant/Risk Manager
Mollie Maldonado, Deputy City Clerk
Jan Fletcher, City Clerk
15 citizens

Invocation and Pledge of Allegiance

Mayor Cobb delivered the invocation and Commissioner Buie led the Pledge of Allegiance.

Public Comments

There were no public comments

Discussion

Ms. Jan Fletcher, City Clerk, stated she and Ms. Mollie Maldonado, Deputy City Clerk, are here today to present the runoff election returns for official approval and certification. She presented the canvass of election returns from the runoff

municipal election held on March 6, 2018, as compiled by the Canvass Committee consisting of the governing body, the City Clerk, and Deputy Clerk.

The report is as follows:

- ▶ **774** votes were cast by voters at the four consolidated voting centers on election day.
- ▶ **422** early votes were cast on paper ballots in the Early Precinct and counted by an ImageCast Precinct Vote Tabulator.
- ▶ **59** ballots were issued in the Absentee Precinct; **11** ballots were not returned by 7:00 p.m.; making a total of **48** ballots received. Of those, **2** ballots were rejected with missing signatures leaving a total of **46** ballots counted in the Absentee Precinct.
- ▶ From the unofficial results reported on election night, there is a 1 vote difference. A voter who had been mailed an absentee ballot signed an affidavit under oath that the mailed ballot was not received. A ballot in lieu of absentee ballot was issued to the voter. Once it was determined that no absentee ballot was received from this voter, the ballot in lieu of absentee ballot is valid and the vote is now tallied and included in the canvass of the election returns. This resulted in one additional vote for Municipal Judge candidate Shannon Carter-Arguello.

Ms. Fletcher stated all of the vote counts are accurate and have been verified with the tabulator tapes, copies of which are attached.

The total number of votes recorded in the election was **1,243**. A total of 16,818 voters were eligible to vote in this election. The voter turnout percentage for this election is **7.39%**.

The Certificate of Canvass is attached hereto and incorporated into these minutes.

Ms. Mollie Maldonado, Deputy City Clerk, announced the total summary of votes as follows:

For the Position of City Commissioner, District 5

Roy Dwayne Penick - 272 votes

Scot A. Youngblood - 254 votes

Winner: Roy Dwayne Penick, 4-Year Term

For the Position of Municipal Judge, At Large

Benjamin H. Harrison - 684 votes

Shannon E. Carter-Arguello - 556 votes

Winner: Benjamin H. Harrison, 4-Year Term

Action Item

Resolution No. 6647 - Confirming the Certificate of Canvass of the Runoff Municipal Election Held April 10, 2018, in the City of Hobbs, New Mexico.

Ms. Fletcher explained the resolution and stated it confirms the Certificate of Canvass of the Runoff Municipal Election held April 10, 2018, in the City of Hobbs, New Mexico, as presented and declares that Roy Dwayne Penick and Benjamin H. Harrison have been duly elected by a majority of the voters. She stated this resolution takes full force and effect immediately upon its approval and passage and is presented for formal action by the Commission.

There being no discussion, Commissioner Buie moved that Resolution No. 6647 be adopted as presented. Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Taylor yes, Calderón yes, Buie yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mayor Cobb requested Ms. Fletcher administer the oath of office to the newly elected officials.

Ms. Fletcher administered the Oaths of Office to Mr. Penick and Mr. Harrison. Commissioner Penick took his seat at the front of the room.

Comments by City Commissioners, City Manager

Fire Chef/Acting City Manager welcomed Commissioner Penick to the Commission and congratulated Judge Benjamin Harrison.

Commissioners Gerth, Taylor, Calderon and Newman expressed congratulations to both candidates and stated they are looking forward to working together in harmony and peace.

Commissioner Dwayne Penick expressed appreciation to everyone for their vote, and stated he is looking forward to serving as City Commissioner.

Mayor Cobb again congratulated both Commissioner Penick and Judge Harrison on their election to office.

Mayor Cobb thanked everyone for their attendance at today's meeting and wished everyone a great weekend.

Adjournment

There being no further discussion or comments, Commissioner Penick moved that the meeting adjourn. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Taylor yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The meeting adjourned at 11:10 a.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Minutes of the work session of the Hobbs City Commission held on Monday, April 16, 2018, at 4:00 p.m. in the City Commission Chamber at City Hall, 200 East Broadway, Hobbs, New Mexico.

Mayor Cobb called the work session to order and welcomed everyone in attendance. The following were present:

Mayor Sam D. Cobb
Commissioner Marshall Newman
Commissioner Christopher Mills
Commissioner Pat Taylor
Commissioner Joseph D. Calderón
Commissioner Don Gerth

Absent: Commissioner Dwayne Penick

Also present were Acting City Manager/Fire Manny Gomez, Mr. Mike Stone, City Attorney, Ms. Jan Fletcher, City Clerk and Ms. Mollie Maldonado, Deputy Clerk. Other staff members and public were also present.

FY 18-19 Preliminary Budget - (General Fund Budget)

Acting City Manager/Fire Gomez stated the City Budget is the action plan utilized to implement the goals and objectives of the Commission and to address the needs and priorities of the many different activities and services that staff provides. He stated the City Manager, as the Chief Executive, is required to prepare and submit budget recommendations and future considerations annually to the Mayor and Commission as we work toward establishing a final budget for the City to operate each year. Acting City Manager/Fire Gomez stated Mr. Toby Spears, Finance Director, Ms. Deborah Corral, Assistant Finance Director, and staff who make up our Finance Department are responsible for providing City departments with fiscal planning and analysis to enable the City to provide quality services in accordance with the policies, goals and objectives established by the City Manager and the Commission. He stated, however, the fiduciary responsibilities rest upon all of us as Elected Officials, Department Heads, and staff.

He stated development of the budget officially began several months ago and staff from all departments have worked diligently to develop proposals to advance the mission of the City. Acting City Manager/Fire Gomez stated preliminary budget review with City Department Heads and staff was conducted in early March. He stated at the start of the preliminary budget review, City staff began deliberations with an 18% cash reserve and immediately worked to develop a preliminary funding strategy to address needs and priorities and recover the 30% cash reserve desired by this Commission. Acting City Manager/Fire Gomez stated as a result, our preliminary funding strategy resulted in a 30% cash reserve for a reduction of

approximately \$7.8 million from capital projects which will be reviewed as future/critical considerations. He stated from today's discussion and those in the next couple of weeks, staff hopes to receive guidance and understanding of the Commission's preferences and areas of interest.

Acting City Manager/Fire Gomez presented a PowerPoint to the Commission and stated the following topics will be covered during the budget presentation:

1. Preliminary Budget Process
2. Revenue and Reserve Limits
3. Budget Highlights
4. General Fund Expenditures and Overall Fund Expenditures
5. General Fund - Capital Outlay
6. Salary and Benefits
7. Special Revenue Funds
8. Enterprise Funds
9. Future Considerations

Acting City Manager/Fire Gomez reviewed the budget timeline and stated the City will need to take action and adopt the preliminary budget at its Commission meeting on May 21, 2018, because it is due to the New Mexico Department of Finance and Administration (DFA) by June 1, 2018. He stated there will be an opportunity to make final changes in mid-June and the Commission will need to approve to the FY 2019 Preliminary Budget and the final FY 2019 Budget on July 16, 2018, which is due to DFA on July 31, 2018, with carryovers and actual beginning cash balances. Acting City Manager/Fire Gomez stated FY 2019 Preliminary Budget is a total of \$104,914,263 million with salary and benefits being 46%, operations at 43% and capital outlay at 11%.

Mr. Toby Spears, Finance Director, explained the Preliminary Budget FY 19 and stated the beginning cash balance is \$27,245,196 with revenues projected at \$54,183,781, expenses projected at \$58,152,621 and transfers of \$5,079,464. He stated the projected balance at the end of the year will be \$18,196,892 resulting in a 31% reserve. Mr. Spears added the reserve does not include clawback amounts at this time. The proposed budget is all new dollars and does not include carryovers. He stated the carryovers are estimated at \$2,595,400 which will result in a 38% cash reserve.

In response to Commissioner Gerth's question, Mayor Cobb stated during the past six years, the Commission has requested a higher percentage of cash reserves due to the volatility of our oil and gas economy. He further stated the State requires a 1/12 percent in reserves but the City feels that is not sufficient due to the City's oil and gas industry; therefore, keeping the percentage higher has been the City's practice.

Mayor Cobb stated the City needs a strategic plan for economic growth on how to grow the local business base in Hobbs.

Continuing with the PowerPoint presentation, Mr. Spears explained the Hobbs Gross Receipts Tax (GRT) distribution of 6.8125% as follows:

1.2500% - state share (unrestricted)	18% local share
1.2250% - local share (unrestricted)	18% local share
.1250% - infrastructure (restricted)	2% local share
<u>.0625%</u> - environmental (restricted debt)	<u>1%</u> local share
<u>2.6625%</u> amount City receives	<u>39%</u> local share
<u>4.1500%</u> amount state keeps	<u>61%</u> state share

Mr. Spears reviewed the trends in GRT Revenues, monthly comparison of GRT and spot price of crude oil of West Texas along with the breakdown of monies received in GRT.

Mr. Spears explained the top three revenues of the General Fund are as follows:

Budgeted Gross Receipt Taxes	\$45,594,000 *
Charges for Services	\$ 2,565,034
Property Taxes	<u>\$ 3,050,000</u>
Total General Fund Revenue	\$51,209,034
Total Budget Overall Revenue	\$95,855,967

* \$3,799,500 monthly
10 month actual projected to 12 months multiplied by 95% factor

Mr. Spears also reviewed the breakdown of the FY 19 Revenue Summary.

Acting City Manager/Fire Gomez stated we have an opportunity with a new Commission and, in the very near future, a new City Manager to create a framework of guiding principles and practices for financial sustainability. He explained the budget highlights and stated the benefits and development of creating principles/practices into the frame of the organization. Acting City Manager/Fire Gomez stated the GRT Revenue is projected at \$45,594,000 for the General Fund and there is no increase in medical insurance premiums for second year in a row. He further stated that included in the budget are the addition of three full time positions for the Engineering and Legal Departments, reclassifying staff in several departments to align duties with needs to better serve our community, 2% COLA (cost of living adjustment), 3% merit increase for employees, change in longevity pay from 15 years to 10 years for non-union employees, and an increase in CDL recruitment pay.

In reply to Commissioner Newman's inquiry, Acting City Manager/Fire Gomez stated all employees are eligible for a 3% merit increase which has to be earned through performance. He stated all employees will receive the 2% COLA. Acting City Manager/Fire Gomez stated in the past, employees have received longevity pay beginning at 15 years of service and it is now proposed to begin longevity pay at 10 years of service. He stated 72 employees will be affected by this change which is a retention strategy.

Mr. Nicholas Goulet, Human Resources Director, stated longevity pay is calculated at \$5.00 per month, up to 15 years of service which is equal to \$900.00. At 20 years of service, the amount is \$1,200.00 plus 3% of base salary. At 25 years of service, the amount is \$1,200.00 plus 5% of base salary.

Acting City Manager/Fire Gomez stated the CDL incentive was \$240.00 per month and the recommendation is \$500.00 per month with a starting pay of \$14.12 per hour. Mr. Goulet agreed and stated the goal is to recruit more applicants. He stated 37 employees will be affected by the CDL incentive.

Acting City Manager/Fire Gomez reviewed the project highlights as follows:

Project Highlights:

Vehicle Replacements	\$1,481,200
Paving Rehabilitation	\$1,000,000
SCADA project	\$1,200,000
West Bender Roadway Reconst.	\$ 550,000

Joint Utility Extensions	\$ 250,000
College Lane Reconstruction	\$ 460,000
Total Capital Projects	\$8,609,340

In response to Commissioner Gerth's question, Mr. Todd Randall, City Engineer, stated the West Bender Roadway Reconstruction is for design services for right-of-way drainage.

Mr. Spears presented the following summary of General Fund expenditures and overall fund expenditures:

	<u>Total</u>	<u>% of Total</u>
Total Budgeted Expenditures	\$104,914,263	100%
Total Budgeted General Fund	\$ 58,252,621	56%

General Fund Breakdown:

Personnel and Benefits	\$ 37,465,349	64%
Operating	\$ 16,677,425	29%
Capital Outlay	\$ 4,109,847	7%
Transfers	\$ (5,079,463)	

Mr. Spears stated Police and Fire make up 51% of personnel and benefits. He stated Fire includes the Code Enforcement staff.

Mr. Spears continued to review the PowerPoint and explained the FY 19 Preliminary Budget Expenditures Summary for all funds. He stated that capital expenditures are listed on pages 22 through 31 in the preliminary draft budget book provided to the Commission.

Mr. Spears reviewed the breakdown in numbers and monies for Salary and Benefits for all funds as a whole and by department.

In reply to Commissioner Newman's question, Mr. Goulet stated 474 FTE include full time equivalents which means that two part-time employees equal to one FTE. It also includes 70 seasonal employees and seven elected officials.

Mr. Spears reviewed the Special Revenue Funds for the FY 2019 Preliminary Budget as follows:

	<u>Revenue</u>	<u>Expenditures</u>	<u>Transfer from General Fund</u>
SAFER Grant	\$ 253,705	\$ 519,744	\$ 94,893
COPS Grant	\$ 467,853	\$ 977,948	\$ 510,095
CORE (operations)	\$1,899,262	\$3,731,542	\$1,832,280*
Older American Fund	\$ 211,108	\$ 945,670	\$ 734,562
Golf	\$ 954,700	\$3,082,397	\$2,127,697
Cemetery	\$ 159,200	\$ 619,394	\$ 460,194
Public Transportation	\$ 684,926	\$1,004,668	\$ 319,743

*Note: CORE Special Revenue Fund is projected to have a \$75,000 cash balance on June 30, 2019, per the Joint Powers Agreement (JPA) as it relates to capital reserve.

Mr. Spears also reviewed the Special Revenue Funds relating to the 2018 CORE current budget which is subject to carryover in July, 2018, as follows:

2018 Current Budget (as of April 10, 2018) for CORE (subject to carryover in July 2018)

EXPENDITURES:	<u>Budget</u>	<u>Actual</u>
Personnel and Benefits	\$ 676,176	\$ 191,709
Operating Expenditures	\$ 531,217	\$ 141,941
Capital Outlay:		
Equipment/Furniture	\$ 1,708,074	\$ 1,335,424
Design	\$ 2,226,455	\$ 1,833,063
Construction	<u>\$56,358,622</u>	<u>\$ 47,224,266</u>
TOTAL	<u>\$61,500,544</u>	<u>\$ 50,726,403</u>
REVENUES:		
NMJC Appropriation	\$10,000,000	\$ 9,950,000
Hobbs Schools Appropriation	\$ 1,000,000	\$ 1,000,000

Local Grant Appropriation	\$27,500,000	\$ 17,026,162
City of Hobbs Transfer Appropriation	<u>\$25,015,000</u>	<u>\$ 22,825,241</u>
TOTAL	<u>\$63,515,000</u>	<u>\$ 50,801,403</u>

Mr. Spears also reviewed the Enterprise Funds as follows:

FTE Count	56
Total Budgeted Expenditures	\$17,163,510
Total Budgeted Revenues	<u>\$18,290,000</u>
Difference before Debt Transfer	<u>\$ 1,126,490</u>
Transfers In:	
Environmental Tax Debt Service (1/16 th)	\$ 1,100,000
Transfers Out:	
Debt Service	<u>\$(2,412,214)</u>
Difference paid by user rates	<u>\$ 1,312,214</u>
Difference after Debt Transfer	\$ (185,724)

Mayor Cobb stated the City needs to develop a conservation plan. He stated the City is saving water but less revenues are being collected.

Acting City Manager/Fire Gomez stated future consideration is to create strong, goal-oriented financial practices into the frame of the organization. He stated this will avoid short-term thinking and emotions while identifying conflicts and alignment. Acting City Manager/Fire Gomez stated his strategy for development is to help leaders express their vision and be able to answer questions on what kind of thriving, growing organization they would like in the future. He further stated the City also needs to review past decisions. Acting City Manager/Fire Gomez stated the City will always attempt to work with others so it can do more than it would be able to do alone. He stated links to the organization work and will provide guidance for the future. Acting City Manager/Fire Gomez stated the City needs to embody the principles in the budget by taking charge of the organization's financial destiny to operate within available means and with minimal debt. He also stated the City needs to ensure continuing value of services in the future. Acting City Manager/Fire Gomez stated the City needs to establish policy objectives to periodically assess the

current and future needs of its customers to know whether the customer needs are being met. He further stated the City should periodically adjust the mix of services to maintain optimal usefulness. Acting City Manager/Fire Gomez also stated the City should take measures on reserves and succession plans to protect core services from the economy and unfunded liabilities. He stated the City should identify stakeholders in the City's financial health and partner with them to chart and control the City's financial destiny. Acting City Manager/Fire Gomez stated it is needs versus wants.

Acting City Manager/Fire Gomez reviewed the City of Hobbs taxing structure and stated the following are the remaining tax options as follows:

Municipal Gross Receipts - 6 th	1/4 % yields	4.4 million
Municipal Infrastructure - 3 rd	1/16 % yields	1.1 million
Municipal Infrastructure - 4 th	1/16% yields	1.1 million

Acting City Manager/Fire Chief Gomez reviewed the partnership with the Lea County Communication Authority (LCCA) and stated the JPA with LCCA is a cost sharing arrangement between Lea County and the City of Hobbs. The City acts as fiscal agent to the LCCA and the payment to Lea County is approximately \$1,518,473 from the General Fund. He stated Lea County would like to impose a 1/8th Communication/911 tax, specifically dedicated to LCCA personnel, operations and capital outlay. He stated the total revenue amount generated from the tax would be \$4.8 million per year.

In response to Mayor Cobb's inquiry, Mr. Spears stated if Lea County implements the tax, it receives all the funds. He stated the City portion currently being paid to Lea County will be deducted from the tax received and the City will not have to pay its share of approximately \$1,518,473.

Mr. Spears stated the approximate Bonding Capacity Thresholds are as follows:

	<u>10 years</u>	<u>20 years</u>
Bonding/NMFA 1/16 th (\$1,100,000)	\$ 9 million	\$14.3 million
Bonding/NMFA 1/8 th (\$2,200,000)	\$18 million	\$28.6 million

Mr. Spears identified the following capital outlay requests which have been deferred and can be reconsidered during the final budget:

GENERAL FUND

Vehicle Replacement	\$ 597,000
Computer Equipment over 5k	\$ 28,500
Copier	\$ 15,000
HPD – Integration of Network	\$ 450,000
Parks/Sports Field/Harry McAdams Equipment	\$ 103,000
Additional Cameras for Parks (\$200,000 request)	\$ 100,000
Asphalt/Electrical- Zia and HHS Varsity Parking	\$ 452,000
Teen Center Gym Floor	\$ 89,000
Repairs – Pools (\$31,400 request)	\$ 7,400
Mobile Kennels	\$ 10,000
Major Thoroughfare Plan/Drainage Master Plan	\$ 260,000
Citywide Signage Project	\$ 100,000
Install New Edge Lite Street Name Signs	\$ 200,000
City Wide Fiber Network	\$2,500,000
Mapping Equipment	\$ 16,000
Street Sweeper	\$ 300,000

SPECIAL REVENUE FUNDS

Vehicle Replacement	\$ 28,000
Equipment over 5K	\$ 82,800
Hobbs Express Paving/Gates (requested 75K)	\$ 50,000
Rockwind Equip. (possible lease/purchase - jog trail)	\$ 324,000
Rockwind Signage (requested 45k)	\$ 30,000
Golf Course Carts (possible lease – 5 year lease)	\$ 114,804
Structural Pumper	<u>\$ 575,000</u>

TOTAL GEN. FUND/SP REV. DEFERRAL **\$6,432,504**

ENTERPRISE FUNDS

Waterline Replacement	\$ 500,000
SCADA Project (requested 1,350,000)	\$ 150,000
Waste Water Treatment Plant Building Imp.	\$ 100,000
Additional Monies for Digester Project	\$1,200,000
Additional Monies for NE Effluent Design	\$ 650,000

Additional Monies for Tertiary Treatment Project	\$ 550,000
Vehicle Replacement (semi-truck)	<u>\$ 130,000</u>
TOTAL ENTERPRISE FUNDS	<u>\$3,280,000</u>
TOTAL DEFERRED PROJECTS	<u>\$9,712,504</u>

Acting City Manager/Fire Gomez stated the budget goal is to take charge of the organization's financial destiny and to operate within available means and with minimal debt to ensure continuing the value of services in the future. He stated to do this, a policy of objectives needs to be established. Acting City Manager/Fire Gomez continued by stating with the policy of objectives, the City would periodically assess the current and future needs of its customers by developing a Strategic and Master Plan with Elected Officials, Staff and Stakeholders and citizen input as follows:

1. The City should know whether customer needs are met.
2. The City should periodically adjust the mix of services to maintain optimal usefulness by identifying underperforming services/programs. City management should periodically assess the City's financial health and take the necessary corrective action to stay on course with the financial plan.
3. The City should take measures to keep reserves at 30% and create succession plans to protect CORE and public safety services, infrastructure, utility, facilities, quality of life projects and the workforce from disrupting events.
4. The City should identify stakeholders in the City's financial health and partner with them to plan and control the City's financial destiny.
5. Once principles have been decided, the City can reflect the principles in decision making.
6. The City can incorporate the principles into training by instructing new commissioners/staff members/stakeholders as well as training departments throughout the City related to day-to-day operations.

Acting City Manager/Fire Gomez stated this is just a quick example and it would obviously take a planning day with the Commission and staff to create these type of principles along with goals and objectives. In his opinion, however, he stated planning is very critical to sustain the City's financial health.

In conclusion, Acting City Manager/Fire Gomez thanked all staff involved in the preparation of the preliminary budget, particularly as it relates to difficult choices, creativity, and difficult decisions that have to be made. He further stated the proposed budget is balanced and reflects the City's continued fiscal restraint. Acting City Manager/Fire Gomez stated a healthy reserve puts the City in a solid position to endure future short term economic downturns; however, we must ensure continuing value of services in the future.

Mayor Cobb thanked Acting City Manager/Fire Gomez and stated this is the best preliminary budget presentation he has ever heard. He stated the Commission will be taking a look at the expenses in each Department and, along with staff, will work together and look at all expenses.

There being no further discussion, the work session adjourned at 5:25 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Minutes of the regular meeting of the Hobbs City Commission held on Monday, April 16, 2018, in the City Commission Chamber, 200 East Broadway, 1st Floor Annex, Hobbs, New Mexico.

Call to Order and Roll Call

Mayor Cobb called the meeting to order at 6:00 p.m. and welcomed everyone in attendance to the meeting. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb
Commissioner Marshall R. Newman
Commissioner Christopher Mills
Commissioner Patricia A. Taylor
Commissioner Joseph D. Calderón

Absent: Commissioner Dwayne Penick

Also present: Manny Gomez, Acting City Manager/Fire Chief
Mike Stone, City Attorney
Chris McCall, Police Chief
Brian Dunlap, Deputy Police Chief
Barry Young, Deputy Fire Chief
Max Brown, Battalion Chief
Kevin Shearer, Fire Captain
Toby Spears, Finance Director
Ron Roberts, Information Technology Director
Todd Randall, City Engineer
Shelia Baker, Senior Engineer
Tim Woomer, Utilities Director
Britt Lusk, Administrative Services Director
Raymond Bonilla, Community Services Director
Doug McDaniel, Parks and Recreation Director
Lindsay Chism-McCarter, CORE Marketing Director
Matt Hughes, Golf Superintendent
Nicholas Goulet, Human Resources Director
Tracy South, Assistant Human Resources Director
Meghan Mooney, Communications Director
Shannon Carter-Arguello, Municipal Court Clerk
Sandy Farrell, Library Director
Ann Betzen, Risk Manager/Executive Assistant
Mollie Maldonado, Deputy City Clerk
Jan Fletcher, City Clerk
27 citizens

Invocation and Pledge of Allegiance

Commissioner Taylor delivered the invocation and Commissioner Mills led the Pledge of Allegiance.

Approval of Minutes

Mayor Cobb stated the minutes from the meetings of April 9, April 13 and April 16 will be submitted for approval on May 7, 2018.

Proclamations and Awards of Merit

Proclamation Proclaiming the Week of April 9-15, 2018 as "National Public Safety Telecommunications Week".

Mayor Cobb proclaimed the week of April 9-15, 2018 as "National Public Safety Telecommunications Week". He presented the proclamation to Ms. Angela Martinez, Lea County Communication Authority Director. Ms. Martinez thanked the Commission for its support.

Recognition of Employee Milestone Service Awards for April, 2018.

Mayor Cobb recognized the following City employees and their tenure:

- ▶ 5 years - Chantley Wilson, Utilities Department/Lab
- ▶ 5 years - Marina Barrientes, Hobbs Police Department
- ▶ 5 years - Scot Youngblood, Engineering Department
- ▶ 5 years - Michael Thomas, Hobbs Police Department
- ▶ 10 years - Jana McDaniel, General Services Department
- ▶ 15 years - Hugh Davis, Street Department
- ▶ 15 years - Randy Lawson, Utilities Department
- ▶ 25 years - Francisco Antillon, General Services Department
- ▶ 25 years - Dianna McCann, Environmental Department

Public Comments

There were no public comments.

Consent Agenda

Mayor Cobb explained the Consent Agenda and the process for removing an item from the Consent Agenda and placing it under Action Items.

Commissioner Newman moved for approval of the following Consent Agenda Item(s):

Resolution No. 6648 - Authorizing Revisions to the Lea County Communication Authority Radio Memorandum of Agreement to Include the New Mexico Junior College.

Resolution No. 6649 - Authorizing Appointments to the City of Hobbs Planning Board.

Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolutions and supporting documentation are attached and made a part of these minutes.

Discussion

There were no items for discussion presented.

Action Items

FINAL ADOPTION: Ordinance No. 1115 - Repealing and Amending Section 2.58 of the Hobbs Municipal Code Regarding the Number of City of Hobbs Employees.

Mr. Mike Stone, City Attorney, explained the ordinance and stated the City desires for the Full Time Equivalent (FTE) employee numbers be consistent with the reporting requirements of the New Mexico Department of Finance and Administration (DFA). He stated the City Manager, with the approval of the City Commission, is responsible for maintaining the appropriate workforce based on the established City budget for that fiscal year.

Proper publication having been made, and there being no discussion by the Commission or comments from the public, Commissioner Calderón moved to adopt Ordinance No. 1115 as presented. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. A copy of the ordinance is attached and made a part of these minutes.

Resolution No. 6650 - Approving and Finalizing Facility Usage Fees, Group Discount Fees and Family Membership Fees at the CORE.

Mr. Doug McDaniel, Parks and Recreation Director, presented the fees for approval at the batting cages, competition pools lanes, Group Discount Fees and Family Membership Fees. Mr. McDaniel stated the Membership Fees were discussed at the April 9, 2018, City Commission meeting.

Commissioner Newman stated City staff needs to really work on educating the public that the CORE is more than just a swimming pool. Mr. McDaniel recommended anyone can call him and he can take them on a tour of the facility.

In reply to Commissioner Newman's question, Mr. McDaniel stated the Guest Services Coordinator will track memberships which will be done annually.

In response to Commissioner Mills' inquiry, Mr. McDaniel stated they will accept a New Mexico State identification card or a driver's license as proof of address. In lieu of one of those identifications, a lease agreement or utility bill will be sufficient.

There being no further discussion, Commissioner Gerth moved to approve Resolution No. 6650 as presented. Commissioner Mills seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Consideration of Approval of RFP No. 499-18 for Janitorial Services for the CORE and Recommendation to Reject All Proposals

Ms. Shelia Baker, Senior Staff Engineer, was congratulated by Mayor Cobb on her new position as General Services Director starting April 23, 2018.

Ms. Baker explained Proposal No. 499-18 for Janitorial Services for the CORE. She stated 14 companies received the proposal packet, of which five companies attended the mandatory pre-submittal conference. She further stated four proposals were submitted to the City. Ms. Baker stated the budgeted amount for this service is \$106,200.00 and all of the bids exceed the budget amount. She stated it is staff's recommendation to reject all proposals.

In reply to Commission Calderón's question, Ms. Baker stated the budgetary amount is low and needs to be addressed. She further stated the rescoping of the project needs to be looked at as well. Ms. Baker stated it should be a quick turn around to get the revised proposal out for advertisement.

Commissioner Taylor moved to reject all proposals for RFP No. 499-18 Janitorial Services for the CORE as presented. Commissioner Calderón seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Resolution No. 6651 - Authorizing a Multiple Services Agreement with the Lea County Board of County Commissioners for FY 17-18

Mr. Stone explained the Multiple Services Agreement with the Lea County Board of County Commissioners and stated this resolution is for the approval to accept compensation from Lea County in the amount of \$500,000.00 for FY 2017-2018.

There being no discussion, Commissioner Calderón moved to approve Resolution No. 6651 as presented. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Resolution No. 6652 - Authorizing an Allocation of Lodgers' Tax Funds to Fund Various Annual Events for FY 2019.

Mayor Cobb stated the Lodgers' Tax Board is short one member, and he apologized for not having appointed a replacement member as it made a difference to the outcome of the FY 19 Annual Funding of lodgers' tax funds. He asked the Lodgers' Tax Board members to submit names of anyone who would like to serve on the Board. He thanked the members of the Lodgers' Tax board for their services.

Mr. Toby Spears, Finance Director, stated a Lodgers' Tax Board meeting was held on April 11, 2018, to hear presentations from organizations regarding funding requests for FY 2019. He explained the approved lodgers' tax allocation percentages based on the current City ordinance as follows:

- ▶ 15% for public safety and City incurred sanitation cost;
- ▶ 20% advertising and promotion of events for non-profit and for-profit organizations and public entities with no one event exceeding \$25,000.00;
- ▶ 25% support of Airport Commercial Air Service at the Lea County Airport; and
- ▶ 40% for advertising, promoting, marketing of events for the City of Hobbs and Lea County.

Mr. Spears stated the 2019 budgeted lodgers' tax revenues are projected to be around \$2,050,206.00.

Mayor Cobb recommended not to take action on Item #4 Lea County Event Center. Mayor Cobb stated that the Lea County events are important quality of life events. He would like for Acting City Manager/Fire Chief Manny Gomez and himself to visit with a representative from Lea County to discuss.

Mayor Cobb requested a motion on the Lodgers' Tax Board's recommendation for funding of the following organizations:

	Lodgers' Tax Board
▶ City of Hobbs - Rockwind Golf- Marketing	\$ 54,655.00
▶ City of Hobbs - CORE - Marketing	\$ 88,800.00
▶ City of Hobbs - CORE - Operating	\$ 500,000.00
▶ City of Hobbs - Slam & Jam	\$ 36,500.00
▶ Hobbs Chamber - Holiday Tourn./Beer & Wine	\$ 21,233.22
▶ Hispano Chamber - Mariachi Christmas	\$ 25,000.00
▶ Southwest Symphony	\$ 62,012.50
▶ Hobbs USSSA	\$ 80,000.00
▶ Western Heritage Museum Complex	\$ 45,645.00
▶ Cycle City Promotions	\$ 50,000.00

Commissioner Calderón moved to approve the Lodgers' Tax Board's funding recommendations as stated above for each organization. Commissioner Mills seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the Juneteenth request failed by a 2-1 vote of the Lodgers' Tax Board members.

In response to Mayor Cobb's question, Mr. Spears stated that Juneteenth requested funds for two funding cycles in amount of \$9,800.00. He recommended to only award \$4,900.00 which is for one event. Mr. Spears stated Juneteenth can request funds for the other event at a later date.

Mayor Cobb requested a motion on the Juneteenth's request.

Commissioner Calderón stated local events improve the quality of life to the City of Hobbs and should be funded. Commissioner Calderón moved to approve funding for Juneteenth in the amount of \$4,900.00 for the Juneteenth Celebration. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the request of the New Mexico National Black Chamber of Commerce failed by a 2-1 vote of the Lodgers' Tax Board members.

Mayor Cobb requested a motion on the New Mexico National Black Chamber of Commerce request.

Commissioner Calderón moved to approve funding for the New Mexico National Black Chamber of Commerce in the amount of \$8,800.00 for the Miss Black New Mexico Pageant. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the Hispano Chamber of Commerce request for the Fiesta de Septiembre failed by a 2-1 vote of the Lodgers' Tax Board members.

Mayor Cobb requested a motion on the Hispano Chamber of Commerce for the Fiesta de Septiembre.

Commissioner Calderón moved to approve funding for the Hispano Chamber of Commerce in the amount of \$25,000.00 for the Fiesta de Septiembre. Commissioner Taylor seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the request from the Cinco de Mayo Committee for the Cinco de Mayo Celebration failed by a 2-1 vote of the Lodgers' Tax Board members.

In response to Mayor Cobb's inquiry, Mr. Spears stated the Cinco de Mayo Committee did not spend \$5,600.00 of its allocated funding for FY 18. He stated he will sweep the funds and revert it back into the lodger's tax funds.

Mayor Cobb requested a motion for the Cinco de Mayo Committee for the Cinco de Mayo Celebration.

Commissioner Calderón moved to approve funding for the Cinco de Mayo Committee in the amount of \$10,000.00 for the Cinco de Mayo Celebration. Commissioner Newman seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the Tuff Hedeman Championship Bull Riding request died for a lack of second by the Lodgers' Tax Board members.

Mr. Tuff Hedeman with Tuff Hedeman Championship Bull Riding expressed appreciation to the Commission for the funding of lodgers' tax for last year's event. He stated it was a significant turn out. He stated attendance for last year's event was 3,315 with a sell out of 4,000. Mr. Hedeman stated over 400 hotel rooms were rented for the event.

In reply to Commissioner Gerth's question, Mr. Hedeman stated the Tuff Hedeman Championship Bull Riding is a one-day event. He further stated staff and/or participants arrive three days prior to the event and leave one day after the event and lodge in Hobbs hotels during that time.

Mayor Cobb requested a motion on the Tuff Hedeman Championship Bull Riding.

Commissioner Calderón moved to approve funding for the Tuff Hedeman Championship Bull Riding in the amount of \$20,000.00 for the Tuff Hedeman Championship Bull Riding event. Commissioner Gerth seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. Copies of the resolution and supporting documentation are attached and made a part of these minutes.

Mr. Spears stated the Impacto JAG Promotions request failed by a 2-1 vote of the Lodgers' Tax Board members.

Mr. Jorge A. Guerra with Impacto JAG Promotions stated Rojo en Concierto will be a great event as top Christian bands from the United States and outside the Country will play at this event.

Mayor Cobb requested a motion on the Impacto JAG Promotions for the Rojo en Concierto concert.

Commissioner Calderón moved to approve funding for the Impacto JAG Promotions in the amount of \$9,500.00 for the Rojo en Concierto concert. Commissioner Gerth seconded the motion and the vote was recorded as follows: Newman yes, Mills yes, Taylor yes, Calderón yes, Gerth yes, Cobb yes. The motion carried.

Comments by City Commissioners, City Manager

Acting City Manager/Fire Chief Gomez reminded everyone of the Downtown Slam & Jam Basketball Tournament on April 21 - 22, 2018.

Acting City Manager/Fire Chief Gomez stated Rockwind Community Links had its busiest day on April 15, 2018, with a total of 215 rounds of golf.

Acting City Manager/Fire Chief Gomez stated the Hobbs Animal Adoption Center Shot Clinic had a great turnout. He further stated there were 1,256 shots administered to dogs and 47 shots administered to cats.

Commissioner Gerth thanked the Commission for looking closely into quality of life projects for the community.

Commissioner Mills stated he attended the Lodgers' Tax meeting on April 11, 2018. He stated he is excited for all of the Lodgers' Tax events and hopes they are successful.

Commission Taylor stated she would like to encourage everybody to get out and attend events in the community to learn something new about other cultures which is entertaining and interesting.

Commissioner Calderón stated the Commission needs to move forward and start planning for Taylor Ranch.

Mayor Cobb stated Commissioner Penick was not able to attend tonight's meeting due to a prior engagement that was planned before the Runoff Election. He stated Commissioner Penick is excited and anxious to be a part of the team.

Mayor Cobb stated the next Commission meetings will be held on Monday, May 7, 2018, and Monday, May 21, 2018.

Adjournment

There being no further discussion or business, Commissioner Newman moved that the meeting adjourn. Commissioner Calderón seconded the motion. The motion carried. The meeting adjourned at 6:40 p.m.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, the theme for 2018 Arson Awareness Week is “**Reducing Arson at Vacant and Abandoned Buildings**”; and

WHEREAS, according to the U. S. Fire Administration, intentional actions were the leading cause of vacant residential building fires at 34 percent; and

WHEREAS, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives, there have been an average of 550 reported incendiary/arson fires per year at properties reported as abandoned, vacant-secured, uninhabitable, idle, not routinely used, and being demolished; and

WHEREAS, according to the National Fire Protection Association reports, fires in vacant buildings are more likely to have been intentionally set and spread beyond the building than fires in other structures. They also cause a disproportionate share of firefighter injuries; and


WHEREAS, the Hobbs Fire Department will use the week of May 6 to 12 to focus on the importance of a cooperative effort with fire and emergency service departments, law enforcement, public works, insurance companies, and the justice system to help prevent the horrendous crime of arson at vacant and abandoned buildings.

NOW THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, do hereby proclaim the week of May 6-12, 2018, to be

“ARSON AWARENESS WEEK”

in the City of Hobbs and encourage all citizens to recognize and pay special tribute to all fire and law enforcement investigative agencies for their dedicated and tireless service.

IN WITNESS, WHEREOF, I have hereunto set my hand this 7th day of May, 2018, and cause the seal of the City of Hobbs to be affixed hereto.



Sam D. Cobb, Mayor

ATTEST:



Jan Fletcher, City Clerk



Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, the City of Hobbs is committed to recognizing our growth and strength depends on the safety and economic value of the homes, buildings and infrastructure that serve our citizens, both in everyday life and in times of natural disaster; and

WHEREAS, our confidence in the structural integrity of these buildings that make up our community is achieved through the devotion of building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers and others in the construction industry; and

WHEREAS, these guardians are dedicated members of the International Code Council, a U.S. based organization, that brings together local, state and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, worship, play; and

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown guardians of public safety – our local code officials – who assures of safe, efficient and livable buildings that are essential to keep America great ; and

WHEREAS, each year, in observance of Building Safety Month, Americans are asked to consider the commitment to improve building safety and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim the month of May, 2018, as

"BUILDING SAFETY MONTH"

With the theme, "**Building Codes Save Lives**", I encourage the community to join with the City of Hobbs in participation in Building Safety Month activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of May, 2018, and cause the seal of the City of Hobbs to be affixed hereto.



SAM D. COBB, MAYOR

ATTEST:


JAN FLETCHER, CITY CLERK

Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, May 19th, 2018 is the eighth Kids to Parks Day organized and launched by the National Park Trust, held annually on the third Saturday of May; and

WHEREAS, Kids to Parks Day empowers kids and encourages families to get outdoors and visit America's parks; and

WHEREAS, it is important to introduce a new generation to our nation's parks; and

WHEREAS, we should encourage children to lead a more active lifestyle to combat the issues of childhood obesity, diabetes, hypertension and high cholesterol; and

WHEREAS, Kids to Parks Day is open to all children and adults across the county to encourage a large and diverse group of participants; and

WHEREAS, Kids to Parks Day will broaden children's appreciation for nature and outdoors;

NOW, THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim May 19th, as

"KIDS TO PARKS DAY"

in the City of Hobbs and urge residents to make time to take the children in their lives to a neighborhood, state or national park.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of May, 2018, and cause the seal of the City of Hobbs to be affixed hereto.



SAM D. COBB, Mayor

ATTEST:



JAN FLETCHER, City Clerk



Office of the Mayor
Hobbs, New Mexico

PROCLAMATION

WHEREAS, the Congress and President of the United States have designated May 15 as Peace Officers Memorial Day, and the week in which it falls as Police Week; and

WHEREAS, the members of the City of Hobbs Police Department play an essential role in safeguarding the rights and freedoms of the citizens of our city; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and


WHEREAS, the City of Hobbs Police Department has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service.

NOW, THEREFORE, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim May 13-19, 2018, as

"POLICE WEEK"

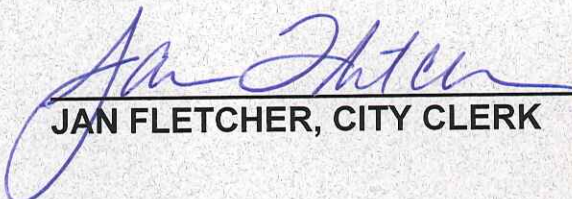
and call upon all citizens of Hobbs and upon all patriotic, civil, and educational organizations to observe this week with appropriate ceremonies in which all of our people may join in commemorating police officers, past and present, which by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of May, 2018, and cause the seal of the City of Hobbs to be affixed hereto.



SAM D. COBB, MAYOR

ATTEST:



JAN FLETCHER, CITY CLERK





CONSENT AGENDA



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: 5-7-18

SUBJECT: Resolution Authorizing the Mayor to Make Appointments to City Advisory Boards.

DEPT. OF ORIGIN: Mayor's Office
DATE SUBMITTED: 4-23-18
SUBMITTED BY: Ann Betzen

Summary:

The Mayor would like to re-appoint the following members whose terms expired March 31, 2018:

Cemetery Board: Bonnie Moran, Sue Sedillo, and Sherry Jo Norman; to the Community Affairs Board: Larron Fields, Mike Clampitt and Helen Houston; to the Library Board: Jackie McDaniel, Guy Williams, and Carolina Greene; to the Utilities Board: Benny Choice. All appointees to serve a two-year term commencing March 31, 2018. Marshall Newman will serve as commission liaison to the Cemetery Board, Don Gerth as liaison to the Community Affairs Board, Joe Calderon as liaison to the Library Board, Dwayne Penick as liaison to the Planning Board, Pat Taylor as liaison to the Utilities Board and Chris Mills as liaison to the Lodgers' Tax Board.

The Mayor would like to appoint Ben Donahue to the Planning Board to fill the position vacated by Bobby Shaw. Term will expire March 31, 2020.

The Mayor would like to make the following appointments to the Utilities Board: Josh Grasham to fill the position vacated by Philip Ingram, term will expire March 31, 2020 and Byron Marshall to fill the position vacated by James Francis, term will expire March 31, 2019.

The Mayor would like to re-appoint Jack Robertson to the Lodgers' Tax Board. Term will expire January 1, 2021. The Mayor would like to appoint Oscar Gonzales to the Lodgers' Tax Board to fill the position vacated by Vivian Flemmens. Term will expire January 1, 2020.

The Mayor also wishes to appoint Todd Randall, Tim Woomeer and Marshall Newman to the Lea County Solid Waste Authority to swerve a four year term commencing May 7, 2018.

Fiscal Impact:

There is no effect on the current year budget.

Reviewed By:

[Signature]
Finance

Attachments: Resolution

Legal Review:

Approved As To Form:

[Signature]
City Attorney

Recommendation: Motion to approve Resolution.

Approved For Submittal By:

Department Director

City Manager

CITY CLERK= S USE ONLY
COMMISSION ACTION TAKEN

Resolution No.
Ordinance No.
Approved
Other

Continued To:
Referred To:
File No.
Denied

CITY OF HOBBS

RESOLUTION NO. 6653

A RESOLUTION AUTHORIZING THE MAYOR
TO MAKE APPOINTMENTS TO
THE CITY OF HOBBS ADVISORY BOARDS

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is authorized to make appointments to the following advisory boards:

CEMETERY BOARD (Two-year terms commencing March 31, 2018)

Bonnie Moran – re-appoint
Sue Sedillo – re-appoint
Sherry Jo Norman – re-appoint
Commissioner Marshall Newman – appointed as Liaison

COMMUNITY AFFAIRS BOARD (Two-year terms commencing March 31, 2018)

Larron Fields – re-appoint
Mike Clampitt – re-appoint
Helen Houston – re-appoint
Commissioner Don Gerth – appoint as Liaison

LIBRARY BOARD (Two-year terms commencing March 31, 2018)

Jackie McDaniel – re-appoint
Guy Williams – re-appoint
Carolina Greene – re-appoint
Commissioner Joe Calderon – appoint as Liaison

PLANNING BOARD (Ratify appointments made by Resolution No. 6649 for two-year terms and make new appointment)

Tres Hicks – re-appoint
Bill Ramirez – re-appoint
Brett Drennan – re-appoint
Philip Ingram – appoint to fill the position vacated by Dwayne Penick (term will expire March 31, 2019)
Ben Donahue - appoint to fill the position vacated by Bobby Shaw (term will expire March 31, 2020)
Commissioner Dwayne Penick – appoint as Liaison

UTILITIES BOARD (Two-year terms commencing March 31, 2018)

Benny Choice – re-appoint

Josh Grasham – appoint to fill the position vacated by Philip Ingram (term will expire March 31, 2020)

Byron Marshall – appoint to fill the position vacated by James Francis (term will expire March 31, 2019)

Commissioner Pat Taylor – appoint as Liaison

LODGERS' TAX BOARD (Three-year terms commencing January 1, 2018)

Jack Robertson – re-appoint

Oscar Gonzalez – appoint to fill the position vacated by Vivian Flemmens (term will expire January 1, 2020)

Commissioner Chris Mills – appointed as Liaison

LEA COUNTY SOLID WASTE AUTHORITY (Four-year term commencing May 7, 2018)

Todd Randall – Appoint

Tim Woome – Appoint

Commissioner Marshall Newman – Appoint

EDDY LEA ENERGY ALLIANCE

Sam Cobb – confirm Primary Director

Garry Buie - appoint

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: Bid 1570-18; Furnish Polyelectrolyte Coagulant Aids
DEPT. OF ORIGIN: Utilities
DATE SUBMITTED: April 24, 2018
SUBMITTED BY: Tim Woomer, Utilities Director

Summary:

Polyelectrolyte coagulant aids (polymers) are utilized at the Wastewater Reclamation Facility (WWRF) for thickening (Injection Point #1) and dewatering (Injection Point #2) of bio-solids prior to material stabilization and thermal drying.

Bid 1570-18; Furnish Polyelectrolyte Coagulant Aids advertised on March 18, 2018 with a closing date of April 12, 2018. Four (4) bid packets were sent out with two (2) responses received. One was a formal bid from the firm of Polydyne, Inc. and the other was a "Decline to Bid" letter from Univar. Trial testing of the respective Vendor's polymers has been conducted based on the bid criterion and the respective Vendor's annual costs were calculated using 2017 bio-solids volumes.

Injection Point #1 (970 tons)

- Polydyne Inc. (20.0 lbs/ton x 1000 tons @ \$1.135/lb) = \$22,700.00

Injection Point #2 (700 tons)

- Polydyne Inc. (38.0 lbs/ton x 700 tons @ \$1.135/lb) = \$30,191.00

Projected Total Annual Cost - \$52,210.00

Fiscal Impact: \$52,891.00 (plus GRT)

Reviewed By: _____

[Signature]
Finance Department

Polyelectrolyte coagulant aids are Budgeted at \$89,000.00 for FY 2018-19 under 634375-42337.

Attachments:

Bid 1570-18

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Staff recommends that Bid 1570-18 be awarded to Polydyne, Inc of Riceboro, GA.

Approved For Submittal By: _____

[Signature]
Department Director

[Signature]
City Manager

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COMMISSION ACTION TAKEN**

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

INVITATION TO BID

BID NO. 1570-18

FURNISH POLYELECTROLYTE COAGULANT AIDS

City of Hobbs, New Mexico

Sealed bids will be received to furnish POLYELECTROLYTE COAGULANT AIDS as specified by:

The City of Hobbs Finance Director in City Hall
200 E. Broadway, Hobbs, New Mexico 88240

BID OPENING DATE April 12, 2018

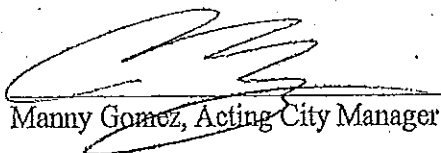
BID OPENING TIME 2:00 P.M

At the above time, bids will be publicly opened in Room 131B of the Engineering Department on the lower floor of City Hall and read aloud. Any bid received after the stated time will be returned unopened.

Copies of the specifications may be procured without charge from the office of the City Finance Director. If there are any questions regarding this bid contact Shelly Raulston at (575) 397-9244.

In case of ambiguity or lack of clearness in stating proposal prices the City of Hobbs, New Mexico, reserves the right to adopt the most advantageous thereof, or to reject any or all bids and waive irregularities.

CITY OF HOBBS, NEW MEXICO


Manny Gomez, Acting City Manager

Publication Date: March 18, 2018

INSTRUCTIONS TO BIDDERS

I. SUBMITTING BIDS

- A. Sealed bids will be received by the Finance Department, in accordance with the Bid Advertisement. Bidders shall use the bid form included with the specifications. Bid forms must bear the signature of the bidder to be considered. Failure of bidders to complete bidding documents in accordance with all instructions provided is cause for the City of Hobbs to reject bids.
- B. Bids must be submitted in a sealed envelope with the outside marked: INVITATION NO. 1570-18, FURNISH POLYELECTROLYTE COAGULANT AIDS.
- C. All bids shall be net. Do not include any taxes from which municipalities are exempt. Tax exemption certificates will be furnished, if needed.
- D. Resident preference - pursuant to sections 13-1-21 & 13-4-2 NMSA 1978, bidders claiming 5% preference must be certified prior to bid opening. Bidder's preference will be taken into consideration, only if the preference number is stated on the bid form on page 12.
- E. It is the bidder's responsibility to deliver his bid to the proper place and at the time designated. The fact that a bid was dispatched will not be considered. The time of bid opening is determined by the clock in the City of Hobbs Finance Department.
- F. Brand name and numbers are for reference only, equivalents will be considered. If bidding "Equivalent," Bidders must be prepared to furnish "Complete Data" upon request, preferably with bid to avoid delay in award.
- G. Specifications
1. Specifications on the bid are not meant to exclude any bidder or manufacturer. Where a brand name or equal is indicated, it is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to restrict competition.
 2. Exceptions and/or alternatives to specifications and conditions of this bid shall be listed on a separate sheet of paper and attached to the bid. This sheet shall be labeled "Exceptions and/or Alternatives to Specifications and Conditions", and illustrative brochures and specifications shall be included. After examination and comparison of the specifications, the City of Hobbs reserves the right to reject any or all bids.
 3. If any bidder is of the opinion that the specifications as written preclude him from

submitting a bid, it is requested that his opinion be made known to the City of Hobbs, in writing, AT LEAST FIVE (5) DAYS PRIOR to the bid opening date.

- H. NON-COLLUSION: In signing this bid, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this proposal submitted to the City of Hobbs.
- I. NON-DISCRIMINATION: Vendors doing business with the City of Hobbs must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev.1979), and the Americans with Disabilities Act of 1990, (Public Law 101-336)
- J. DEFAULT: The city reserves the right to cancel all or any part of this bid without cost to the City, if the Vendor fails to meet the provisions of this bid and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the City due to the Vendor's default. The Vendor shall not be liable for any excess cost if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the vendor, such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required scheduled delivery. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights not being provided by law or under this order.

II. TERM OF PRICE AGREEMENT

- A. The City of Hobbs is asking for an "Indefinite Quantity Contract". The term of this agreement for issuance of purchase orders shall be for twelve (12) months from the date of written notification of award of bid, with option to extend the contract an additional three (3) years one year at a time, if mutually agreeable with the City of Hobbs and the vendor, in accordance with the Attorney General ruling. The City of Hobbs reserves the right to purchase more or less than the estimated quantities at the proposed price.
- B. The contract shall be bid at a fixed unit price for twelve (12) months from the date the bid is accepted and a purchase order is issued by the City. The unit price will include all handling, shipping and delivery costs for the twelve (12) month periods, the Supplier will be allowed extra shipping cost incurred during the extension periods. The extra cost allowed will only be as completely documented by the Supplier and approved by the City. No extra cost will be allowed to be recovered for shipping cost increases during the first twelve (12) month period. During the extension period, shipping cost increase, if any, will be paid on a per load basis.

The Supplier should document all shipping cost the first twelve (12) months for all loads

and an average value will be calculated. The difference from that average price and the documented costs to ship the second twelve (12) months will be allowed extra payment.

III. SERVICES

- A. **WARRANTY:** The vendor agrees that the supplies or services furnished under this bid shall be covered by the most favorable commercial warranties the vendor gives to any customer for such supplies or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this bid. Vendor agrees to honor manufacturer's warranty.

IV. AWARD OF CONTRACT

- A. The City Commission of the City of Hobbs, New Mexico, reserves the right to waive irregularities in bids, and to reject any or all bids or portions thereof. They may award to the bidder whose bid is deemed to be in the best interest of the City of Hobbs.
- B. All bids shall remain open for sixty (60) days after the day of the bid opening.
- C. Alternate bids will be considered only if the bidder is successful on the base bid. Offers with two base bids will be disqualified. Base bid must be identified as prime bid.
- D. To preclude possible errors and/or misinterpretations, bid prices must be affixed legibly in ink, or typewritten. Corrections or changes must be signed or initialed by bidder prior to scheduled bid opening. Failure to do so will be just cause for rejection of bid.
- E. Bids may be withdrawn upon receipt of written request prior to scheduled bid opening for the purpose of making any corrections and/or changes. Such corrections must be properly identified and signed or initialed by bidder. Resubmitting must be prior to scheduled bid opening for consideration.
- F. After bid opening, no modifications on bid prices or other provisions of bids shall be permitted. A low bidder alleging a material mistake of fact, after bids have been opened, may be permitted to withdraw the bid upon written request prior to award at the discretion of the Finance Director.
- G. The successful bidder shall furnish a sample of each article specified in the bid, for inspection by the City of Hobbs.
- H. This bid will be awarded on a Total Bid basis.
- I. This indefinite quantity price agreement may be terminated by and at the will of either party for any reason upon sixty (60) days prior written notice delivered or mailed by

certified mail, return receipt requested, to the other party. Additionally, City may give notice at any time for cause, including, but not limited to, unsatisfactory performance of duties or for any other good cause shown.

V. DELIVERY

- A. F.O.B. Destination - Means goods are to be delivered to the destination designated by the user, which is the point at which the user accepts ownership or title to the goods. Any exception to F.O.B. Destination may cause a bid to be declared non-responsive.

F.O.B. - City of Hobbs Wastewater Treatment Facility, 1301 S. 5th Street, Hobbs, NM 88240

- B. Once a polymer is selected, subsequent deliveries will be made in two hundred fifty (250) gallon poly tote tanks.
- C. Delivery shall be made between the hours of 7:30 A.M. to 3:00 P.M., Monday through Friday, excluding holidays. However, given twenty-four (24) hours advance notice time the bidder can arrange for alternative delivery time or date. The City will refuse payment of any standby of delivery charges.

VI. PAYMENT

- A. The City of Hobbs requests one invoice following delivery of the entire order. Payment will be made within fifteen (15) days of acceptance by the Utilities Department upon certification that all contract terms have been met.
- B. To expedite payment, a copy of the invoice should be mailed to the Finance Department, City of Hobbs, 200 E. Broadway, Hobbs, New Mexico 88240. The Finance Department should be contacted regarding any questions concerning payment.

DETAILED SPECIFICATIONS

The City of Hobbs is asking for bids to furnish POLYELECTROLYTE COAGULANT AIDS or polymers for sludge conditioning at the City of Hobbs Wastewater Treatment Facility.

GENERAL

The City of Hobbs Wastewater Treatment Plant utilizes liquid polyelectrolyte coagulant aids (polymer) in 250 gallon tote-tanks for thickening of secondary waste activated sludge (WAS) and dewatering of aerobically digested thickened waste activated sludge (TWAS).

POLYMER INJECTION POINT #1: WAS from the facilities secondary clarifiers is drawn at an average concentration of 0.55%, or 5,500 mg/l, and pumped into two (2) Vulcan Industries, Liqui-fuge Thickeners for increasing its solids concentration to 5%, or 50,000 mg/l. Dilution of the neat liquid polymer at injection point #1 is via two (2) Velodyne VM-10P-1200E polymer units. These polymer injection units discharge the polymer solution into two (2) in-line injection rings upstream of the Liqui-fuge thickeners.

Bidder shall complete and submit the BID DATA SHEET (Injection Point #1) on page 9 and provide that quantity of polymer necessary for thickening 0.117 MG (8.5hrs @ 230 gallons/min) of waste activated sludge at an average solids concentration of 0.55% for evaluation purposes.

POLYMER INJECTION POINT #2: TWAS from the facilities secondary digesters is drawn at an average concentration of 1.5%, or 18,000 mg/l, and pumped into two (2) Alfa Laval centrifuges to increase the solids concentration to a minimum solids concentration of 20%, or 200,000 mg/l prior to thermal drying. Dilution of the neat liquid polymer at injection point #2 is via two (2) Velodyne VM-10P-1200E polymer units, which then pump the polymer solution into each respective centrifuges' sludge feed line.

Bidder shall complete and submit the BID DATA SHEET (Injection Point #2) on page 10 and provide that quantity of polymer necessary for thickening 0.130 MG (24hrs @ 90 gallons/min) thickened waste activated sludge at an average solids concentration of 1.5% for evaluation purposes.

EVALUATION PROCEDURE

The purpose of these specifications is to describe the evaluation procedures and minimum performance criteria for purchase of polyelectrolyte coagulant aids (polymer) to be used in the thickening of municipal secondary waste activated sludge and dewatering of sludge after undergoing aerobic digestion.

A. It shall be the Bidders responsibility to propose polymer(s) that will meet the minimum performance criteria stated. Award of a purchase order for the twelve (12) month polymer supply will be on the basis of the achieved lowest price per pound of wet polymer (bid product) per dry ton of sludge and contingent upon demonstrated performance, in compliance with the minimum criteria stated, when tested by the City as follows:

B. At polymer injection point #1, one thickening unit shall be operated by City personnel and the effectiveness of Vendors polymer shall be evaluated over a period of one week. Thickener will be operated seven (7) times over a one week period. Total estimated run time is sixty two (62) hours.

At polymer injection point #2, one centrifuge shall be operated by City personnel and the effectiveness of Vendors polymer shall be evaluated over a period of three days. Centrifuge will be operated three (3) consecutive days, total estimated run time is seventy two (72) hours.

C. Test results shall be based on composite daily samples. No samples shall be taken during the first hour of start up. The solids concentration of the thickened sludge, or polymer injection point #1, must average a minimum of 5% solids for the test period and average a minimum capture of 98%. Polymer usage for injection point #1 will be based on pound(s) polymer per ton thickened solids, dry weight basis.

The solids concentration of the dewatered sludge, or polymer injection point #2, must average a minimum of 20% solids for the test period and average a minimum capture of 95%. Polymer usage for injection point #2 will be based on pound(s) polymer per ton thickened solids, dry weight basis.

D. For evaluation of the lowest qualified bid, Vendor shall deliver enough of the proposed polymer for the respective evaluation period. The polymer shall be of the same content and percent solids concentration as identified on the bid data sheet. The City shall evaluate the polymer performance per the criteria stated above.

E. The polymer manufacturer may apply the services of an experienced representative to observe the product evaluation. However, evaluation shall be performed as stated above under the supervision and operation of the City's personnel.

- G. The City reserves the right to make minor adjustments to the bid evaluation procedure, when to do so is not prejudicial against any bidder and is likely to result in enhanced economy of operation.

BID QUALIFICATION

Each bidder shall meet the following requirements:

- A. Provide two current references who can discuss Vendors product(s) and service. Include a brief description of the application, including the name and phone number of contact person who the City of Hobbs shall contact.
- B. Provide the product information proposed in the attached BID DATA SHEET, Including MSDS sheets for these products.
- C. Bidder is **required** to make a visit to the City of Hobbs Wastewater Treatment facility to observe the field conditions for the application of the proposed polymer(s), and to complete the CERTIFICATE OF SITE INSPECTION (pg 11).

CONTACT PERSON

- A. To conduct a site visit, or make arrangement for on-site bench testing of products, Bidder should contact Bill Griffin, Wastewater Reclamation Facility Superintendent at (575) 397-9315.

BID AWARD

- A. Contract will be awarded to the qualified bidder achieving the lowest price of pounds wet polymer per dry ton of sludge, and upon testing and verification of the bid product's full compliance with these specifications. Preference will be placed on those businesses with current New Mexico Resident Business Certificate or New Mexico Resident Veterans Certificate (13-1-21 and 13-1-22 NMSA 1978).
- B. Continued use of the polymer selected per this bid is contingent upon continued performance in compliance with the minimum specification requirements outlined. If for any reason the performance criteria is not met, the City reserves the right to cancel this contract. However, the polymer Supplier shall receive notification at least sixty (60) days prior to contract cancellation during this period, the polymer supplier shall also be given the opportunity to troubleshoot and make suggestions regarding the achievement of satisfactory performance.

BID DATA SHEET-POLYMER INJECTION POINT #1

(This data sheet must be completed by all Bidders making an offer in response to this Request for Bid and be included with Bidders proposal.)

Polymer Manufacture Polydyne Inc.

Polymer Type Emulsion

Polymer Name/Number Clarifloc C-6266

Minimum Active Solids, % 41%

Maximum Inert Solids % 9.5%

Molecular Weight Range Very High

Density Range 8.5 - 8.7

Viscosity Range 2.5 - 3.3

Polymer Usage= 20.0 lbs/dry ton

$2000 \text{ lbs/ton} \times \text{polymer gals/min} \times 8.34 \text{ lbs/gal} \times 60 \text{ min/hr} \times (\text{polymer conc\%/100})$
lbs/hr dry solids

Capture Rate 98 %

$\frac{\text{cake\%} \times (\text{feed\%} - \text{filtrate\%})}{\text{feed\%} \times (\text{cake\%} - \text{filtrate\%})} \times 100$

BID DATA SHEET-POLYMER INJECTION POINT #2

(This data sheet must be completed by all Bidders making an offer in response to this Request for Bid and be included with Bidders proposal.)

Polymer Manufacture Polydyne Inc.

Polymer Type Emulsion

Polymer Name/Number Clarifloc C-6266

Minimum Active Solids, % 41%

Maximum Inert Solids % 9.5%

Molecular Weight Range Very High

Density Range 8.5 - 8.7

Viscosity Range 2.5 - 3.3

Polymer Usage= 38.0 lbs/dry ton

2000 lbs/ton x polymer gals/min x 8.34 lbs/gal x 60 min/hr x (polymer conc%/100)
lbs/hr dry solids

Capture Rate 95 %

$\frac{\text{cake\%} \times (\text{feed\%} - \text{filtrate\%})}{\text{feed\%} \times (\text{cake\%} - \text{filtrate\%})} \times 100$

CERTIFICATE OF SITE INSPECTION

This certificate must be completed by all Bidders making an offer in response to this Request for Bid and be included with Bidders proposal.

STATEMENT BY VENDOR

I hereby certify that I have conducted an on-site inspection related to the requirements contained within this Request for Bid and the inspection was conducted at the location of the City of Hobbs Wastewater Treatment Facility, 1301 S. Fifth Street, Hobbs, NM 88240.

VENDOR

Brent SoRelle
Typed/Printed Name

Brent SoRelle
Signature

3/28/18
Date of Site Inspection

CITY OF HOBBS REPRESENTATIVE

BILL GRIFFIN
Typed/Printed Name

Bill Griffin
Signature

3/28/18
Date of Verification

ARRANGEMENT FOR SITE INSPECTION: To arrange for a site inspection, call: Bill Griffin, Wastewater Reclamation Facility Superintendent at (575) 397-9315.

INVITATION TO BID/PRICE AGREEMENT
FURNISH POLYELECTROLYTE COAGULANT AIDS

TO: The City of Hobbs, New Mexico

April 9, 2018

Bid of Polydyne Inc.
(Company Name)

A) A Corporation under the laws of the State of Delaware; or

B) A partnership consisting of N/A; or

C) An individual trading as N/A

The undersigned bidder, pursuant to the foregoing "Notice to Bidders", has carefully examined the instructions to Bidders, this bid form and the Detailed Specifications.

N/A
Resident Preference
Certification Number

Polydyne Inc.
Company Name

BY: [Signature]
Mark Schlag
Vice-President

Type or Print Name

1 Chemical Plant Road
Address

Riceboro, GA 31323

(912) 880-2035
Telephone Number

City State Zip

NOTE: To be valid, bid must be signed. The signature of a corporation is its president, or an authorized representative. A signature of a partnership must be a valid partner or authorized representative.

Do Not Return Invitation to Bid Form in Case of a "NO BID"

If applicable - bidder acknowledges receipt of the following AMENDMENT(S):

Amendment No: _____ Dated: _____ Amendment No.: _____ Date: _____
Amendment No: _____ Dated: _____ Amendment No.: _____ Date: _____

INVITATION TO BID/PRICE AGREEMENT
 FURNISH POLYELECTROLYTE COAGULANT AIDS

EACH BIDDER MUST COMPLETE THE FOLLOWING STATEMENT:

Vendor delivery time 7-10 days after notification of award

ITEM NO.	DESCRIPTION	PRICE
1	Lbs wet polymer per dry ton sludge at polymer injection point #1 <u>20.0</u>	
	Price/lb wet polymer (as delivered)	\$ <u>1.135/Lb.</u>
2	Lbs wet polymer per dry ton sludge for polymer injection point #2 <u>38.0</u>	
	Price/lb wet polymer (as delivered)	\$ <u>1.135/Lb.</u>

***** 2 TOTAL ITEM(S) *****



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: CONSIDERATION TO APPROVE AN ENCROACHMENT AGREEMENT WITH PLAYA ESCONDIDA HOUSING, LLLP CONCERNING THE PLACEMENT OF A MONUMENT SIGN WITHIN PUBLIC RIGHT-OF-WAY.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: Playa Escondida Housing, LLLP, the developer of a multi-family housing complex located southwest of the intersection of Yeso and Jefferson is requesting an encroachment agreement for a monument sign located within the Jefferson right of way. The monument, approximately 13' long by 3' high, will encroach +/- 8' into the Jefferson right of way. The City Commission has the authority to allow the placement of private property upon public property and in the past has done so utilizing encroachment agreements. The encroachment agreement requires the property owner to be fiscally responsible for the maintenance, and possible removal, of their asset occupying public property. Additionally, the encroachment agreement has an indemnification clause in favor of the City and allows either party to terminate the agreement without cause. The City of Hobbs Planning Board granted a conditional variance from MC 15.32.030 (A)(1) at the regular meeting held on March 20, 2018 by a vote of 6 to 0, all conditions have been met.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

The encroachment agreement as written seeks to eliminate any negative impact to the budget associated with the placement of the Monument Sign.

Attachments: Resolution, Encroachment Agreement and Map.

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Commission to consider approval / denial of the attached Resolution approving an Encroachment Agreement.

Approved For Submittal By:

[Signature] Department Director
[Signature] City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

CITY OF HOBBS

RESOLUTION NO. 6654

A RESOLUTION TO APPROVE AN ENCROACHMENT AGREEMENT WITH PLAYA ESCONDIDA HOUSING, LLLP CONCERNING THE PLACEMENT OF A MONUMENT SIGN WITHIN PUBLIC RIGHT-OF-WAY.

WHEREAS, the City of Hobbs is proposing to enter into a Encroachment Agreement with Playa Escondida Housing, LLLP concerning the placement of a Monument Sign within the Public right-of-way; and

WHEREAS, the aforementioned Encroachment Agreement requires Playa Escondida Housing, LLLP to be fiscally responsible for the maintenance and possible removal of their property located upon the public right-of-way, said agreement being in the best interest of the City.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that

1. The City of Hobbs hereby approves the Encroachment Agreement, which is attached hereto and made a part of this Agreement as Exhibit #1 and the Mayor, and/or his designee, is hereby authorized to execute the Agreement.
2. That City staff and officials are authorized to do any and all deeds to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

Sam D. Cobb, Mayor

ATTEST:

Jan Fletcher, City Clerk

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT (hereinafter "Agreement"), entered into this _____ day of _____, 2018, between Playa Escondia Housing, LLLP, 2727 LBJ Freeway Suite 806, Dallas, TX 75234, (hereinafter "Property Owner") and the City of Hobbs, New Mexico, a New Mexico Municipal Corporation (hereinafter "City").

RECITALS:

WHEREAS, Property Owner is the owner of certain real property at 1021 E. Yeso in Hobbs;

WHEREAS, the parties recognize that the Property Owner has constructed improvements upon the property described in Exhibit A which encroach into the City's street right-of-way on Jefferson.

NOW, THEREFORE, in consideration of the following covenants, premises, and other considerations, the parties agree as follows;

1. Property Owner has constructed an improvement which does encroach upon the right-of-way designated as Jefferson. The improvements are more particularly described in Exhibit A.
2. The City agrees to permit the encroachment of the improvement at the location described in Exhibit A within the right-of-way, and approve the Encroachment Easement (Exhibit B) attached hereto, provided the Property Owner complies with the terms of this Agreement.
3. City Use of Public's Property and City Liability: The City has the right to enter upon the Public's Property at any time and perform whatever maintenance, inspection, repair, modification or reconstruction it deems appropriate without liability to the Property Owner.
4. Property Owner's Responsibility for Improvements: The Property Owner will be solely responsible for maintaining, repairing and reconstruction of the Improvement, as deemed necessary either by the Property Owner or the City. The Property Owner will be responsible for paying all related costs. The Property Owner agrees to not permit the Improvements to become or constitute a hazard to the public health or safety, and to keep the Improvement properly maintained. Property Owner further agrees not to interfere with the Public's use of the Public's Property, and to comply with all applicable laws, ordinances and regulations. Property Owner agrees that no addition or extension to the Improvement will be constructed, without the written consent of the City.
5. Removal or Relocation of Improvements: At some time in the future, the City may require the Improvement to be removed or relocated from Public's Property. Such relocation would occur at such time that the street is required to be reconstructed or widened, as deemed necessary by the City to insure proper and efficient street Improvements; or for utility improvement deemed necessary by the City.
6. Financial Responsibility for Removal and Relocation: If and when the Improvement is required to be relocated in the future, financial responsibility for removal and relocation of the Improvement will be the sole responsibility of the Property Owner to relocate the Improvement from the Public's right-of-way property.
7. Condemnation of Improvement: If Property Owner allows or permits the Improvement to become deteriorated or to become a threat to the public health, safety and welfare; then City may institute condemnation proceedings to remove Property Owner's Improvement from Public's Property. If any part of the Property Owner's improvement are ever condemned by the City, the Property Owner will forego all claims to compensation for any portion of Property Owner's structure which encroaches on Public Property.

8. Notice: For purposes of giving formal written notice to the Property Owner, Property Owner's address shall be the address of record for ownership of property, as listed in the official records of the County Clerk's Office for Lea County, New Mexico. Notice may be given to the Property Owner either in person or by mailing the notice by certified, return receipt U.S. mail, postage paid. Notice will be considered to have been received by the Property Owner, when the return receipt mail card is received by the City.

9. Indemnification: The Property Owner covenant and agree that they will indemnify and save the City harmless from any and all liability, damage, expense, cause of action, suits, claims or judgments arising from injury to person or death or damage to property on or off the premises, arising or resulting from Property Owner's actions, usage and property located on the City right-of-way property. The indemnification required hereunder shall not be limited as a result of the specifications of any applicable insurance coverage. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico.

10. Term: This Agreement may be terminated in writing at any time by the Property Owner or by the City, without cause. Termination by either party shall be effective ninety (90) days after mailing by a party of written notice of termination to the other party.

11. Binding on Property Owner's Property: The obligations of the Property Owner set forth herein shall be binding upon the Property Owner, his/her heirs, assigns and successors and on Property Owner's Property, and constitute covenants running with the Property until released by the City.

12. Entire Agreement: This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

13. Changes to Agreement: Changes to this Agreement are not binding unless made in writing and signed by both parties.

14. Construction and Severability: If any part of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

15. Extent of Agreement: Property Owner understands and agrees that the Property Owner is solely responsible for ascertaining whether Property Owner's Improvement encroaches upon the property or facilities of any other entity and that by entering into this Agreement, the City makes no representations or warranties that the City's property is the only property affected by the encroachment.

16. Governing Law and Provisions: This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. If any part of this contract shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

17. Attorney's Fees and Costs: In the event this matter is litigated the Court shall award reasonable attorney fees to the prevailing party, notwithstanding in-house counsel represents a party.

Done and approved on the date first written above.

THE CITY OF HOBBS

PROPERTY OWNER

Mayor Sam D. Cobb

Playa Escondia Housing, LLLP

ATTEST:

APPROVED AS TO FORM:

Jan Fletcher, City Clerk

Michael Stone, City Attorney

STATE OF NEW MEXICO)
(SS.
COUNTY OF LEA)

The foregoing was acknowledged before me this ____ day of _____, 2018 by Sam D. Cobb, as Mayor of the City of Hobbs, a New Mexico Municipal Corporation, to me personally known, who being by me duly sworn did say that he is the duly elected Mayor and signing officer of the City of Hobbs, and that said instrument was signed on behalf of said Municipal Corporation, and Sam D. Cobb acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the respective Corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public

My Commission Expires:

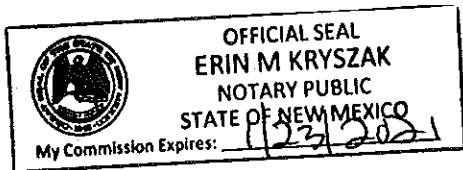
STATE OF NEW MEXICO)
(SS.
COUNTY OF LEA)

The foregoing was acknowledged before me this 19 day of April, 2018 by STEPHEN G. CRUZIGA as MANAGING G.P. of the Playa Escondia Housing, LLLP a New Mexico Corporation, to me personally known, who being by me duly sworn did say that he is the duly authorized MANAGING of the corporation, and that said instrument was signed on behalf of said corporation, and STEPHEN G. CRUZIGA acknowledged said instrument, and acknowledged that he/she executed the same as his/her free act and deed and on behalf of the respective Corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public

My Commission Expires:



ENCROACHMENT EASEMENT

THIS PERMANENT GRANT OF EASEMENT, entered into on this _____ day of _____, 2018 is granted by the City of Hobbs, a New Mexico Municipal Corporation, ("Grantor") to Playa Escondida Housing, LLLP ("Grantee").

Now Therefore, for valuable considerations, Grantor grants to Grantee a restricted encroachment easement to allow the construction and placement of one (1) monument sign within the Jefferson Street right-of-way in Section 26, Township 18 S., Range 38 E. N.M.P.M., Lea County, New Mexico, and as shown on the map attached hereto as Exhibit "A":

SEE EXHIBIT "A"

This easement is granted to Grantee with the restriction that the sole purpose of the easement shall be to construct, place and locate one (1) monument sign indicating. Grantee shall not use the easement area for any purpose other than for the monument sign structure. In exchange for the grant of easement, Grantee agrees to use the easement property in a workmanlike manner.

Removal or Relocation of Improvement: At some time in the future, the City may require the Improvement to be removed or relocated from Public's Property. Such relocation would occur at such time that the street is required to be reconstructed or widened, as deemed necessary by the City to insure proper and efficient street Improvements; or for utility improvements deemed necessary by the City. If and when the Improvement is required to be relocated in the future, financial responsibility for removal and relocation of the Improvement will be the sole responsibility of the Property Owner to relocate the Improvement from the Public's right-of-way property.

Grantee, its successors and/or assigns shall have the grant of easement for the placement of a monument sign as long as it is being used or is needed by Grantee, its successors or assigns. However, if the easement property described above is not used and maintained by Grantee, its successors or assigns, then the easement shall terminate and the Grantor shall be entitled to file a Certificate of Abandonment with the County Clerk.

IN WITNESS WHEREOF, the Grantor sets his\her hand and seal on the date first written above.

GRANTOR – CITY OF HOBBS

By _____
SAM D. COBB, MAYOR

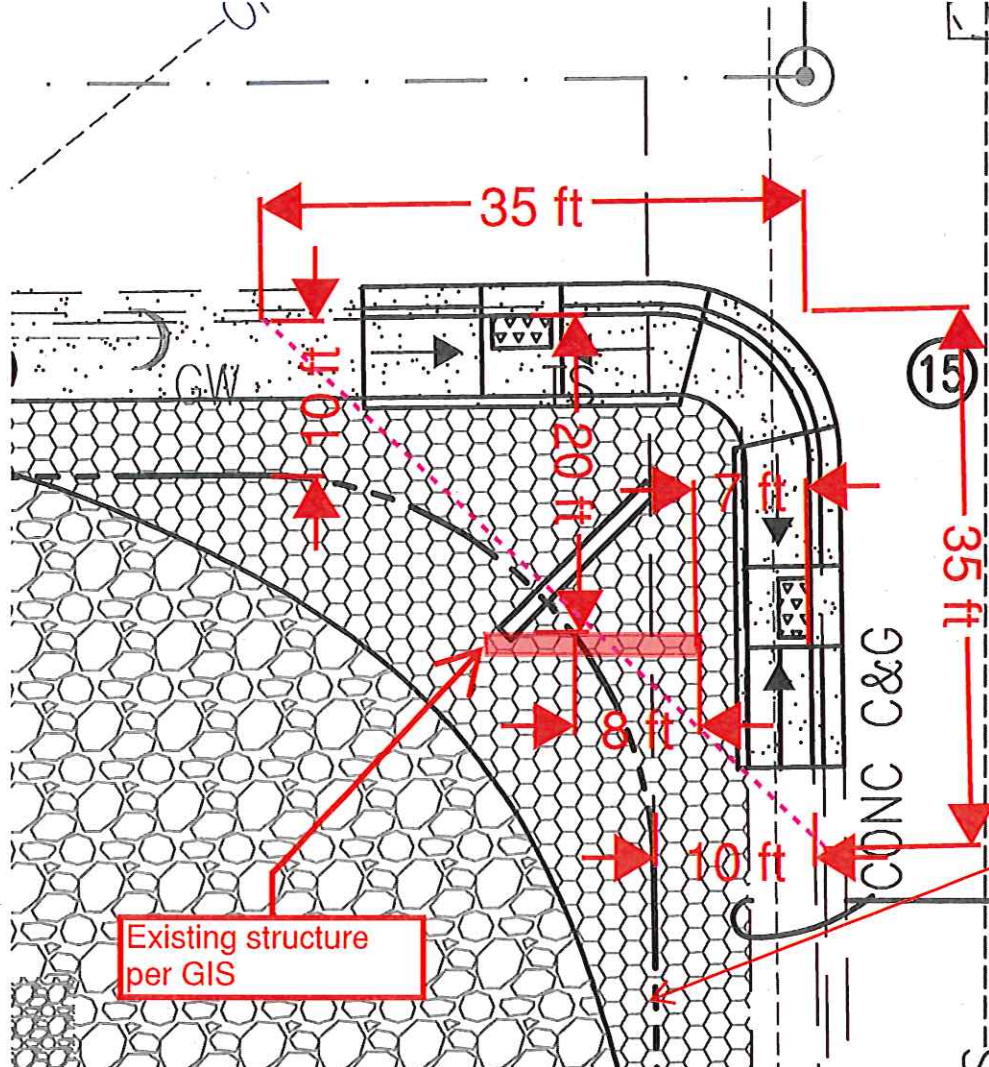
STATE OF NEW MEXICO)
 (SS.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this ___ day of _____, 2018, by Sam D. Cobb, as Mayor, of the City of Hobbs, to me personally known, who being by me duly sworn did say that he is the duly elected Mayor and signing officer of the City of Hobbs, and that said instrument was signed on behalf of said City, and Sam D. Cobb acknowledged said instrument, and acknowledged that he executed the same as his free act and deed and on behalf of the City.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public

My Commission Expires: _____



SAS MH
RIM=3616.64
INV=3612.2



(15)

CONC C&G

Property Line

EXISTING SIDEWALK AND CURB AND GUTTER TO REMAIN

N

- 5) Review and Consider front yard setback variance request for a structure to be located at 107 E. Taos, as submitted by Christina Astorga, property owner. At this location Taos Street is classified as a Minor Residential requiring a front yard setback of 21' from the property line; the proposed structure is requested to be located 0' from the property line requiring a 21' variance.

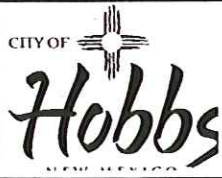
Mr. Robinson said this variance is over what staff can do administratively. He said this structure is going to be located about 8 feet from the back of the sidewalk. He said this area is a 50 foot dedicated right-of-way. Mr. Hicks said the property line is only ½ a foot behind the property line. Mr. Robinson said correct. Mr. Hicks said it has been the Boards habit in the past to approve structures that are similar in nature on the same block. Mr. Drennan made a motion, seconded by Mr. Ramirez to approve the variance. The vote on the motion was 6-0 and the motion carried.

- 6) Review and Consider variance from MC 15.32.030-A1, as submitted by property owner, Playa Escondida Housing, LLLP. A monument sign located at the property line is allowed a maximum height of 2' the proposed monument sign has a height of 3'.

Mr. Robinson said these non-permitted signs were being built and Code Enforcement noticed concrete was being poured for the signs and shut them down. He said the municipal code says a monument sign on your property line must be 2 feet tall. He said the further back you go the higher the monument sign can be. He said staff has spoken with the property owner and told them their construction was not compliant with city codes. He said the Building Official is working with the developer to assure compliance. He said the owner is agreeable to take the sign down to 3 foot. He said there are two signs.

Mr. Hicks asked about the site and if the property had a curved radius? Mr. Robinson said yes and it is because this property was subdivided. He said the portion that was a public easement on Jefferson and Yeso was dedicated to the community. Mr. Hicks said the bottom line is they just need to reduce the height? Mr. Robinson said staff told the developer how important it was that the sign be corrected before coming to the Board because it is a site obstruction but it still is not compliant today. Mr. Penick asked how high the sign was today? Mr. Robinson said 6 foot. He said the owner has agreed to locate the eastern portion of the sign no closer than 10 foot to the back of curb and it is currently 7 foot. Mr. Hicks asked if the 2nd sign was in violation also? Mr. Robinson said yes the second sign is in violation because of the height. He said it is located within the private property but it should only be 2 feet tall. Mr. Sanderson asked if both locations need a variance. Mr. Robinson said yes.

Mr. Sanderson made a motion, seconded Mr. Penick to approve a conditional variance providing the structure is removed and lowered to 3 feet within two weeks and if it is not completed within two weeks the variance is void and the structure must be moved. The vote on the motion was 6-0 and the motion passed.



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: Award of Proposal #500-18 for audit services for FY 2018
DEPT. OF ORIGIN: Finance Department
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Deborah Corral, Assistant Finance Director

Summary:

The request for proposals was advertised on April 1, 2018 and 7 firms were mailed a copy. Proposals were opened on April 20, 2018, with the City of Hobbs having received four proposals from the Independent Public Accounting firms:

- Kriegel/Gray/Shaw & Co., PC
Johnson, Miller, & Co., CPA's PC
Hinkle + Landers
Pattillo, Brown & Hill, LLP

The proposal was for a one year contract to conduct audit services with two options to extend (by mutual agreement), each for a one-year period at the price, terms and conditions as stated on the original proposal in accordance with section 2.2.2.8 of 2.2.2 NMAC .

The evaluation team consisted of Toby Spears, Finance Director, Deborah Corral, Assistant Finance Director, and Todd Randall, City Engineer. The team evaluated Hinkle + Landers as the highest rated proposer. The average ratings of firms evaluated were as follows based on a 105 point scale:

- Hinkle + Landers 100
Patillo, Brown & Hill 96
Kriegel/Gray/Shaw & Co 91
Johnson & Miller 66

Fiscal Impact:

Award to Hinkle + Landers includes costs as follows

- FY2018 Audit will be \$59,000 (\$63,646 including GRT)
FY2019 Audit will be \$60,770 (\$65,556 including GRT)
FY2020 Audit will be \$62,593 (\$67,522 including GRT)

Reviewed By:

[Signature]
Finance Department

Attachments: Resolution & Scoring Sheet

Legal Review:

Approved As To Form:

[Signature]
City Attorney

Recommendation:

Approve the resolution to make a recommendation to the New Mexico State Auditor to award proposal #500-18 for audit services to Hinkle + Landers.

Approved For Submittal By:

[Signature] Department Director
[Signature] City Manager

CITY CLERK=S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied
Other _____ File No. _____

CITY OF HOBBS

RESOLUTION NO. 6655

A RESOLUTION 500-18-17 FOR FY2017 AUDIT SERVICES TO
Hinkle + Landers

WHEREAS, a request for proposals (RFP) was advertised on April 1, 2018 to provide audit services to the City of Hobbs for a one year contract with two options to extend; and

WHEREAS, the City of Hobbs mailed a copy of the RFP to seven firms; and

WHEREAS, the city received four proposals from: Kriegel/Gray/Shaw & Co., PC; Johnson, Miller, & Co., CPA's PC; Hinkle + Landers, and Pattillo, Brown, & Hill, LLP and

WHEREAS, Hinkle + Landers is qualified and competent to furnish audit services to the City of Hobbs; and

WHEREAS, the amount of the FY18 Audit Contract with Hinkle + Landers is \$63,646 including gross receipts taxes.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is, authorized and directed to award on behalf of the City of Hobbs Proposal # 500-18 for audit services to Hinkle + Landers.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

EVALUATION PROPOSAL 500-18		Available Points	JOHNSON & MILLER	KRIEGEL/GRAY/SHAW & CO	PATTILLO, BROWN&HILL	HINKLE + LANDERS
FINANCIAL AUDIT						
Part 1:						
Section I	Firm Capabilities (maximum 30 points)					
A.	The firm's resources to perform the type and size of audit required.	5 points	4	4	5	5
B.	reference checks including past performance for the city of Hobbs	10 points	7	7	9	10
C.	The firm's most recent external quality control reviews (peer review)	10 points	10	10	10	10
D.	The organization and completeness of the proposal submitted	5 points	4	4	5	5
Section II	Work Requirements and Audit Approach (maximum 20 points)					
A.	The firm's knowledge of audit objectives, agency needs and product to be delivered	10 points	9	8	9	10
B.	The firm's technical plan and realistic time estimates to complete the audit.	5 points	4	4	4	5
C.	The firm's plans to utilize City of Hobbs Finance Department staff	3 points	2	2	3	3
D.	The firm's approach for planning and conducting the work efforts of subsequent years	2 points	1	1	2	2
Section III	Technical Experience (maximum 25 points)					
A.	The firm's governmental audit experience	10 points	7	9	9	10
B.	Team audit experience or specialization with municipalities	10 points	7	8	9	10
C.	Continuing professional education directly related to the local governments	5 points	2	4	4	5
Section IV	Firm Strengths or Weaknesses (maximum 5 points)	5 points	4	4	4	5
Part 2: (Evaluate 3 highest scores on Cost)						
	Cost (maximum 20 points)	20 points	0	20	18	16
AVERAGE TOTALS		100 points	61	86	91	95
BIDDER PREFERENCE			5	5	5	5
AVERAGE TOTAL AFTER BIDDER PREFERENCE			66	91	96	100



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7th, 2018

SUBJECT: CONSIDERATION OF APPROVAL OF CHANGE ORDER No. 1 with CDR, Inc. for CITY PARK IMPROVEMENTS

DEPT. OF ORIGIN: Office of the City Manager / Parks and Recreation / Engineering
DATE SUBMITTED: May 1st, 2018
SUBMITTED BY: Todd Randall, City Engineer

Summary:

July 31st, 2017 - CDR, Inc. was awarded City Park Improvement by the City Commission and joint meeting the Hobbs Municipal Schools.

Construction Description: The City Park Improvements consists of demolition of existing park elements and providing new; site grading, landscaping improvements, lighting, parking areas, playgrounds, covered and lighted basketball court and a splashpad.

During construction, site revisions were requested to address field changes, the addition of small and large covered shelters, and electrical modifications. The change order also addresses change to the water and sewer, which are credits to the overall project. The attached summary itemizes the changes to the project and overall cost increase of \$29,227.80 (1% increase)

Fiscal Impact:

Reviewed By: [Signature] Finance Department

Budget Line: 01-0320-44901-00213
Available: \$101,394.96
Change Order No. 1 \$29,227.80
Orig. Contract: \$4,107,244 (includes GRT)
Revised Contract: \$4,138,463.88 (includes GRT)

Revenue:

J. F Maddox Foundation \$3,740,000 (\$3.5M Construction & \$0.24M Design)
City of Hobbs \$700,000
Hobbs Municipal Schools \$350,000
Total: \$4,790,000

Attachments: Change Order No. 1 / Project Summary Costs

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Commission consideration and authorization of the Mayor to execute Change Order No1. 1 with CDR Inc.

Approved For Submittal By:

[Signature] Department Director

City Manager

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Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

CITY PARK PROJECT

\$3,845,284.90 Contract Amount (w/o NMGR)
 \$25,000.00 Contingency
 6.8125% NMGR

Revision Date: 5/1/2018

	Qty.	units	cost/unit	Proposed Cost	Accepted (y/n)	Accepted Costs	Comments
CONTRACT MODIFICATIONS							
STRUCTURES							
Basketball	4. Lamb Engineering Designs Basketball Court & Octagon Shelters	1	LS	\$ 3,400.00	\$ 3,400.00	Y	\$ 3,400.00
	2. Concrete columns 3' to 4' dia.	10	EA	500	\$ 5,000.00	Y	\$ 5,000.00
	3. Add 4' to Each Side of Basketball Court	752	SF	\$ 9.25	\$ 6,956.00	Y	\$ 6,956.00
	15a. Install Metal Ceiling in Basketball Shelter Material	1	LS	\$ 9,500.00	\$ 9,500.00	Y	\$ 9,500.00
	15b. Labor to Install Ceiling at Basketball Shelter	1	LS	\$ 22,500.00	\$ 22,500.00	Y	\$ 22,500.00
	20. Painting red iron (Columns / beams etc.)	1	LS	\$ 16,950.00	\$ 16,950.00	Y	\$ 16,950.00
	L. Basketball Court Striping (City to perform)	-1	LS	\$ 10,330.00	\$ (10,330.00)	Y	\$ (10,330.00)
Splashpad							
Volleyball	1. Add 1,000 sq ft to Volleyball Court	1000	SF	\$ 9.25	\$ 9,250.00	Y	\$ 9,250.00
Large Octagon	F. Volleyball Court Striping (City to perform)	-1	LS	\$ 7,658.00	\$ (7,658.00)	Y	\$ (7,658.00)
	13a. 2- Large Octagon Shelters	2312	SF	\$ 9.25	\$ 21,386.00	Y	\$ 21,386.00
	13b. Labor to Erect and Install Roofing	2	EA	\$ 7,500.00	\$ 15,000.00	Y	\$ 15,000.00
Small Shelters							
	14a. 6- Small Shelters: 289sqft each	1,734	SF	\$ 6.15	\$ 10,664.10	y	\$ 10,664.10
	14b. Labor to Erect	6	EA	\$ 2,800.00	\$ 16,800.00	y	\$ 16,800.00
Contract Shelter							
	B. 3- Picnic Structures at \$14,000.00ea	-3	EA	\$ 14,000.00	\$ (42,000.00)	Y	\$ (42,000.00)
WATER							
	A. 6" C900 Water Line Including trench & compacted backfill to 4' depth 240lf at \$28.00				\$ (6,720.00)	Y	\$ (6,720.00)
	B. 3"- SCH 80 PVC Water Line including trench& compacted backfill to 4' depth 20lf at \$20.00				\$ (400.00)	Y	\$ (400.00)
	E. D.I.P. MJ Fitting 200 at \$10.00				\$ (2,000.00)	Y	\$ (2,000.00)
	G. 3- 6" Gate Valve C.I.P. at \$1,400.00				\$ (4,200.00)	Y	\$ (4,200.00)
	H. 3- Valve Boxes C.I.P. at \$300.00				\$ (900.00)	Y	\$ (900.00)
	I. 10- 3" to 6" Mega Lug Restraint Joints at \$75.00				\$ (750.00)	Y	\$ (750.00)
	J. 14- 3" to 6" Joint Restraint Harnesses Joints				\$ (700.00)	Y	\$ (700.00)
	L. 3/4" Copper Service Line 200lf at \$20.00				\$ (4,000.00)	Y	\$ (4,000.00)
	N. 1 1/2" Copper Service Line 85lf at \$30.00				\$ (2,550.00)	Y	\$ (2,550.00)

SEWER									
	D. 2- 4' Dia. Man Holes at \$8,500.00	-2	EA	\$8,500.00	\$ (17,000.00)	Y	\$ (17,000.00)		
	K. R&D Existing MH (Jefferson St.)	-1	EA	\$5,900.00	\$ (5,900.00)	Y	\$ (5,900.00)		
ELECTRICAL									
	A. Feeders & Conduits to Existing Building	1	LS		\$ (2,179.00)	Y	\$ (2,179.00)		
	16. VE - provide specified light fixtures	1	LS	\$ 9,780.00	\$ 9,780.00	Y	\$ 9,780.00	CDR No 16	
	6. APIC Solutions Bonding & Grounding of Splash Pad per attached (NOTE - Need electrical engineer approval)	1	LS	\$ 2,330.00	\$ 2,330.00	Y	\$ 2,330.00		
	7. APIC Solutions Add to Re-feed Existing Restroom Demo of Old Equipment Add new Panel per attached (Demo by COH)	1	LS	\$ 5,945.00	\$ 5,945.00	Y	\$ 5,300.00	COH to provide demo - Revised cost taken	
	8A. APIC Solutions Add Fiber Options to Cameras & Towers per attached	1	LS	\$ 33,927.00	\$ 33,927.00	Y	\$ 33,927.00		
	5. APIC Solutions Add Power to Tower	1	LS	\$ 1,895.00	\$ 1,895.00	Y	\$ 1,895.00		
	9. APIC Solutions Add 2" Conduits From CHH-17 to Leaco Pole	1	LS	\$ 3,256.00	\$ 3,256.00	Y	\$ 3,256.00		
	10. APIC Solutions Add 2" Conduit From CHH-17 to CHH-14 to CHH-7 for the Fiber Backbone per attached	1	LS	\$ 5,394.00	\$ 5,394.00	Y	\$ 5,394.00		
	11. APIC Solutions Add 3 each type PGC Poles to South Side Parking Lot per attached	1	LS	\$ 11,960.00	\$ 11,960.00	Y	\$ 11,960.00	Additional Parking Lights	
	12. APIC Solutions Add 120 Volt Circuit to P1 Poles for GFCI Outlet For Cameras per attached	1	LS	\$ 6,740.00	\$ 6,740.00	Y	\$ 6,740.00	Running wire to P1 cameras	
	17. New Electrical Pump House	1	LS	\$ 9,986.00	\$ 9,986.00	Y	\$ 9,986.00	New 4-3-18	
LANDSCAPING									
	Turfgrass sod and irrigation elimination								
	A. Volleyball Court	-1000	SF	\$ 2.15	\$ (2,150.00)	Y	\$ (2,150.00)		
	B. Basketball Court	-725	SF	\$ 2.15	\$ (1,558.75)	Y	\$ (1,558.75)		
	C. 2-Large Pavilion	-2312	SF	\$ 2.15	\$ (4,970.80)	Y	\$ (4,970.80)		
	D. 6-Small Shelter	-1734	SF	\$ 2.15	\$ (3,728.10)	Y	\$ (3,728.10)		
	#. Looping 4" Irrigation (212 ft)	212	LF	\$ 15.00	\$ 3,180.00	Y	\$ 3,180.00		
CIVIL									
	L. Item L Permanent Signage & Striping: includes all Parking lot Striping, ADA Signage & Striping and all Crosswalk Signage & Striping (\$22,000)	-1	ea	\$ 22,000.00	\$ (22,000.00)	Y	\$ (22,000.00)		
	K. 6" Raised Pedestrian Crosswalk C.I.P.	-1	ea	\$ 8,800.00	\$ (8,800.00)	Y	\$ (8,800.00)		
	V. A. 4" Depth PCC Concrete Sidewalk per Detail, C.I.P.	-14000	SF	\$ 6.15	\$ (86,100.00)	Y	\$ (86,100.00)	Reduction in Qty	
	IX C. 4" PCC Sidewalk Turndown per Detail C.I.P.	-8245	SF	\$ 6.67	\$ (54,994.15)	Y	\$ (54,994.15)	Increase in Qty	
	IX C2. 6" PCC Sidewalk Turndown per Detail C.I.P.	9650	SF	\$ 9.25	\$ 89,262.50	Y	\$ 89,262.50		
	19. Change Concrete from 3,000 psi to 4,000 psi	1	LS	\$ 5,400.00	\$ 5,400.00	Y	\$ 5,400.00		
AMENDITIES									
	N. Drinking Fountain 440SM, C.I.P.	-1	EA	\$ 5,000.00	\$ (5,000.00)	Y	\$ (5,000.00)		
MISC									
	SUBTOTAL: CONTRACT MODIFICATIONS (CO NO. 1)						\$ 29,227.80		0.76%
								ORIGINAL CONTRACT	\$ 3,845,284.90
								REVISED CONTRACT	\$ 3,874,512.70



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7th, 2018

SUBJECT: Authorizing the Mayor to Enter into an Agreement with Lea County for Roadway Improvement on West County Roadway (Inside City Limits)

DEPT. OF ORIGIN: General Services Dept.
DATE SUBMITTED: May 1st, 2018
SUBMITTED BY: Shelia Baker, General Services Director

Summary:

At the time of this staff summary, City Staff and County Staff have been meeting to discuss possible pavement improvements to West County Roadway, which would consist of an Open Graded Friction Course (OGFC). The Lea County Commission is seeking approval for their portion of West County Roadway and South Bypass on May 3rd, 2018. If Lea County authorizes the approval, the City may desire to improve the portion of West County Roadway inside City Limits from Marland Blvd. to one mile south, which is within the City Limits of Hobbs. The estimated costs to the City of Hobbs for is approximately \$83,000.

Staff requests approval authorizing the Mayor to enter into Letter agreement with Lea County for the City portion of West County Road south of Marland Blvd. (US62/180).

Fiscal Impact:

Estimated Cost: \$83,000.00
MUNIS Budget No.: 010423-44901-00148

Reviewed By:

[Signature]
Finance Department

Attachments:

Quote for County's portion of work
Location Map

Legal Review:

Approved As To Form:

[Signature]
City Attorney

Recommendation:

Authorize the Mayor to enter into an agreement with Lea County for the City's portion of West County Roadway improvements not to exceed \$83,000.

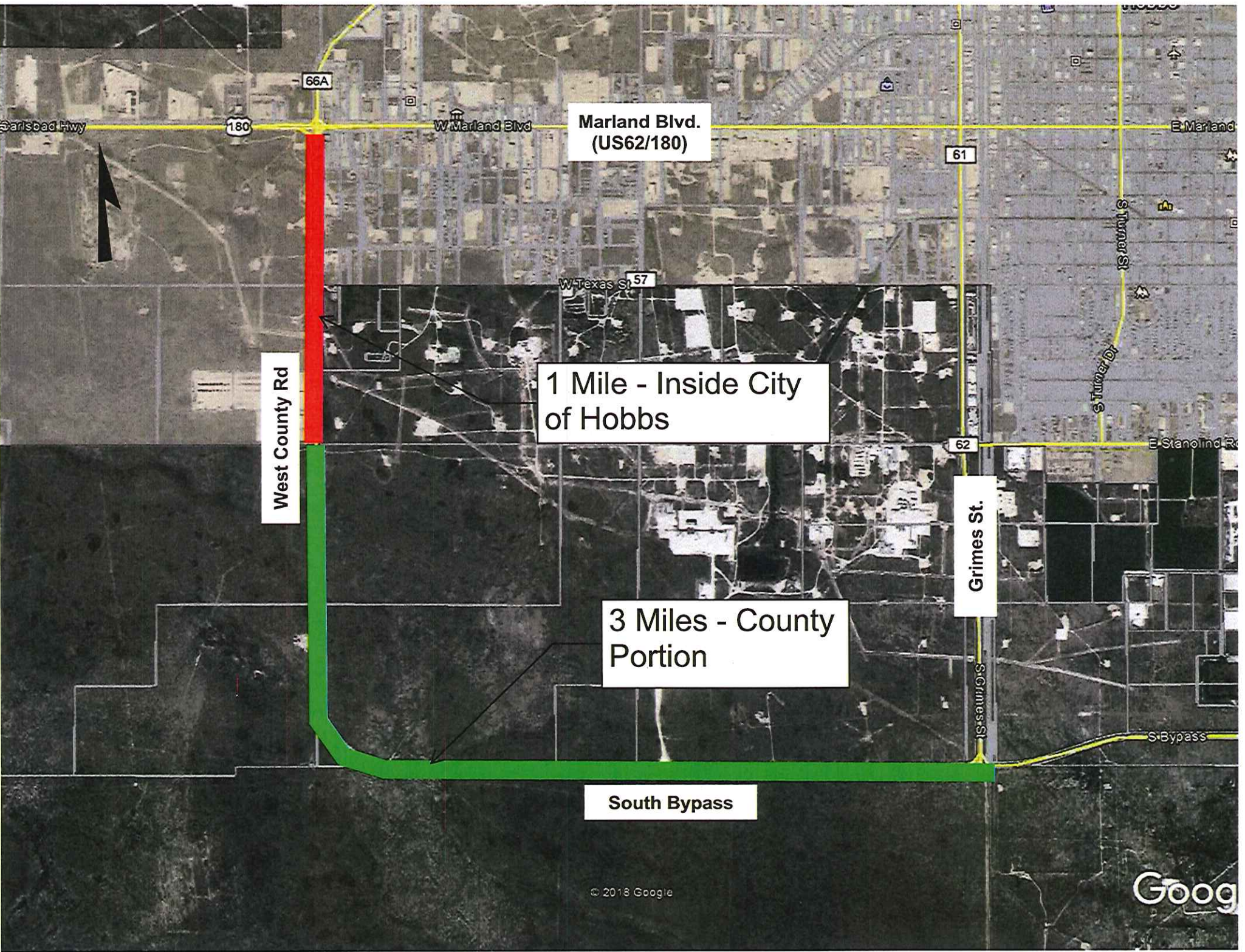
Approved For Submittal By:

[Signature] Department Director
[Signature] City Manager

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Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

Original County Quote		Revised to Include City	
61600 square yds			
\$ / SY			
	\$ 370,914.00 \$ 6.02		\$ 477,831.00
	1.09		1.09
	\$ 404,296.26 \$ 6.56		\$ 520,835.79
DISCOUNT	40.21%	DISCOUNT	38.92%
	\$ 162,567.53		\$ 202,709.29
	\$ 241,728.73 \$ 3.92		\$ 318,126.50
1.50%	\$ 3,625.93	1.50%	\$ 4,771.90
	\$ 245,354.66 \$ 3.98		\$ 322,898.40
6.8125%	\$ 16,714.79	6.8125%	\$ 21,997.45
	\$ 262,069.45 \$ 4.25		\$ 344,895.85
		City Portion	\$ 82,826.40



Marland Blvd.
(US2/180)

West County Rd

1 Mile - Inside City
of Hobbs

3 Miles - County
Portion

Grimes St.

South Bypass



ACTION ITEMS



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: Police Recruiting and Retention
DEPT. OF ORIGIN: Police Department
DATE SUBMITTED: April 20, 2018
SUBMITTED BY: Chris McCall, Chief of Police

Summary:

Law enforcement agencies throughout the country are experiencing an unprecedented difficulty in recruiting and retention of police officers. In our geographical area, we are not only faced with the issues being dealt with by the rest of our nation, but we are also competing with a very strong demand for work force created by our improving local economy. The Hobbs Police Department is working to create a comprehensive program to help keep the department competitive in regards to quality applicants. We are working to impact recruitment of new officers, as well as retention of our current staff. The following are a few of the components of this plan with a fiscal impact. We hope these incentives will help us attract new applicants and simultaneous support our current team members.

Fiscal Impact:

Reviewed By: 
Finance Department

Recruitment Incentive- \$1500

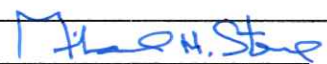
An opportunity for existing employees to be compensated for recruiting a police officer that successfully completes all training requirements (academy/field training).

6 year/ \$30,000 recruiting incentive. Incentive designed to compensate a newly hired police officer who completes each year of service at a rate of \$5,000 a year for six years.

20 year Law Enforcement Protection Fund match incentive pay- Enable the City of Hobbs to leverage funding allocated through the LEPF by the NM Legislature to incentivize officers with 20 or more years of service to remain employed. LEPF funds the incentive at \$7500 and requires a matching City portion of \$7500 for a total of a \$15,000 yearly incentive. Per statute this program will expire on June 20, 2021.

Attachments:

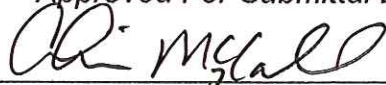
Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Staff recommends approving the proposed changes to strengthen our position in the job market.

Approved For Submittal By:


Department Director


City Manager

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Resolution No. _____	Continued To: _____
Ordinance No. _____	Referred To: _____
Approved _____	Denied _____
Other _____	File No. _____

CITY OF HOBBS

RESOLUTION NO. 6656

A RESOLUTION REGARDING
POLICE RECRUITING AND RETENTION

WHEREAS, Law enforcement agencies throughout the county are experience an unprecedented difficulty in recruiting and retaining police officers; and

WHEREAS, we are not only faced with these same issues but are also competing with a very strong demand for work force created by our improving local economy; and

WHEREAS, the Hobbs Police Department is working to create a comprehensive program to keep the department competitive in regards to quality applicants; and

WHEREAS, the Hobbs Police Department is working to impact recruitment of new officers as well as retention of our current staff; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that hiring incentives be adopted as set forth in Attached A herein.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

ATTACHMENT "A"

HIRING INCENTIVES

- Recruitment Incentive - \$1500 – An opportunity for existing employees (this would include all City of Hobbs employees) to be compensated for recruiting a police officer that successfully completes all training requirements (academy/field training).
- 6 year/\$30,000 recruiting incentive. This incentive is designed to compensate a newly hired police officer (certified or uncertified) who completes each year of service at a rate of \$5,000 per year for six years.
- 20 year Law Enforcement Protection Fund ("LEPF") match pay. This would enable the City of Hobbs to leverage funding allocated through the LEPF by the NM Legislature to incentivize officers with 20 or more years of service to remain employed. LEPF funds the incentive at \$7,500 and requires a matching City portion of \$7,500 for a total \$15,000 yearly incentive. Per statute this program will expire on June 20, 2021.



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: 5-7-18

SUBJECT: A Resolution Authorizing Funding Appropriations to Social Service Agencies and Authorizing the Mayor to Execute Professional Service Agreements.

DEPT. OF ORIGIN: Mayor's Office
DATE SUBMITTED: 4-26-18
SUBMITTED BY: Ann Betzen

Summary:
Proposed funding for community social service agencies.

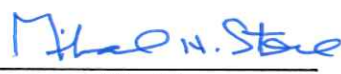
Fiscal Impact:

Ordinance #1086 capped funding at \$400,000; commission committee's recommendation is \$324,000. These appropriations are budgeted under the FY20 18-2019 preliminary budget.

Reviewed By: 
Department


Attachments:
Resolution, History of Funding Ledger

Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Motion to approve Resolution.

<p>Approved For Submittal By:</p> <p>_____</p> <p>Department Director</p> <p></p> <p>City Manager</p>	<p>CITY CLERK'S USE ONLY COMMISSION ACTION TAKEN</p> <table><tr><td>Resolution No. _____</td><td>Continued To: _____</td></tr><tr><td>Ordinance No. _____</td><td>Referred To: _____</td></tr><tr><td>Approved _____</td><td>Denied _____</td></tr><tr><td>Other _____</td><td>File No. _____</td></tr></table>	Resolution No. _____	Continued To: _____	Ordinance No. _____	Referred To: _____	Approved _____	Denied _____	Other _____	File No. _____
Resolution No. _____	Continued To: _____								
Ordinance No. _____	Referred To: _____								
Approved _____	Denied _____								
Other _____	File No. _____								

CITY OF HOBBS

RESOLUTION NO. 6657

A RESOLUTION AUTHORIZING FY 18-19 FUNDING
APPROPRIATIONS TO VARIOUS SOCIAL SERVICE AGENCIES

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS,
NEW MEXICO, that FY 18-19 funding appropriations are approved for various social
service agencies in the following amounts:

CASA	\$20,000
Faith in Action	\$12,500
Isaiah's Kitchen	\$12,000
Lea County Commission for the Arts	\$15,000
Manna Outreach	\$12,500
My Power, Inc.	\$25,000
Option	\$17,500
Opportunity House	\$ 8,500
Palmer Drug Abuse Program	\$35,000
Salvation Army	\$ 7,500
Senior Bash	\$ 2,000
Southwest Symphony	\$ 4,500
Teen Court	\$32,000

Weekend Hunger Initiative	\$20,000
Community Drug Coalition	\$100,000

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute appropriate Professional Service Agreements with each agency in the amounts specified above for the provision of social services to the citizens of Hobbs.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19 Agency Proposal	FY 18-19 Committee Recommend
Salvation Army	\$ 5,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 8,500	\$ 7,500
Senior Bash	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000
Southwest Symphony	\$ 2,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 10,000	\$4,500
Teen Court	\$17,500	\$20,000	\$20,000	\$32,000	\$32,000	\$ 32,000	\$32,000
Weekend Hunger Initiative		\$17,500	\$17,500	\$17,500	\$17,500	\$ 20,000	\$20,000
CDC				\$100,000	\$100,000	\$125,000	\$100,000
TOTAL	\$217,000	\$241,500	\$233,500	\$304,000	\$314,000	\$418,500	\$324,000



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: RESOLUTION AUTHORIZING MODIFICATION OF THE HOBBS EXPRESS FIXED ROUTE BUS SERVICE

DEPT. OF ORIGIN: Public Transportation Department
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

Hobbs Express proposes to modify its fixed routes to provide additional service for passengers as follows:

- Adding stops at the CORE (*Green Route, Rapid Line, Saturday Route*)
- Adding one stop on Broadway at McKinley Street (*Green Route*)
- Removing the bus stop at USW (*Green Route*)


The fixed bus route system started operating in October of 2006 and consists of three routes: Blue, Red and Green routes. These three routes operate from 7:00 am to 5:00 pm Monday through Friday and make hourly stops at fixed points along the three routes. Some stops are considered "transfer points" where passengers can transfer from one bus route to another route. In late 2015, Hobbs Express added the Rapid Line which operates during the peak period from 10:30 am to 3:30 pm Monday through Friday. It only serves the more frequently-used retail stores and areas allowing passengers to reach their destinations quicker without extended waiting time.

In early March of 2018, due in part to a lack of drivers and in an effort to "smart size our Saturday operations", the Acting City Manager approved a temporary plan to combine the Blue, Red and Green routes into one Saturday route. Not all of the bus stops were being used on Saturdays, and combining the three routes into ONE ROUTE has allowed us to smart size our operations and be more efficient and effective with our resources. This route operates from 10:00 am to 4:00 pm on Saturday. We believe this plan is working well and continues to allow us to provide quality service to the public on Saturdays. We are proposing to continue Saturday service in this manner.

The **complementary para-transit service/demand response service** is open Monday through Saturday, from 7:00 am to 5:00 pm. A reservation is required at least one day in advance.

Hobbs Express proposes that these route changes become effective June 1, 2018. In addition, we are proposing that all route fares in June be *FREE* to all passengers. (This does not include demand-response service.)

Fiscal Impact:

Reviewed By: 

Finance Department

The current budget has adequate funds in the printing and advertising line items of Fund 27 to cover the cost of new printed route flyers and advertising to market the service changes.

Attachments:

Resolution Authorizing the Route Modification
Route Maps

Legal Review:


Approved As To Form: 

City Attorney


Recommendation:

Motion to approve the resolution.

Approved For Submittal By:



Department Director



City Manager

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Resolution No. _____
Ordinance No. _____
Approved _____
Other _____

Continued To: _____
Referred To: _____
Denied _____
File No. _____

CITY OF HOBBS

RESOLUTION NO. 6658

A RESOLUTION AUTHORIZING ROUTE
MODIFICATIONS TO THE HOBBS EXPRESS
FIXED ROUTE BUS SERVICE

WHEREAS, the City of Hobbs, Hobbs Express, operates public transportation services for its citizens throughout the City in the form of a fixed route bus service and demand response service; and

WHEREAS, a modification of the Hobbs Express fixed route bus service is proposed to increase ridership and provide additional service for passengers, thus making it easier for riders to use the system and improving the overall effectiveness of the system; and

WHEREAS, the specific changes to the routes are identified on the route service maps attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the changes in route service for Hobbs Express be and are hereby approved effective June 1, 2018.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

REVISED FIXED ROUTE SERVICE

effective 6-1-18

Times listed are departures. (:00) are minutes after each hour. Routes may be subject to change or delays due to weather, road closures and traffic.

** Signifies that bus stop is a transfer point to another bus.

Blue Route		Red Route		Green Route		Rapid Line		Saturday Route Only	
Mon - Fri 7:00 am - 5:00 pm		Mon - Fri 7:00 am - 5:00 pm		Mon - Fri 7:00 am - 5:00 pm		Mon - Fri 10:30 am - 4:30 pm		(Saturday 10:00 am - 4:00 pm)	
	Time		Time		Time		Time		Time
1. Hobbs Express	0:00	1. Hobbs Express	0:00	1. Hobbs Express	0:00	1. Hobbs Express	0:30	1. Hobbs Express	0:00
2. City Hall	0:02	2. Guidance Cntr.	0:02	2. Broadway/McKinley **	0:02	2. Broadmoor Mall	0:34	2. Broadmoor Mall	0:04
3. Hobbs Police Dept	0:03	3. Library	0:06	3. Broadway Apts. **	0:05	3. K-Mart	0:38	3. Cedars/Highrise	0:06
4. Broadmoor Mall **	0:06	4. Triangle Park	0:10	4. Hobbs Apts. **	0:07	4. CORE ←	0:42	4. K-Mart	0:11
5. Turner Plaza	0:09	5. Highrise/Cedars	0:13	5. Willow Bend Apts	0:08	5. Wal-Mart	0:48	5. CORE ←	0:20
6. K-Mart**	0:11	6. K-Mart **	0:16	6. Navajo Rd/ Dal Paso	0:16	6. Hobbs Apts	0:04	6. Wal-Mart	0:28
7. American Medical	0:15	7. Albertsons	0:18	7. Wal-Mart **	0:20	7. Broadway Apts	0:07	7. Bel-Aire Shopping Center	0:38
8. Social Security	0:18	8. Lowes	0:22	8. MVD (Weekdays only)	0:27	8. Main & McKinley	0:10	8. Park Place Apts.	0:42
9. Bel Aire Shopping	0:20	9. Wal-Mart **	0:24	9. Lea Regional Medical Center	0:29	9. Hobbs Express	0:14	9. Hobbs Apts.	0:50
10. Park Place Apts	0:23	10. Joe Harvey/Central	0:26	10. NM Junior College	0:33			10. Broadway Apts.	0:52
11. Nor Lea Clinic	0:24	11. Walgreens (Joe Harvey)	0:27	11. Zia Park Casino	0:35			11. Hobbs Express	0:56
12. Playa Escondida	0:26	12. Princess Jeanne	0:32	12. CORE ** ←	0:38	**All stops on the Rapid Line are transfer points to other buses.			
13. Broadway Apts. **	0:32	13. San Mateo/Berry	0:33	13. Hobbs Express	0:48				
14. Washington Apts.	0:34	14. San Mateo/Sanger	0:34						
15. Leaf Apts.	0:35	15. Hobbs Express	0:35						
16. Main/McKinley **	0:41								
17. La Tienda	0:45								
18. Hobbs Express	0:48								

Blue:
No Changes

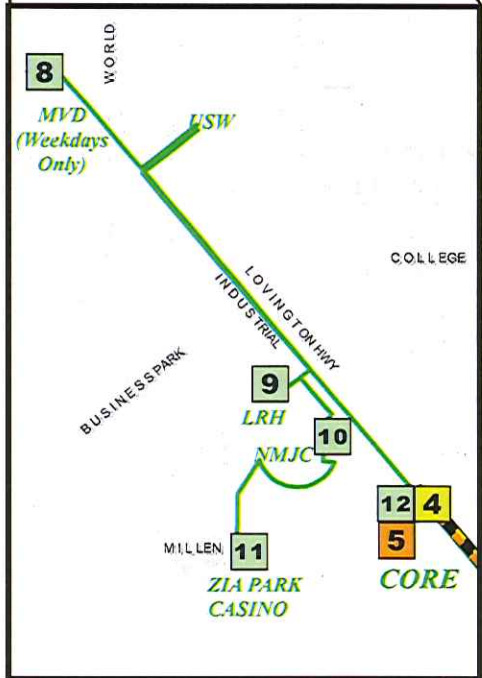
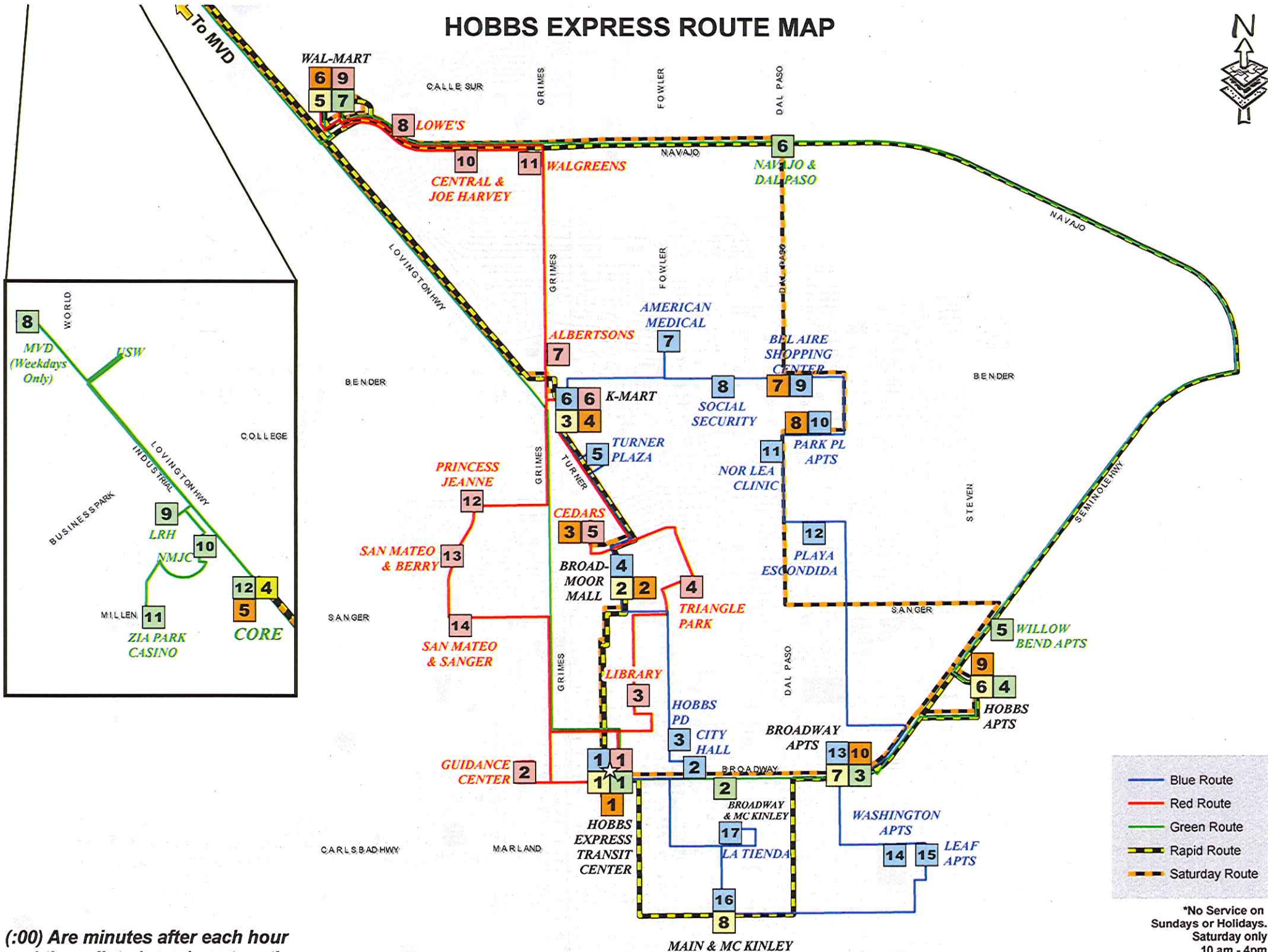
Red:
No Changes

Green:
Add Stop - Broadway/McKinley
Delete Stop - USW
Add Stop - CORE

Rapid:
Add Stop - CORE

Saturday Service - new
Saturday only 10 am - 4 pm

HOBBS EXPRESS ROUTE MAP



- Blue Route
- Red Route
- Green Route
- Rapid Route
- Saturday Route

*No Service on Sundays or Holidays. Saturday only 10 am - 4pm

(:00) Are minutes after each hour and times listed are departure times.



CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7th, 2018

SUBJECT: CONSIDERATION OF APPROVAL OF A CONTRACT AMENDMENT No. 4 (GMP Change Order No. 1) WITH HAYDON BUILDING CORPORATION for a New Health Wellness & Learning Center (HWLC) – *The Center of Recreational Excellence (CORE)*

DEPT. OF ORIGIN: Office of the City Manager / Parks & Recreation Dept. / Engineering Dept. / General Service Dept.

DATE SUBMITTED: April 27th, 2018

SUBMITTED BY: Todd Randall, City Engineer

Summary:

June 15th, 2015 - Haydon Building Corporation was awarded the CMAR contract for the HWLC (CORE) preconstruction service, which the RFQ and RFP process included the City of Hobbs and Partners throughout the procurement process.

August 25th, 2015 - The Contract with Haydon was amended to add the NMJC and HMS as "Owners" to the Contract (Amendment No. 1).

April 18th, 2016 - The City Commission approved Contract Amendment No. 2 to address changes in the scope of work and contract construction. In addition, an Early Work release was approved for the Structural Steel Detailing / Shop Drawings and Play Feature Structural Foundation Details

In May of 2016, Haydon released the 100% construction plans and specifications to potential/interested subcontractors. A Best Value Assessment (BVA) was provided by Haydon and the design team to create an overall budget of \$63.5M.

August 1st of 2016 – The City Commission approved a Grant Agreement between the City of Hobbs and J. F Maddox Foundation. In addition, the City Commission approved a Haydon Contract Amendment No. 3 (GMP – Guaranteed Maximum Price) and notice to start construction for a total GMP (including GRT) of \$53,464,234.

Attached is **Change Order No. 1 to increase the Contractor's contingency by \$675,229 or a total Contract price of \$54,139,463 (1.25% increase)**. **Note:** The overall project budget was set at \$63.5M, which included \$1.7M in owner contingencies in anticipation of owner initiated changes and enhancements to the project during construction and other development soft costs. The following is a summary of the Overall Project Budget (Original and Revised).

CORE - OVERALL COST SUMMARY

Friday, April 27, 2018

TOTAL SUMMARY OF COSTS	BUDGET ORIGINAL	REVISED BUDGET
Current Construction Budget (CONTRACT GMP w/ GRT)	\$53,464,234	\$53,464,234
Haydon Amendment No. 4 (GMP Change Order No. 1)		\$675,229
Total Project Budget Recap - Design Development Stage		
Total Development Soft Costs	\$7,655,534	\$7,828,170
NMGRT on Soft Costs 6.8125%	\$504,099	\$517,385
Subtotal All Project Costs	\$61,623,867	\$62,485,018
Owner Contingency	\$1,725,468	\$0
NMGRT on Contingency 6.8125%	\$117,548	\$0
GRAND TOTAL PROJECT COST	\$63,466,882	\$62,485,018
Target Budget	\$63,500,000	\$63,500,000
Current vs Target	(\$33,118)	(\$1,014,982)
Estimated Amount Under Budget		\$1,014,982

The Overall project is anticipated to be approximately **\$1M under the original Target Budget** of \$63.5M

Fiscal Impact:

Reviewed By: 
Finance Department

Expenditures

Budget Account: 16-4016-44901-00228 (City Funds \$25,000,000)
Revised Amount: \$32,795,754.49
Expended Amount: \$23,655,896.19
Encumbrances: \$6,497,158.73
Available: \$2,642,699.57

Haydon Contract: \$53,464,234 (GRT included)
Change Order No. 1 \$675,229 (GRT Included)
Revised Contract: \$54,139,463 (GRT Included)

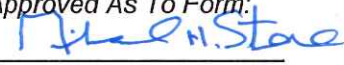
Revenue

J. F Maddox Foundation (Initial Grant Funding) \$25,000,000
J. F Maddox Foundation (Supplemental Grant Funding) \$2,500,000
City of Hobbs (General Fund) \$25,000,000
New Mexico Junior College (General Obligation Bond) \$4,950,000
New Mexico Junior College (1% of G.O. Bond reserved for Public Art) \$50,000
New Mexico Junior College (Mill Levy Funds) \$5,000,000
Hobbs Municipal School District (Local Bond Funds) \$1,000,000
Total Revenue Breakdown \$63,500,000

Attachments:

Haydon Change Order No. 1 / Project Summary – Overall Budget /


Legal Review:

Approved As To Form:

City Attorney

Recommendation:

Commission consideration for the approval of a Contract Amendment No. 4 (GMP Change Order No. 1) with the Haydon Building Corporation

Approved For Submittal By:


Department Director


City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

CORE - OVERALL COST SUMMARY

Tuesday, May 01, 2018

TOTAL SUMMARY OF COSTS		BUDGET ORIGINAL	REVISED BUDGET
Current Construction Budget (CONTRACT GMP)		\$53,464,234	\$53,464,234
Haydon Amendment No. 4 (GMP Change Order No. 1)			\$675,229
Revised Construction Budget (Contract GMP w/ C.O. No. 1)			\$54,139,463
Total Project Budget Recap - Design Development Stage			
Development Soft Costs			
Land Purchase		\$0	\$0
Public Art Allocation		\$50,000	\$50,000
Professional Fees (BRS Contract)		\$4,920,415	\$4,944,168
FFE - Furniture, Fixtures and Equipment		\$1,708,000	\$1,708,000
Gas Easement Documentation		\$1,200	\$1,200
CMAR Preconstruction Fee		\$250,000	\$250,000
Plant Investment / Tap Fees		\$25,000	\$25,000
Construction Testing and Special Inspections		\$200,000	\$210,000
Reimbursable Expenses (BRS Contract - GRT excluded for all BRS contracts)		\$255,919	\$233,533
Plan Review Fees * (Change Rev 1: 8-18-16)		\$45,000	\$56,269
Other Soft Costs - Owner Preconstruction / Other Costs (Branding, Video, Studies, Trips)		\$200,000	\$200,000
City purchased Sod			\$40,000
City purchase - CORE Site Furnishings			\$110,000
Total Development Soft Costs		\$7,655,534	\$7,828,170
NMGRT on Soft Costs (including GRT on BRS contract)	6.8125%	\$504,099	\$517,385
Subtotal All Project Costs		\$61,623,867	\$62,485,018
Owner Contingency		\$1,725,468	\$0
NMGRT on Contingency	6.8125%	\$117,548	\$0
GRAND TOTAL PROJECT COST		\$63,466,882	\$62,485,018
Target Budget		\$63,500,000	\$63,500,000
Current vs Target		(\$33,118)	(\$1,014,982)



Haydon Building Corp
4640 E. Cotton Gin Loop
Phoenix, AZ 85040
Ph: (602)296-1496

Change Order

Project: 10-1775-00 Hobbs Health & Wellness Learning Cen
3201 Millen Dr.
Hobbs, NM 88240

Change Order #: OCO-001 Change Order#001 - Cont. Rep./
Date: 03/15/18

To (Contractor): Haydon Building Corp
4640 E. Cotton Gin Loop
Phoenix, AZ 85040

The Contract is changed as follows:

PCO-114	ASI #041 - Added TRX System Supports	48,889.94
PCO-125	Aquatics Timing / Scoreboard Changes	91,331.74
PCO-128	Added CORE Signage at Building	37,956.79
PCO-180	Contingency Replenishment	497,051.00
Total:		675,229.47

The original Contract Amount was 53,464,234.00
 Net change by previously authorized Change Orders 0.00
 The Contract Amount prior to this Change Order was 53,464,234.00
 The Contract will be increased by this Change Order in the amount of 675,229.47
 The new Contract Amount including this Change Order will be 54,139,463.47
 The Contract Time will be unchanged.
 The date of Substantial Completion as of the date of this Change Order therefore is 05/14/18

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACT AND OWNER.

Architect/Engineer:
Dekker Perich Sabatini Architects
2375 E. Camelback Rd., Suite 270
Phoenix, AZ 85016

Accepted By Contractor:
Haydon Building Corp
4640 E. Cotton Gin Loop
Phoenix, AZ 85040

Authorized By Owner:
City of Hobbs, NM
200 E Broadway
Hobbs, NM 88240

By: _____
Date: _____

By: _____
Date: _____

By: _____
Date: _____



HAYDON

Haydon Building Corp
4640 E. Cotton Gin Loop
Phoenix, AZ 85040
Phone: (602)296-1496

Pending Change Order

To: City of Hobbs, NM
200 E Broadway
Hobbs, NM 88240
Ph: Fax:

Number: PCO-180
Date: 04/16/2018
Job: 10-1775-00 Hobbs Health & Wellness Learning Cente

Description: Contingency Replenishment

Reason:

Details: This PCO serves to replenish the Contractor's Contingency based on the shared contingency arrangement in place on this project. As discussed and agreed, the attached CUA Utilization Log shows the Contingency usage to date on the project and shows an anticipated shortfall in available Contractor's Contingency, based on the utilization of funds from this Contingency for Owner changes and scope-added changes.

Notes:

Description		Estimated Cost
Item :	1 Contingency Replenishment	
Contractors Contingency		446,822.00
		Subtotal Item 1 <u>446,822.00</u>
	Insurances	0.49% 2,269.00
	Bond	0.63% 2,913.00
	Fee	2.90% 13,345.00
	NMGRT	6.81% 31,702.00
Total For Change Order		<u><u>497,051.00</u></u>

The schedule is Unchanged

If you have any questions, please contact me at (602)296-1496.

Submitted By: Matt Greer
Haydon Building Corp

Approved By: City of Hobbs, NM

cc:

Signed: _____

Date: _____

Hobbs Health Wellness Learning Center

Contingency Usage

PCO#	CUA#	Description	Contractor's Contingency				Owner's Contingency	
			Construction Costs (Typical Contractor's Contingency)		Added Value to Project (Typical Owner's Contingency)		Owner's Contingency	
			Pending Costs	Approved Costs	Pending Costs	Approved Costs	Pending Costs	Approved Costs
002	1	Zia Gas Line Trench / Backfill		\$ 7,140.00				
003	1	RFI#044 & #049 - Revised Wet Utilities				\$ 9,300.00		
004	1	RFI#055 - Delete Owner-Supplied Dasher Board Sleeves				\$ (18,600.00)		
005	4	ASI#001 & ASI#002 Structural Steel Changes				\$ 22,837.00		
006	2	RFI#067 - Plumbing Chase Revisions in Pool Area				\$ (2,675.00)		
007	2	ASI#003 - Steel Changes, Frosted Film, TWA Changes				\$ 8,857.40		
008	2	ASI#010 - Deletion of Spandrel Glass / Add Drywall				\$ (5,456.00)		
010	2	ASI#007 - Cast Iron to PVC Change				\$ 787.75		
011	2	ASI#006 - HVAC Valve / Coil Changes - AHU & CV Units				\$ 10,542.17		
012	2	Fire Alarm Changes - Code Compliance				\$ 9,238.44		
013	3	A/V Changes - Area A - Add & Upgrade Overhead Speakers				\$ 9,927.58		
014	3	A/V Changes - Area B - Upgrade & Add Low-Wall Speakers				\$ 20,559.04		
015	3	A/V Changes - Area C - Change to Distributed Speakers				\$ 8,140.07		
016	4	RFI#087 - Revise Beams over Wellness Pool Area E / AHU-003				\$ 3,860.00		
017	V	RFI#102 - Opening Size @ GL B4 (NO COST - CONFIRMED)						
018	5	ASI#017 - Natatorium Paint / Hangers		\$ 10,073.48				
020	7	ASI#004 - Landscape / Hardscape Revisions (Green Guys Landscaping Agreed to)				\$ (36,158.00)		
021	4	ASI#005 - Electrical Changes for Exercise Equipment				\$ 6,994.40		
022	4	Vapor Barrier Change - 10Mil to 15Mil - Reversal of VE				\$ 7,890.12		
023	4	ASI#011 - Beam Relocations - Revise fabricated steel				\$ 6,258.00		
024	4	Duct Wrap Revisions in Area A & F		\$ 6,411.02				
025	4	RFI#052 - EF Changes				\$ 826.06		
026	4	Change Storefront System to Wide Stile to match hardware		\$ 6,987.00				
027	4	Xcel Changes - Added Cabinet & Conduit Tub @ Pad				\$ 14,423.00		
028	4	Add Rebar back to exposed slab areas - Reversal of VE				\$ 27,729.00		
030	8	OFCI Trash / Paper Towel Receptacles (Estimated Cost)		\$ 14,722.00				
031	6	FCP System Changes - Added Horiz. & Vert. Closure Strips to "Close" System				\$ 56,737.26		
039	6	RFI#135ˆ - FCP/CMP Changes - Add Vertical Supports @ CMU Conditions		\$ 59,024.28				
046		ASI#026 -FCP Supports Design Change - Insulation Contractor add 14 ga. Vert. Supports	\$ 60,000.00		\$ 51,067.78			
065	8	ASI#024 - Change Spacing of Vertical Girts @ CMP & Engineering Costs		\$ 19,355.04				
032	5	Ice Machine Upgrade Costs				\$ 1,687.08		
033		ASI#011 - High Density Foam Additions (TBD - T&M - Estimated)			\$ 39,000.00			
034		Light Fixture Costs (VE process underway - Estimated Costs)	\$ 20,000.00					
035	5	Lockers (Buyout Error)		\$ 3,531.00				
036	8	Added Conduit / J-Boxes for Electrical Spares - Public Art & Future Signage				\$ 22,945.76		
037	5	ASI#020 - Glazing Revisions in Natatorium				\$ 2,877.00		
038	5	IT Racks - Change from 2-post to 4-post				\$ 2,379.34		
040	5	RFI#133 - VFD Clarifications				\$ 3,776.15		
041	V	RFI#143 - Exterior Paint Changes (no Cost - Confirmed)						
042	5	ASI#023 - Electrical Coordination with Furniture				\$ 2,443.31		
043	5	RFI#140 - Added Steel Angles @ Beam Pockets		\$ 1,399.00				
044	5	RFI#152 - T30 Joist Modifications for HVAC		\$ 1,045.00				
045	8	Supplemental Joist Modifications for Splashtacular		\$ 11,496.00				
047	6	RFI#154 - Added Floor Boxes in Gaming / Lounge Area - Per Hobbs				\$ 2,377.40		
048	V	ASI#017 - Pool Equipment Room Painting (VOID)						
049	8	RFI#157 - Added Electrical outlets for AED (estimated cost)				\$ 11,021.71		
050	6	ASI#022 - Added Electrical for Slide Components				\$ 8,575.02		

Contingency Usage

PCO#	CUA#	Description	Contractor's Contingency				Owner's Contingency	
			Construction Costs (Typical Contractor's Contingency)		Added Value to Project (Typical Owner's Contingency)		Owner's Contingency	
			Pending Costs	Approved Costs	Pending Costs	Approved Costs	Pending Costs	Approved Costs
051	6	RFI#148 - Paint Changes - Restocking costs				\$ 7,522.80		
052	8	RFI#158 - Added Parapet Reinforcement				\$ 12,542.00		
053	5	RFI#118 - Added Angle @ Rotunda to carry wall		\$ 3,975.00				
054	6	RFI# 144 Linear Diffuser Changes		\$ 9,027.86				
055	9	Daktronics Scoreboard change from Colorado Timing Systems (estimated cost)				\$ 12,505.10		
056	6	Break Metal Detail @ Soccer Field 6/A734 (Missed GSM Scope)		\$ 6,498.00				
058	8	Re-Cut Pool Excavation for Benching - OSHA Requirement		\$ 17,020.03				
059	8	RFI#191 Added tube @ Running Track/ KaiWall (estimated cost)				\$ 4,150.00		
060	8	Plumbing Overtime Work to make HVAC Start-up (May & July)		\$ 9,694.48				
061	6	Flashing @ FCP Bottom of Wall (Buyout Bust - Estimated Costs)		\$ 4,435.08				
062		RFI#187 Structural Revisions @ GL N6 (Estimated Costs)	\$ 8,500.00					
063	9	RFI#207 - Elevator Room Door Size Change #2 - Opening #174				\$ 1,615.35		
064	8	RFI#177 - Structural Beam Modification @ Rotunda		\$ 5,585.00				
066		RFI#180 - Mechanical Room Door Size Change (Door#230B gets bigger - Estimated)			\$ 8,500.00			
067	9	RFI#175 - Door size change at pump room 256 (estimated cost)				\$ 1,731.31		
068	9	Pemko Transitions @ Exterior Storefront (Buyout Miss - Estimated Costs)		\$ 1,230.71				
070	8	Quick Ship Linear Diffuser SD-1 due to radius change		\$ 3,283.42				
071	9	Add CORE Logo to MP & Soccer Scoreboards				\$ 5,427.00		
072		ASI#033 - Diving Board Agitators - Additional Plumbing Line with agitators			\$ 25,337.90			
073	8	Gas Meter Relocation @ Exterior				\$ 4,196.01		
074	8	Tile Cost Revisions - Shower Grout & waterproofing adds - (estimated costs)		\$ 5,063.00				
075		SunShade Details Revisions (Installation Costs from Steel Erector, Insulator & FCP)	\$ 35,000.00					
076	9	Metal Scrim V.E. Changes (Change from 3/8" panels to 1/4" Panels)				\$ (45,910.00)		
077	9	Misc. Concrete Changes (T&M Work for Noel Concrete - Repair of AB, Stem Wall, etc.)		\$ 19,532.00				
078	9	RFI#151 - Countertop Supports in Lounge Area (material only costs)		\$ 2,383.00				
079	9	Ceramic Tile at Natatorium Shelf per Detail (buyout miss)		\$ 10,300.00				
080	8	ASI#034 - Rotunda Ceiling Orientation Shift		\$ 16,231.15				
081	8	ASI#035 - Added Hose Bib in Mechanical Room for Wash-Down (Estimated Costs)		\$ 693.04				
082	9	Sheet Metal @ Entry Doors per Detail 16&17/A701 (Buyout Miss)		\$ 6,187.50				
083	8	Perforated Cleat @ Parapet Cap in lieu of SM cleat		\$ 10,125.00				
084	8	ASI#032R - Relocate Fixtures in Natatorium - Offset VE Fixture Savings		\$ 18,888.00				
085	9	Drainage Material Section @ Indoor Turf Section per Helias Turf (estimated cost)		\$ 42,733.92				
086	9	Added Framing and foam @ Rotunda to Natatorium (estimated costs)		\$ 11,181.00				
087	8	2-Piece Overshelf in lieu of 1-piece per Kitchen Designer Recommendation		\$ 341.49				
088	9	Substitution Request - Deck Plate Changes				\$ (7,556.00)		
089	9	Substitution Request - BecSys5 to BecSys7				\$ (8,640.00)		
090		RFI#198 - RAF Stair Treads (Estimated Costs)			\$ 4,500.00			
091	9	Upgrade in Stainless Handrail Material on Glass Handrail - Owner Request				\$ 2,314.00		
092	9	RFI#185 - Extend Deck Edge in Natatorium (Error in Construction)		\$ 4,697.00				
093	9	RFI#194 - Structural Column Relocate in Main Entry Lobby		\$ 1,120.00				
094	9	RFI#190 - Intermediate KaiWall Attachment Add		\$ 7,431.00				
095		Additional Conduit for Windstream as directed by City of Hobbs			\$ 8,601.87			
096	9	Additional Labor for Sheet Metal Flashing installation in natatorium		\$ 6,750.00				
097		Overtime Work for Painting Contractor in Locker Room Areas to Keep Schedule	\$ 8,519.00					
098	9	High Performance Coatings on Lockerroom Ceilings & Masonry above Ceilings				\$ 18,212.50		
099	9	Added 3M Diving Board				\$ 26,831.56		
100	9	Add (30) Starting Block Sleeves & change to SR Smith per Owner's request				\$ 17,365.46		
101		ASI#27 - Ship Ladder Changes			\$ 5,000.00			
102	9	ASI#37 Motorized Window Shades - Missing from Drawings				\$ 21,606.12		

Contingency Usage

PCO#	CUA#	Description	Contractor's Contingency						
			Construction Costs (Typical Contractor's Contingency)		Added Value to Project (Typical Owner's Contingency)		Owner's Contingency		
			Pending Costs	Approved Costs	Pending Costs	Approved Costs	Pending Costs	Approved Costs	
103	9	RFI#199 - Three (3) SD-6 Diffusers in Rotunda		\$ 1,417.05					
104	9	RFI#197 - Install new (4) Return Grills w/ sound boots				\$ 1,553.10			
105	V	Added Card Readers per Owner (Not Moving Forward on This)			\$ -				
106	9	Ductwork Repairs in Pool Area prior to limiting Access		\$ 2,821.25					
107	9	Re-work Windows @ Area A & Area C to align with FCP (Framing / Insulation Costs)		\$ 18,666.45					
108		ASI#046 - Add Bump-outs in Tile Wall in WWW Pool to hide Steel Plates			\$ 21,181.00				
109	V	ASI#040 - Add Referee Room in Gymnasium (Not Moving Forward on this)			\$ -				
110		FCP Elevations Missing - (Claim from SW Glass)			\$ 20,000.00				
111	9	RFI#214 - Mech. Unit in Stair #139 / Possible Antifreeze Loop in Fire Sprinklers?				\$ 4,553.00			
112	9	Relocate Fire Hydrant on Site		\$ 7,910.00					
113	9	Additional Insulation in Area E Restroom Walls (estimated costs)				\$ 2,176.55			
114	CO	ASI#041 - TRX Structural Modifications (estimated costs)					\$ 48,889.94		
115	10	Added Card Reader & Speaker at Child Watch				\$ 10,791.82			
116	10	ASI#039 - Added Outlets @ Rotunda for Exercise Equipment				\$ 9,430.60			
117		RFI#222 - Drainage Swale / Box Culvert / Handrails					\$ 60,000.00		
118		Repair of Broken Pipes due to Freezing	\$ 7,000.00						
119		Remove and Replace Concrete at Soccer Goal Mouths	\$ 9,500.00						
120	9	ASI#013 - Added Steel Lintels @ Masonry Curved Walls				\$ 4,064.00			
121	9	RFI#114 & 114.1 - Big Ass Fan Supports		\$ 7,288.00					
122	9	RFI#212 - Supplemental Joist Modifications for Splashtacular Supports (see PCO#045)				\$ 11,631.00			
123	9	RFI#205 - Shim / Weld Plates for Short wall @ Spectator Seating		\$ 1,207.00					
124	9	Thickened Slab @ Competition Pool		\$ 8,558.44					
125	CO	Aquatics Changes - ViveLED Video Scoreboard & Omega Timing System					\$ 91,331.74		
126	9	ASI#036 - Added Frosted Glass in Reception & Outlets in Lobby 187				\$ 11,981.36			
127	10	SAP Subcontractor Abandonment (Estimated cost to change product)		\$ 43,674.00					
128	CO	Added CORE Signage on side of building (est. - sign, electrical, install)					\$ 37,956.79		
129	9	RFI#210 - Added HC-9 Valve				\$ 527.55			
130	9	RFI#231 - Added Rail @ Liesure Pool				\$ 7,266.85			
131	10	Cove Base at sealed concrete areas (buyout error)		\$ 6,160.00					
132	10	Concrete Polisher Project Abandonment		\$ 15,400.00					
133		RFI#238 - Double Doors to Pool Areas for Lift Access (SW Glass Costs + Est. Hardware)			\$ 8,130.00				
134		RFI#245 - Exhaust Manifold in Pool Equipment Area (estimated costs)			\$ 16,284.66				
135		Added Data Drops for Audio Racks (T&M - Estimated Costs)	\$ 10,000.00						
136	10	Replace Missing skylight protection		\$ 1,868.00					
137	10	Additional Floor Floating for RAF Flooring		\$ 13,695.81					
138		ASI#030 - Stainless Steel Cables @ Running Track			\$ 3,537.00				
139		ASI#48 - Relocate Light Fixtures in Comp Pool for Banners (elec., CMU, Paint -est.)			\$ 10,000.00				
140		Relocate 4" conduit, install Low Volt Innerduct & Quartsite Box (Ron Roberts Request)			\$ 9,106.81				
141		Add 24-strand multi-mode cable (Ron Roberts Request)			\$ 10,054.55				
142		RFI/ASI? - Revise Colors for Mandoors to match rollup doors per A/E			\$ 4,950.00				
143		RFI/ASI? - Add Drainage Piping to outdoor turf section per Pettigrew (est. Cost)			\$ 5,135.00				
144		RFI#250 - Removable Handrail Section at Running Track in Gym (est. cost)			\$ 3,798.00				
145		Glass Decals / Graphics in Soccer, Childwatch and Other areas (est. cost)			\$ 4,000.00				
146		Sheet Metal Cladding @ Cabana Steel (est. cost)			\$ 4,500.00				
147		RFI#248 - Added Concrete at Roll-up Door for Drive Entry to Gym (est. cost)			\$ 5,000.00				
148		Pool Make-up Water Issue - Jack's Magic & Owner Start-up Chemicals			\$ 5,406.60				
149		Scrim Lighting? A/E discussing options now (est. cost)			\$ 20,000.00				
150		Mirrors in Fitness 240			\$ 6,777.00				
151		Dedication Plaque in Front Lobby (est. cost)			\$ 20,000.00				

Contingency Usage

PCO#	CUA#	Description	Contractor's Contingency				Owner's Contingency		
			Construction Costs (Typical Contractor's Contingency)		Added Value to Project (Typical Owner's Contingency)		Owner's Contingency		
			Pending Costs	Approved Costs	Pending Costs	Approved Costs	Pending Costs	Approved Costs	
152		Added Brochure Rack in Front Lobby (est. cost)			\$ 2,500.00				
153		ADA Push Button at Entry (est. cost)	\$ 3,500.00						
154		Added Re-Paint Costs from Painting Subcontractor (estimated)	\$ 12,500.00						
155		RFI#030 - Door changes			\$ 8,877.00				
156		Structural Steel Re-Work at Main entry	\$ 6,930.00						
157		RFI#151 - Re-make countertop supports due to theft	\$ 4,481.00						
158		Costs for water damage in Therapy Pool Ceiling (fixture & AWP - est. cost)	\$ 7,500.00						
159		Fire Protection Modifications (T&M Extras)	\$ 7,095.83						
160		KalWall Extras (T&M Extras)	\$ 1,374.62						
161		Added Security Costs	\$ 28,000.00						
162		Replacement Door Hardware (estimate from sub - inventorying now)	\$ 13,874.22						
163		Landscape Supplementation Costs (Haydon Round #1 - Hotel Costs)	\$ 6,000.00						
164		Replace Missing Partition Hardware	\$ 3,600.00						
165		Misc. Framing T&M Extras	\$ 11,623.00						
166		RFI#242 - Kitchen Exhaust Revisions			\$ 12,185.02				
167		Overtime Costs for Donner to keep Schedule in Locker Rooms (tile & trench drains)	\$ 12,862.08						
168		Modification of Light Fixtures in Rotunda for Whisperspan Application	\$ 4,183.06						
169		Add Cat-6 to AV Racks (per Ron Roberts)	\$ 2,955.14						
170		Misc. Re-Painting T&M Costs throughout Building (est. costs)	\$ 11,700.00						
171		RFI#239 - Add Emergency Alarm Buttons @ Child Watch & Reception Desk			\$ 6,421.84				
172		Added Push Button Bollards for ADA openers			\$ 2,810.33				
173		Remob & Added Install Costs for Accessories Installer	\$ 1,470.00						
174		Locker Mobilization Costs	\$ 4,500.00						
175		Parking Lot Drainage Issues (est. cost)			\$ 5,000.00				
176		Pace Clocks @ Pool (buyout miss)	\$ 1,200.00						
177		Additional Floor Floating for Linoleum	\$ 1,522.68						
178									
179									
181									
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185									
186									
187									
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189									
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193									
194									
195									
196									
			\$ 305,400.63	\$ 494,256.50	\$ 357,662.36	\$ 357,990.10	\$ 238,178.47	\$ -	

Original Contractor's Contingency:		\$ 1,324,447.00
Total Contingency Transfers Approved:		\$ 852,246.60
Current (Remaining) Contractors Contingency:		\$ 472,200.40

(Current as of CUA-010_02/25/2018)

Contingency Useage

PCO#	CUA#	Description	Contractor's Contingency				Owner's Contingency	
			Construction Costs (Typical Contractor's Contingency)		Added Value to Project (Typical Owner's Contingency)		Owner's Contingency	
			Pending Costs	Approved Costs	Pending Costs	Approved Costs	Pending Costs	Approved Costs
Original Owner's Contingency:								\$ 1,700,000.00
Total Change Orders Approved from Owner's Contingency:								\$ -
Current (Remaining) Owner's Contingency:								\$ 1,700,000.00
Current Contingency(s)						\$ 472,200.40		\$ 1,700,000.00
Pending / Under Review PCO's						\$ 663,062.99		\$ 238,178.47
Potential Contingency Remaining						\$ (190,862.59)		\$ 1,461,821.53
Total Contingency Used (Projected)						\$ 1,515,309.59		\$ -
						\$ 606,843.47		From Owner
						\$ 190,862.59		Current Delta
						\$ 238,178.47		OCO#001
						\$ 177,802.41		Remaining



HAYDON

Haydon Building Corp
4640 E. Cotton Gin Loop
Phoenix, AZ 85040
Phone: (602)296-1496

Pending Change Order

To: City of Hobbs, NM
200 E Broadway
Hobbs, NM 88240
Ph: Fax:

Number: PCO-125
Date: 01/28/2018
Job: 10-1775-00 Hobbs Health & Wellness Learning Cente

Description: Aquatics Timing / Scoreboard Changes

Reason:

Details: This PCO covers the agreed to add costs to change the competition pool timing system from Daktronics to Omega and to change the Daktronics numeric scoreboard to a VivILED video display board.

This change was agreed to through several coordination meetings and review sessions and includes all of the components and features shown in the attached package.

Notes:

<u>Description</u>		<u>Estimated Cost</u>
Item :	1 Aquatics Timing / Scoreboard Changes	
Swimming pools		82,102.74
	Subtotal Item 1	82,102.74
	Insurances	0.49% 417.00
	Bond	0.63% 535.00
	Fee	2.90% 2,452.00
	NMGRT	6.81% 5,825.00
	Total For Change Order	91,331.74

The schedule is Unchanged

If you have any questions, please contact me at (602)296-1496.

Submitted By: Matt Greer 
Haydon Building Corp

Approved By: City of Hobbs, NM

cc:

Signed: _____

Date: _____



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: CONSIDERATION TO APPROVE A DEVELOPMENT AGREEMENT WITH GOLD CREEK HOMES CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY HOUSING.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: Gold Creek Homes has requested a Development Agreement concerning the development of single-family housing units located within the Homestead Subdivision. The developer proposes to produce market rate single-family units and is requesting infrastructure incentives of the maximum amount per DA of \$100,000.00. The terms of the attached DA is based on the 2018 Housing Incentive Policy adopted per Resolution #6579.

Fiscal Impact:

Reviewed By: _____

[Signature]
Finance Department

FY18 Budget \$500,000.00

Single Family Housing #010100-44901-170

Attachments: Resolution and Development Agreement.

Legal Review:

Approved As To Form: _____

[Signature]
City Attorney

Recommendation:

Commission considers approval / denial of the attached Resolution approving the Development Agreement.

Approved For Submittal By:

[Signature]

Department Director

[Signature]

City Manager

CITY CLERK'S USE ONLY
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Resolution No. _____

Continued To: _____

Ordinance No. _____

Referred To: _____

Approved _____

Denied _____

Other _____

File No. _____

CITY OF HOBBS

RESOLUTION NO. 6659

A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH GOLD CREEK HOMES CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY.

WHEREAS, the City of Hobbs is proposing to enter into a Development Agreement with Gold Creek Homes concerning the development of market rate single-family housing; and

WHEREAS, the aforementioned Development Agreement allows for an incentive of reimbursement of public infrastructure for this type of development, said agreement being in the best interest of the City.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that

1. The City of Hobbs hereby approves the Development Agreement, which is attached hereto and made a part of this Agreement as Exhibit #1 and the Mayor, and/or his designee, is hereby authorized to execute the Agreement.
2. That City staff and officials are authorized to do any and all deeds to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 7th day of May, 2018.

Sam D. Cobb, Mayor

ATTEST:

Jan Fletcher, City Clerk

**HOUSING DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF HOBBS AND SINGLE FAMILY HOUSING DEVELOPER**

THIS AGREEMENT is entered into on this _____ day of _____ 2018 by and between the City Of Hobbs, New Mexico, a municipal corporation (hereinafter "City"); and Gold Creek Homes, 801 Briarwood Street, Weatherford, TX 76087, (hereinafter "Developer") for the purpose of delivering Housing Developer Services to be provided to the City.

RECITALS:

** The City requires to contract with a Housing Development Company to deliver Single Family Market Rate Housing to the Citizens of Hobbs, New Mexico.

** Developer has submitted a proposal to the City to deliver the required Housing Developer Services work for the development of market rate single-family units, to be produced within 180 days of ratification of this agreement, within Homestead Subdivision located within the Municipal Boundaries.

** Any outstanding Development Agreements between the Developer and the City of Hobbs concerning the production of Market Rate Housing shall become null and void upon the ratification of this agreement herewith.

NOW, THEREFORE, the City of Hobbs and Developer do hereby agree as follows:

A. Work To Be Performed.

1. The Developer shall furnish to the City its Professional Housing Developer Services for certain work regarding the Hobbs Single Family Housing Project. All single family structures completed under this agreement shall be located within the municipal boundaries and shall have received a certificate of occupancy after ratification of this agreement as per the incentive request proposal, which is attached hereto and made a part of this Agreement as Exhibit #1.

2. Developer shall furnish to City its professional Housing Developer Services as provided by this Agreement. The specific duties include the production and delivering to the public market Single Family Market Rate Housing Units in Hobbs. Produced Units receiving an infrastructure incentive reimbursement shall not now or in the future be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time. The Developer shall build market rate housing on the property identified in the Developer's Proposal.

3. Specific activities required are to develop privately owned real property in the City including designing, building and transferring to the public individual market rate single family housing units. The City's subsidy may include any or all of the following funding assistance from the City:

Incentives are available for installed public municipal infrastructure only. Development Agreement must be in place prior to Municipal Acceptance of infrastructure. Existing Developments that have received DA's prior to 2018 are eligible through 12/31/2018.

a. Incentive not to exceed per square footage basis:

i. \$10.00 per sq. ft. north of Sanger

- ii. \$20.00 per sq. ft. south of Sanger
- iii. Calculation based on living area only
- b. Incentive not to exceed per unit basis:
 - i. \$10,000.00 per single family unit
 - ii. \$5,000.00 per multi-family unit
- c. Incentive not to exceed fair share per linear foot of infrastructure basis:
 - i. \$180.00 per lineal front footage of complete public infrastructure installed, and further broken down as follows:
 - 1. Water (\$25 / lf):
 - a. Twenty Five (\$25) per equivalent front foot of lot to which water service is provided (8" minimum service single family & 10" minimum service for multi-family);
 - 2. Sewer (\$35 / lf):
 - a. Thirty Five (\$35) per equivalent front foot of lot to which sewer service is provided (8" minimum service single family & 10" minimum service for multi-family);
 - 3. Street (\$90/ lf):
 - a. Ninety (\$90) per equivalent front foot of lot to which street is provided (built to Minor Residential standards as promulgated within the City of Hobbs Major Thoroughfare Plan);
 - 4. Sidewalk:
 - a. Thirty (\$30) per equivalent front foot of lot to which sidewalk (includes driveway with ADA accessible path) is provided;

Based on quantities of required publicly owned infrastructure installed with the project, the City Engineer shall determine if the value of the infrastructure is adequate as an equal exchange of value for the amount of City subsidy contributed to the housing project. The City Engineer shall resolve any issues concerning value or extent of infrastructure and amount of square footage of constructed housing units. Specifically, the City Engineer will determine the value or unit costs of the publicly owned infrastructure according to any City of Hobbs Annual Pavement/Concrete/Utility Contracts or public infrastructure projects and estimates.

B. Payment For Services.

- 1) The City shall pay for said services at the rates agreed to and as specified above in the Infrastructure details and the Developer's proposal, as shown herein. Payment will not be made by the City for any unit until a certificate of occupancy is issued, based on this Agreement.
- 2) The total compensation to be paid to the Developer during the term of this Agreement shall not exceed One Hundred Thousand Dollars (\$100,000.00), unless the Agreement is amended by the City Commission.
- 3) City subsidy shall be paid when each individual single family unit is complete and certificate of occupancy is issued, provided the certificate of occupancy for the unit is issued after ratification of this agreement. Payment will be made within fifteen (15) days following a written request from the Developer and upon City inspection of project completion.

4) Produced Units receiving an infrastructure incentive reimbursement shall not now or in the future be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time. Such usage either now or in the future, for a period not to exceed 10 years from date of issuance of a C.O., shall require Developer to return any incentive funds received for any unit thus utilized, upon demand by the City. Developer shall record a "Declaration of Restrictive Covenants", attached hereto as Exhibit 2, to restrict such usage and to notify parties involved in future conveyances.

C. Construction Requirements.

Construction shall be of energy-efficient design per New Mexico Energy Conservation Code 2009, utilizing either stucco or brick on the exterior of all buildings.

D. Assignment of Agreement.

This Section refers to assignability of this Agreement, and not to assignability of the Project to be developed for housing. Developer shall not assign or transfer any interest in this Agreement. Except that Developer is permitted, upon City approval, to assign its interest to a Partnership or Corporation in which the Developer is the principal party or to an affiliated company, working with the Developer on the Project. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and assigns; provided that upon any assignment of this Agreement by either party, the other party shall not be released from any obligation under, or liability accruing pursuant to this Agreement. Consent shall not unreasonably be withheld by either party.

E. Insurance Requirements and Hold Harmless Provision.

1. Developer agrees to obtain and maintain appropriate insurance during the course of the work program with the City of Hobbs, as follows, and shall indemnify and hold harmless City, its employees, agents, officers and officials from any and all claims, losses, causes of action, and/or liabilities resulting from the conduct, negligence, errors or omissions of Developer or any employee or agent of Developer while engaged in performing the services called for herein. Developer will provide a current Certificate of Insurance to be attached to this agreement, with the City of Hobbs as shown as an additional insured party.

2. The Developer shall maintain insurance coverage for General Liability, Automobile Liability, Errors and Omissions Insurance, and Workers' Compensation, subject to review and approval of the City Attorney.

F. Governing Law and Provisions.

1. This Agreement shall be governed by the laws of the State of New Mexico. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. If any part of this contract shall be deemed in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts hereof shall remain valid and enforceable.

2. If any party is found by a court to have breached this Agreement, the breaching party agrees to pay all reasonable costs, attorney's fees and expenses that shall be made or

incurred by another party in enforcing any covenant or provision of this Agreement, including the expenses of in house counsel.

G. Final Payment and Release of Claims.

1. Developer, upon final payment of all amounts due under this Agreement, releases the City and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.
2. City, upon Developer's final completion of all work items and covenants required of the Developer under this Agreement, shall release the Developer from all liabilities, claims and obligations whatsoever arising from or under this Agreement, on the day that is ten (10) years following the date of the City's issuance of a final certificate of occupancy on the Project.

H. Amendments.

This Agreement shall not be altered, changed, or amended except by written instrument approved and executed by both parties hereto.

I. Breach.

1. The following events constitute a breach of this Agreement by Developer:
 - a) Developer's failure to perform or comply with any of the terms, conditions or provisions of this Agreement.
2. The following events constitute a breach of this Agreement by City:
 - a) City's failure to perform or comply with any of the terms, conditions or provisions of this Agreement, including making timely and appropriate payments to the Developer.

J. Remedies Upon Breach.

1. Any party may sue to collect any and all damages that may accrue by virtue of the breach of this Agreement.
2. If any party is found by a court to have breached this Agreement, the breaching party agrees to pay all reasonable costs, attorney's fees and expenses that shall be made or incurred by another party in enforcing any covenant or provision of this Agreement.

K. Termination.

This Agreement shall be terminated upon the completion of all tenants herein specified or 180 days from date of ratification whichever comes first. A request for infrastructure reimbursement, for a qualified unit produced within the terms of this agreement, received after the Termination Date of this agreement will not eligible for payment.

L. Notice.

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by regular mail, postage prepaid, to the City, ATTN: City Attorney, 200 E. Broadway, Hobbs, NM 88240; to Developer ATTN and Gold Creek Homes, 801 Briarwood Street, Weatherford, TX 76087 and to such other address as requested by either party. Notice shall be deemed to be received on the fifth day following posting.

M. Entire Agreement.

The foregoing constitutes the entire agreement between the parties hereto and may be modified only in writing by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

City of Hobbs

Developer

By: Sam D. Cobb, Mayor

By:

ATTEST:

APPROVED AS TO FORM:

JAN FLETCHER, City Clerk

Mike H. Stone
Mike H. Stone, City Attorney

DECLARATION OF RESTRICTIVE COVENANTS
FOR LOT # _____, OF BLOCK # _____ WITHIN
_____ SUBDIVISION

THIS DECLARATION made this _____ day of _____, 20____, by _____.

RECITALS:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and by this reference incorporated herein as the "Property"; and

WHEREAS, Declarant has requested incentive funds from the City of Hobbs, New Mexico, a New Mexico Municipal Corporation; and

WHEREAS, a proviso of receipt of such funds so requested is to restrict certain usage of the property to the benefit of the City.

NOW THEREFORE, Declarant on behalf of themselves, beneficiaries, personal representatives, successors and assigns does hereby make and establish for said property the following restrictive covenant which is to run with the land and shall be binding on all parties hereto, and all persons claiming by, through and under them until 2024.

1. The property as described herein shall not be utilized in a pecuniary manner by renting, leasing, exchanging or bartering habitation privileges to the property for a period of no less than 30 days at a time.

IN WITNESS WHEREOF, I hereby set my hand this _____ day of _____, 20____.

Declarant:

STATE OF NEW MEXICO)
(SS.
COUNTY OF LEA)

The foregoing instrument was acknowledged before me on this ____ day of _____, 20____ by _____, to me personally known, who being by me duly sworn did say that he executed the same as his free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid and year first written above.

Notary Public _____

My Commission Expires: _____



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: May 7, 2018

SUBJECT: PUBLICATION OF AN ORDINANCE TO ADOPT RIGHT OF WAY MANAGEMENT REGULATIONS.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: The City of Hobbs Planning Board has been reviewing the Codes, rules and regulations in place and needed to allow the City to manage those properties we hold in public trust. Currently Municipal Code Title 12, enacted in 1950 and most recently amended in 2001, allows some authority for the City to manage the public properties so dedicated through the development process. However, as technologies change there is an increasing demand to locate private facilities within, upon, under, and over the public's property. The proposed Ordinance prioritizes placement of facilities within the public's properties being 1) those facilities being owned by the public (street, curb, gutter, water and sewer), 2) those facilities being owned by a franchisee of the public (electric, gas, telephone and cable) and 3) those facilities owned by private entities that are not franchisees of the public. The City of Hobbs Planning Board has been reviewing the proposed Ordinance since October of 2017, the Planning Board held a special meeting on April 25, 2018 and voted 5 to 0 to recommend publication of the proposed Ordinance.


Fiscal Impact:

Reviewed By: 
Finance Department

No Fiscal impact.

Attachments: Ordinance and Planning Board minutes.

Legal Review:

Approved As To Form: 
City Attorney

Recommendation:

Staff recommends consideration of the Publication of the Ordinance.

Approved For Submittal By:


Department Director

City Manager

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COMMISSION ACTION TAKEN

Resolution No. _____ Continued To: _____
Ordinance No. _____ Referred To: _____
Approved _____ Denied _____
Other _____ File No. _____

CITY OF HOBBS

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT RIGHT OF WAY MANAGEMENT REGULATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the following Chapter be added to the Hobbs Municipal Code.

Proposed Ordinance

City of Hobbs Municipal Code entitled “Right of Way Management Regulations”

RIGHT OF WAY MANAGEMENT REGULATIONS

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12.01.010 Title

This chapter is known and may be cited as the CITY OF HOBBS RIGHT OF WAY MANAGEMENT ORDINANCE.

12.01.020 Purpose

The city commission adopts this chapter to better:

- A. Manage a limited resource to the long term benefit of the public;
- B. Minimize inconvenience to the public occasioned by the emplacement and maintenance of facilities in the public right of ways;
- C. Establish clear and consistent rules governing work performed within and occupations of the public's right of ways.
- D. It is the intent of this ordinance to only address and/or allow the placement of facilities and work within public right of ways not addressed within other sections of the Hobbs Municipal Code.

12.01.030 Definitions

For the purposes of this chapter the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Unless otherwise expressly stated, words not defined herein shall be given the meanings set forth in title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

AFFILIATE: When used in relation to any person, means another person who de facto or de jure owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

CITY: City of Hobbs, New Mexico, and any agency, department, or agent thereof.

CITY MANAGER: The person appointed pursuant to section 6.2 of the City Charter or his/her designee.

CITY ENGINEER: The city engineer or the city engineer's designee.

COMMUNICATIONS FACILITY OR COMMUNICATIONS SYSTEM: Facilities for the provision of "communications services", as that term is defined herein.

COMMUNICATIONS SERVICES: Telecommunications services, interactive computer services, and any other services involving the transmission of information by electronic or optical signals, except that it shall not include cable service as that term is used in the cable communications policy act of 1984, as amended.

COMMISSION: The principal governmental body of the city of Hobbs, New Mexico, its officers, or a representative person or entity as may be designated to act on its behalf.

FACILITY OR FACILITIES: Any tangible asset in the public right of way used to provide drainage, sanitary or storm sewer, gas, electric, water, oil/gas pipelines or communication/information services.

FEDERAL COMMUNICATIONS COMMISSION OR FCC: The federal communications commission or any successor.

FRANCHISE: An authorization granted by the city to an entity to construct, maintain, or emplace facilities generally upon, across, beneath, and over the public rights of way in the city, subject to the terms and conditions specified in a franchise agreement. The term also includes an authorization by the New Mexico PRC or other appropriate authority or as otherwise authorized by law.

FRANCHISE AGREEMENT: The contract entered into between the city and a grantee that sets forth the terms and conditions under which the franchise may be exercised.

GRANTEE: A person that has been granted a franchise by the city or right to operate within Hobbs or such other parties that wish to locate facilities in the right of way.

INFRASTRUCTURE OR INFRASTRUCTURES: to have the same meaning as **FACILITY OR FACILITIES**.

LICENSEE: A person who has received a license to locate a facility or facilities within the right of way.

OWNER OR OPERATOR OF A FACILITY: Any person which has a possessory interest in such facility or which controls or is responsible for, through any arrangement, the management and operation of such facility.

PERMITTEE: A person who has received a permit to work within the right of way.

PERSON: Any individual, corporation, partnership, association, joint stock company, trust, governmental entity, or any other legal entity, but not the city.

PUBLIC IMPROVEMENT: means, by way of illustration and without limitation, any improvements for roadways and pavements, sidewalks, curbs and gutters, landscaping, street lights, foundations, poles and traffic signal conduits, water mains, sanitary and storm sewers, tunnels, subways, people movers, viaducts, bridges, underpasses, overpasses, public buildings or public structures, or other public installations or improvements which are to be used by the general public.

PUBLIC RIGHT OF WAY: The surface and space above, on, and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel, park, parkway, public easement, or right of way within the city in which the city now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating, and maintaining a facility.

TELECOMMUNICATIONS: This term has the meaning ascribed to it in 47 USC section 153(43). **TELECOMMUNICATIONS SERVICE:** This term has the meaning ascribed to it in 47 USC section 153(46).

ROW WORK PERMIT: A permit issued by the city to enter upon the public rights of way at specified times and places to erect, construct, emplace, or otherwise work on facilities.

ROW OCCUPANCY LICENSE: A license granted to a person, outside of a franchise agreement, specifying the location and terms allowing facilities within public right of ways.

12.01.040 Authority

The City Commission, pursuant to the general powers; body politic and corporate powers, Section 3-18-1 NMSA 1978, specifically, to protect generally the property of its municipality and its inhabitants and to preserve peace and order within the municipality, enacts the ordinance codified in this chapter.

12.01.050 Reservation of rights; police power

All rights and privileges granted in a franchise agreement are subject to the police powers of the city and its rights under applicable laws and regulations to exercise its governmental powers to their full extent and to regulate a grantee and the construction, operation and maintenance of the grantee's infrastructures, including, but not limited to, the right to adopt, amend, and enforce ordinances and regulations as the city shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations concerning right of way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions.

Further, nothing in this chapter shall prevent the City from constructing, repairing or replacing sewers; grading, paving, repairing, or replacing any right of way; or constructing, repairing, or replacing any other public work or facility, or from performing work pursuant to weather related activities or response to natural disasters. Nothing shall prevent the City from altering the layout or design of a right of way for public safety reasons.

12.01.060 Permit required

- A. No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right of way in the city or other city property without first obtaining from the city the necessary permit(s)\license(s) required under local, state or federal law.
- B. An owner or operator of facilities may be required to hold different permits\licenses for its use of the public rights of way to provide different services. For example, and without limitation, the owner or operator of facilities that provides both cable service and wireless internet service must obtain both a franchise agreement and any permit(s)\license(s) required for facilities to provide wireless internet service.

12.01.070 Construction standards

- A. Compliance with Regulations; Safety Practices: Construction, operation, maintenance, and repair of facilities shall be in accordance with all applicable law and regulation, and with sound industry practice. All safety practices required by law shall be used during construction, maintenance, and repair of facilities.
- B. Excavations: No holder of any work permit for any facility shall dig, trench, or otherwise excavate in the public right of way without complying with the provisions of the New Mexico one call system.
- C. Prevention Of Failures And Accidents: An owner or operator shall at all times employ at least ordinary care and shall install and maintain using commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.
- D. Most Stringent Standards Apply: In the event of a conflict among codes and standards, the most stringent code or standard shall apply (except insofar as that standard, if followed, would result in a system that could not meet requirements of federal, state or local law, or is expressly preempted by other such standards).
- E. Construction Schedule: Every owner or operator shall, at least thirty (30) days prior to commencing significant construction activity (including a significant rebuild, upgrade, or repair to existing facilities)—emergencies excepted - upon, across, beneath, or over any public right of way in the city or other city property, strive to provide to the city in writing the date on which the owner or operator anticipates it will begin construction and the approximate length of time required for such construction. This timeframe represents a preference only.
- F. Coordination Of Construction With City: Prior to the erection, construction, upgrade, or rebuild of any facilities in the public right of way, the owner or operator of such facilities shall first submit to the city for written approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required by the city, together with maps and plans indicating the proposed location of all such facilities. The owner or operator shall provide the best information it has in such reasonable format as may be specified by the city engineer for the city's planning function. No such erection or construction shall be commenced by any person until approval therefor has been received from the city. At the time of such approval, the city shall inform the

grantee whether the reports and other information described by subsection 12.01.170 of this chapter shall be required with respect to the approved construction.

- G. **Coordination of Construction With Third Parties:** Developers or other parties planning the construction or opening of streets in the city shall provide reasonable notice to the city and to the owners or operators of facilities subject to this chapter so that joint trenching and joint emplacement of facilities may be conducted wherever practicable. Such owners and operators shall similarly provide notice to each other and to any relevant developers, for the same purpose. The city shall maintain a list of owners and operators of facilities subject to this chapter for reference by other parties.
- H. **City Engineer Stakeholder Meetings:** The city engineer may establish recurring meetings of businesses who make use of the right of way for their facilities and contractors who perform such work to discuss ongoing and upcoming projects to further the efforts of coordinating projects within the right of way.
- I. **Contractors and Subcontractors:** Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of facilities in the public right of way must be properly licensed and insured under laws of the state and all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as an owner or operator of the facility would have if the work were performed by the owner operator. An owner or operator shall be responsible for all activities carried out by its contractors, subcontractors and employees at the owner's or operator's request.
- J. **Publicizing Proposed Construction Work:** Except in the case of an emergency, before commencing a project (for which Franchisee, or its contractor, has pulled the applicable permit) in Right of way upon which residential property is located or is abutting thereto, Franchisee shall notify such abutting residents at least two (2) days prior to the date that Franchisee proposes to commence construction. Notice shall be in writing by one of the following methods: in person, by posted notice on the Right of way where the proposed project is scheduled to be built (which notice is to be capable of being read by passing motorists), by door hanger, or by mail, with a description of the proposed project and the name of Franchisee and its telephone number.

12.01.080 Placement of facilities

- A. All facilities shall be installed and located to minimize interference with the rights and

convenience of other property owners.

- B. An owner or operator of a facility shall not place facilities, equipment, or fixtures where they will interfere with any other facilities, or obstruct or hinder in any manner the various utilities serving the residents of the city or their use of any public right of ways.
- C. The city may reasonably require the placement of facilities to ensure that users of the public right of ways do not interfere with each other and that the public right of ways are used safely and efficiently. For example, in the case of an owner or operator of a fiber optic network that is not a franchisee, the city engineer may order extra ducts for fiber optic cable be installed for use by the city or other grantees or permittees when, in the opinion of the city engineer, the subject right of way is too congested due to existing facilities and space limitations or will likely be used by at least four other entities including the city for running fiber optic cable. Such company shall then certify to the city engineer the additional cost of said installation per linear foot which the city shall pay. Other future users of the surplus duct will be charged an upfront, one-time fee to locate in said duct to recover a proportional share of the city's upfront and carrying costs as calculated by the city engineer. This fee will be in addition to, and not in lieu of, any recurring, or one-time fee charged by city for location within the right of way.
- D. Every grantee or licensee that ceases operating or maintaining any facility shall, upon written request of the city within one (1) year of the cessation of maintenance of such facility, promptly remove it. Should the grantee or permittee neglect, refuse, or fail to remove such facility, the city may remove the facility at the expense of the grantee or licensee. The obligation to remove shall survive the termination of the franchise or permit for a period of two (2) years and shall be bonded. The city engineer may determine that it is in the best interests of the city to allow the facility to be wholly or partially abandoned in place.
- E. No owner or operator of a facility shall erect new aerial facilities, other than to repair existing facilities, in or on a public right of way in which both electric and telephone service providers have placed their lines underground, or within a subdivision which was originally developed to provide underground services.
- F. A grantee or licensee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible. A grantee or licensee may not erect poles, conduits, or other facilities in public right of way without the express permission of the city. Copies of agreements for use of conduits or other facilities shall be filed with the city upon city request.
- G. The city engineer may develop and institute a standardized cross-section location protocol for new or reconstructed right of way.

12.01.090 Relocation of facilities

The owner or operator of a facility on or within the public right of way shall, at its own expense, upon written notice from the city reasonably in advance, promptly relocate any facility located on or within the public right of way as the city may deem necessary or appropriate to facilitate the realignment, reconstruction, improvement or repair of public streets, sidewalks, curbs, drains, sewers, and public improvements of any sort; provided, however, that an operator may be permitted to abandon any property in place with the written consent of the city. This subsection does not apply to relocations covered by 12.01.100(C).

12.01.100 Restoration

- A. Unless governed contractually between the owner or operator and its customer, if an owner or operator of a facility disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping, or other structure, either on private property or in public right of way, the owner or operator shall replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with any standards for such work set by the city. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred, weather permitting, and shall be completed as soon as reasonably possible thereafter. The owner or operator shall guarantee and maintain restoration of a public improvement for at least one year against defective materials or workmanship.

- B. In the event an owner or operator of a facility fails to complete any work required for the protection or restoration of the public right of way, or any other work required by city law or ordinance, within the time specified by and to the reasonable satisfaction of the city, the city, following notice and an opportunity to cure, may cause such work to be done, and the owner or operator of a facility shall reimburse the city the cost thereof within thirty (30) days after receipt of an itemized list of such costs; or the city may recover such costs through the security fund provided by an owner or operator of a facility, pursuant to the procedures for recovery from the security fund specified in the owner's or operator's franchise agreement or license.

- C. Any and all public right of way, public property, or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or reconstruction of a system shall be promptly repaired by the owner or operator of a facility.

12.01.110 ROW Work Permits

- A. Unless otherwise provided by law, franchise, city authorization or emergency circumstances, no person shall install, erect, hang, lay, excavate, bury, draw, emplace, construct, or reconstruct any facility upon, across, beneath, or over any public right of way in the city, or enter into the public right of way to work on a facility, without first obtaining a ROW Work Permit therefor from the city. Notwithstanding the foregoing, under no provision in this chapter shall any ROW Work Permit or other approval from the city be required to install, construct, repair, maintain or replace any Franchisee service drop.
- B. Denial. The city engineer may deny a ROW Work Permit for failure to meet the requirements of this chapter, failure to meet monetary obligations to the city or if such denial is necessary to protect the health, safety and welfare or the right of way and its current use. Failure to meet the requirements includes, but is not limited to, striking or damaging another facility within the right of way.
- C. Large Capital Programs. The city engineer may develop and institute a special streamlined permit and inspection process for large capital programs by mutual agreement with the applicant or applicants in the case of a joint project after receiving authorization from the city manager.
- D. The city engineer may issue a stop work order to anyone failing to secure the proper permit or for not following the ordinances or city standards.

12.01.120 Business license

A Franchise or ROW Occupancy License under this chapter does not render unnecessary or take the place of any generally applicable business license that may be required by the city for the privilege of transacting and carrying on a business within the city generally.

12.01.160 Administration and permitting to use space within the right of way

The city engineer shall oversee the following administrative functions:

- A. Collect, or cause to be collected, any applicable fees from all owners or operators of facilities using public right of way in the city;
- B. The City Commission shall approve by resolution the amount and formula for a

right of way occupancy fees;

- C. Be responsible for the continuing enforcement of all terms and conditions of city-granted franchises as such pertains to the occupation of public right of ways.

The city engineer shall oversee permitting as follows:

- A. The city shall not grant, issue, or enter into any franchise or occupation license that grants or allows exclusive use or occupancy of the right of way.
- B. The city shall not grant or issue a ROW Occupation License for any new non-franchisee facility, proposed to be emplaced after the adoption of this code, having a height in excess of 40' as measured vertically from the adjacent roadway centerline.
- C. An application for a Franchise, ROW Occupation License or ROW Work Permit shall be filed with the city engineer on a form developed and provided by the city engineer.

Authority to issue Permits\Licenses; form of Permits\Licenses and term.

- A. Permits\Licenses required by this chapter shall be issued by the city engineer. The city engineer shall review each application and shall issue each permit\license which he or she determines to be in compliance with the requirements of this chapter and any other applicable local, state, or federal requirements. In issuing a permit, the city engineer may require a change in the proposed location of the licensee's infrastructures where necessary to avoid interference with other infrastructures within the public right of way.
- B. Permits\Licenses issued pursuant to this chapter shall be in writing and shall be executed by the permittee\licensee. The form of permits\licenses to be issued shall be uniform, but shall be subject to periodic review and modification. When available, the city engineer may implement an electronic or digital permit\license system.
- C. Limit on term of franchises; limit on initial or renewal term of licenses.
 - (1) No franchise for use of the public right of way shall be granted for a term in excess of 10 years.
 - (2) No ROW Occupancy License granted by the city engineer shall be issued or renewed for a term in excess of 10 years.

D. Existing Facilities. Non-franchisee facilities emplaced and existing prior to the adoption of this Ordinance located within a previously granted easement are exempt from the issuance of a license.

E. Application for initial issuance of a license; registration required.

A person desiring to obtain a ROW Occupancy License as required in this code shall make application for a license for such use and occupancy as provided in this chapter, and shall pay an application fee for initial issuance of the license. The application fee for initial issuance of a license and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city commission by resolution such fee shall be based in part upon the administrative costs of processing the license. The application for initial issuance of a ROW Occupancy License shall be filed with the city engineer not less than 60 days prior to the proposed effective date of the license and shall be filed upon a form provided by the city for that purpose. The application shall include, at a minimum, the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The name, address and telephone number of a responsible person whom the city may notify or contact at any time or in case of emergency concerning the infrastructures.
- (3) A statement of the purpose for the infrastructures proposed for installation in the public right of way, the type of service it will provide, and the intended customers\person which it will serve.
- (4) Any additional information which the city engineer in his or her discretion may require.

F. Issuance and renewal of license; license revocation and cancellation.

To obtain renewal of a ROW Occupancy License, the licensee shall file a renewal application with the city engineer on the form provided by the city and pay an application fee for renewal of the license. The renewal application fee and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city commission by resolution. The renewal application shall be filed with the city engineer not less than 180 days prior to the expiration of the initial or any renewal term of the license. Upon receipt of the renewal application, the city engineer shall conduct a review of the licensee and the licensee's prior use of the public right of way to determine the licensee's continued compliance with the requirements as stated herein. If

on the basis of such review the city engineer determines that the licensee and the licensee's prior use of the public right of way complies with all requirements, the city engineer may renew the permit for an additional term of up to 10 years.

If on the basis of such review the city engineer determines that the licensee and the licensee's use of public right of way do not comply with one or more of the requirements as herein stated, the city engineer shall give notice of intent not to renew the license. If a licensee holds multiple licenses for use or occupancy of various right of ways within the city for the same or similar purpose, the licensee shall be required to renew all such licenses under a single license at such time as the earliest issued license expires.

In determining the length of the term of an initial or a renewal license, the city engineer shall take into consideration the likelihood that the city will require the use of the specific portion of the subject right of way for municipal purposes or that such use of the subject right of way will unduly burden the city or the public in its use of the subject right of way during the proposed term of the license and the life cycle of the facilities to be deployed. A license shall not be issued or renewed if the city engineer determines that any of the following conditions exist in the right of way proposed for permitting:

- (1) There is insufficient space in the right of way to accommodate the proposed use, given the other existing uses thereof;
- (2) The proposed facilities would interfere with or conflict with existing or planned city infrastructures or Franchisees infrastructures located or planned to be located in the right-of- way;
- (3) Such use is incompatible with adjacent public or private uses of that right of way;
- (4) Such use would involve an unacceptably high frequency of repair or maintenance to the facility thereby requiring excessive excavation in or obstruction of the right of way; or
- (5) The construction or installation of such facility would interfere with a public improvement undertaken or to be undertaken by the city or with an

economic development project in which the city has an interest or investment.

If during the term of any license the city engineer determines that the license should be revoked due to the licensee's failure to comply with any of the requirements herein stated, the city engineer shall give notice of intent to revoke such license.

G. The following shall constitute grounds for refusal to issue or renew a ROW Occupancy License, or for denial or revocation of a ROW Work Permit:

The licensee's\permittee's failure to observe or comply with any of the following:

- (1) The licensee's\permittee's use or prior use of public right of way has been conducted in full and timely compliance with all laws and regulations applicable thereto, and the licensee\permittee has complied fully and in a timely manner with the requirements of any previously issued license\permit, and with the orders or instructions of city officials issued pursuant to this chapter; or
- (2) The licensee\permittee is current in the payment of license\permit fees, if applicable, and the licensee\permittee has made such payments fully and when due.
- (3) The licensee's\permittee's commission of any of the following acts:
 - (4) The licensee\permittee has made a misleading statement or a material misrepresentation in connection with an application for initial issuance or renewal of a license\permit, in connection with its registration of its use of the public right of way or in connection with its use of public right of ways.
 - (5) The licensee\permittee has transferred its equipment, its business, or its permit to another person or has made a change in use of its equipment, without giving the city notice thereof and obtaining city consent thereto.
- (6) Striking or damaging another facility within the right of way.
- (7) The city engineer shall give notice of intent to cancel such license\permit if during the term of any license\permit the city engineer determines that:

- a. The licensee's\permittee's continued use of the public right of way will unduly burden the city or the public in its use of that property;
- b. The public right of way for which the license\permit was issued will be required for municipal purposes during the term of the license\permit;
- c. The licensee's\permittee's equipment at a particular location will interfere with:
 - i. A present or future city use of the right of way;
 - ii. A public improvement undertaken or to be undertaken by the city;
 - iii. An economic development project in which the city has an interest or investment; or
 - iv. The public's safety or convenience in using the right of way for ordinary travel; or
 - v. The public health, safety and welfare requires it.

Notice of intent not to renew a license\permit for use of the public right of way shall be given to the licensee\permittee, either by certified mail, return receipt requested, or by actual service or delivery thereof, which notice shall be given not more than 90 days after submission of the renewal application. Notice of intent to revoke or cancel a license\permit shall also be given to the licensee\permittee in the manner provided above. The notice shall set forth the grounds for refusal to issue or renew or for revocation or cancellation and shall inform the licensee\permittee of the right to an appeal hearing upon request. Such request for hearing shall be filed in writing with the Planning Department, and the hearing shall be scheduled and held by the Planning Board at their next regularly scheduled public meeting. At the hearing, the licensee\permittee shall have the burden of establishing that the grounds asserted in the notice do not exist. Upon the effective date of revocation or cancellation as provided in the city engineer's notice thereof, or upon the effective date specified in the city engineer's written

decision upon the licensee's\permittee's appeal, the licensee\permittee shall be required to cease its use and occupancy of the right of way or to remove or relocate its equipment therefrom, as provided in the notice or decision. Equipment not removed or relocated from the right of way as required in such notice or order shall be considered a nuisance and may be removed, relocated, or taken possession of by the city, at the licensee's\permittee's expense. Except in emergency circumstances, the requirement to relocate, remove, or cease use of equipment shall be suspended during the pendency of any appeal taken by a licensee\permittee.

If a license\permit is refused or cancelled upon the basis that the subject right of way is or will be required for municipal purposes, the applicant or licensee\permittee shall not be entitled to an appeal. However, in that event, the licensee shall be entitled to a partial refund of the annual fee already paid, such refund to be computed on the basis of 1/12 of the required annual fee multiplied by the number of unexpired whole months of the year remaining in the license term. In all other cases where a license is not issued or renewed or is revoked, no refund of any portion of the required annual fee shall be paid to the licensee.

Notwithstanding the notice and hearing requirements above, the city engineer may, in emergency circumstances, order the immediate relocation or removal of equipment from the right of way.

Regardless of any other provision, a refusal, cancellation or revocation may be appealed under the applicable processes specified in local, state or federal law.

Failure to secure, renew or comply. Any person who fails to secure or renew a franchise or license\permit required under this chapter or any franchisee or licensee who fails to comply with the requirements of the respective franchise or license, or this chapter, or with any other applicable legal requirements shall, upon notification of such violation by the city engineer, immediately act either to abate the violation or to cease its use and occupancy of the right of way and remove its equipment or system from the right of way.

- H. Transfer of franchise, license, lease, business, or equipment without city's consent; change in use of equipment without city's consent.

A license issued pursuant to this chapter shall not be transferred to any other person without the prior written notice to the city engineer. A licensee shall not transfer the license, the business, or the equipment in the right of way to another person without giving the city engineer 90 days' prior written notice of such proposed transfer. In such notice, the licensee shall clearly identify the proposed transferee, giving the name and address of a representative of the transferee who is authorized to discuss and provide information to the city regarding the transfer.

A franchisee or licensee shall not change the use of its equipment without giving the city 90 days' prior written notice of such proposed change in use. In such notice, the franchisee or licensee shall clearly and completely set forth the proposed change in use of equipment, how it would be accomplished, including any excavations required to accomplish such change, and projections as to the future maintenance implications of such change in use. Any proposed change in use of franchisee's or licensee's equipment shall require the prior approval of the city engineer. Such approval may be withheld if the city engineer determines that the proposed use of the equipment at that location would be incompatible with or would likely damage or endanger other uses of the right of way, would involve a higher level of maintenance activities than the present use, would involve more street excavation or greater traffic disruption than the present use, or would be otherwise inappropriate.

I. Amendment to license\permit.

If a licensee\permittee with a current license\permit issued pursuant to this chapter proposes to expand, reduce, relocate or modify any portion of its facilities or scope of work within public right of way, the licensee\permittee shall file an application for an amendment to the current license\permit with the city engineer, shall pay the administrative application fee, and shall further comply with all other applicable requirements of this chapter. An application for an amendment to a current license\permit shall include relevant new information of the type required in connection with the initial application for a license\permit. If approved, the amended license\permit shall be issued by the city engineer in the same manner as the original license\permit. However, if the amendment involves only one or more new hook-on connections to the permitted utility system and if the new connections will be made entirely through the permittee's existing underground utility conduit or ducts so as not to require any excavation in the public right of way or by means of overhead wires or cables between existing utility poles, the licensee shall not be required to pay an additional administrative fee as part of the application for amendment.

J. Duties of licensee\permittee.

The licensee\permittee shall be responsible for repairing or reimbursing other licensed or franchised utilities or other persons or entities lawfully using the right of way for any damage to their property caused by negligence of the licensee\permittee or its agents, employees or contractors in connection with the installation, construction, reconstruction, repair, operation, disconnection or removal of the licensee's\permittee's equipment or system.

12.01.170 Reports and records

Upon request, the city shall have the right to inspect and analyze at any time during normal business hours at the nearest office of an owner or operator of facilities, or, if such office is not in the city, then at such other location in the city as the city may reasonably designate, all books, receipts, maps, records, codes, programs, and disks or other storage media and other like material reasonably appropriate in order to monitor compliance with the terms of this chapter or applicable law. This includes not only the books and records directly relevant to enforcement of this chapter or the owner's or operator's franchise agreement that are held by the operator, but any books and records held by an affiliate, or any contractor, subcontractor or any person holding any form of management contract for the facilities in the public right of way to the extent such books or records relate to the facilities. An owner or operator is responsible for collecting the information and producing it at a location as specified above. The city shall provide the owner or operator with advance notice stating the types of records sought to be reviewed and the reason for such review.

Contacts and maps: Unless this requirement is waived in whole or in part in writing by the city each owner or operator of facilities in the public right of way shall maintain and produce or allow access upon request the following items:

An organizational chart with contact information for the portion of the organization most relevant to its operations within the right of way.

Detailed, updated electronic maps, in a format specified by the city, depicting the location of all facilities located in public right of way.

Construction Updates: Unless this requirement is waived in whole or in part by the city, the owner or operator of facilities in the public right of way shall deliver or make available upon request the following updates to the city:

Monthly construction reports to the city for any major construction undertaken in the public right of way until such construction is complete. The owner or operator must submit updated as built system design maps to the city, or make them available for inspection, with notice of their availability, within thirty (30) days of the completion of system construction in any geographic area. These maps shall be developed on the basis of post-construction inspection by the owner or operator and construction personnel. Any departures from design must be indicated on the as built maps.

Records Required: An owner or operator of facilities in the public right of way shall at all times maintain:

A full and complete set of plans, records, and "as built" maps showing the exact location of all equipment installed or in use in the city, exclusive of customer service drops.

A file showing its plan and timetable for future major construction of the facilities.

Remote Site Visit: If any requested records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then an owner or operator of facilities in the public right of way may request that the inspection take place at some other location; provided, that the owner or operator must pay reasonable travel expenses incurred by the city in inspecting those documents or having those documents inspected by its designee, as charges incidental to the enforcing of the owner's or operator's franchise or other authorization for use of the public right of way.

12.01.180 Bond or letter of credit

No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right of way in the city or other city property until the owner or operator shall have filed with the City Clerk a bond and/or letter of credit, in a form acceptable to the city, running in favor of the city, to guarantee the obligations of the owner or operator under this chapter and applicable law. The amount of the bond or letter of credit shall be as specified by the City Manager. Cost factors to be considered will be the scope of services provided by the contractor, the impact on the public right of way,

the reasonable cost of removal of the facilities and the cost of restoration of any affected public right of way or other property.

12.01.190 Insurance

An owner or operator shall maintain insurance covering its facilities and operations in the public right of way, naming the City as additionally insured, as specified in a specific provision of this chapter or in its franchise agreement or license. Upon request, proof of such insurance shall be submitted to the city engineer prior to beginning any work.

12.01.200 Enforcement

Penalties: For violation of provisions of this chapter the city may seek fines in the amounts of \$100 for a first offense within a year, \$200 for a second offense within a year, and \$300 for a third or subsequent offense within a year. The penalties shall be assessable against an owner or operator and shall be chargeable to its performance bond and/or letter of credit, at the city's discretion.

Injunctive Relief: In addition to any other remedies hereunder, the city may seek an injunction to mitigate or terminate a violation, or employ any other remedy available at law or equity, including, but not limited to, imposition of penalties.

Timely Performance or Compliance: Any failure of the city to insist on timely performance or compliance by any person shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that person or any other person.

Termination On Account Of Certain Assignments or Appointments:

To the extent not prohibited by the United States bankruptcy code, a franchise under this chapter shall terminate automatically by force of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee (including a debtor in possession in a reorganization) to take over the business of the owner or operator, whether in bankruptcy or under a state law proceeding; provided, however, that such franchise shall not so terminate if, within that one hundred twenty (120) day period:

Such assignment, receivership or trusteeship has been vacated; or

Such assignee, receiver, or trustee has cured any defaults and has fully complied with the terms and conditions of this chapter and any applicable agreement and has executed an agreement, approved by any court having jurisdiction, under which it assumes and agrees to be bound by

the terms and conditions of this chapter and any applicable agreement.

In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of an owner or operator of facilities in the public right of way, its franchise under this chapter shall automatically terminate thirty (30) calendar days after such foreclosure or sale, unless:

The city has approved a transfer to the successful bidder; and

The successful bidder has covenanted and agreed with the city to assume and be bound by the terms and conditions binding its predecessor. Any mortgage, pledge or lease of facilities in the public right of way shall be subject and subordinate to the rights of the city under this chapter any applicable agreement, and other applicable law.

If a franchise under this chapter is terminated for any reason, the city may, at its discretion, require the grantee or permittee to remove its facilities from the public right of way and to restore the public right of way to their prior condition at the owner's or operator's expense, or that of their sureties. If an owner or operator whose franchise has been terminated fails, after reasonable notice from the city, to remove its facilities from the public right of way, such facilities shall be deemed abandoned and ownership forfeited to the city.

Remedies Cumulative: All remedies specified in this chapter are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve an operator of its obligations to comply with this chapter. In exercising any remedy specified in this chapter, the city shall comply with any substantive and procedural requirements for exercising such remedies in an owner's or operator's franchise agreement, license or other authorization.

Reduce or Waive Penalties: The City Manager may reduce or waive any of the above listed penalties for good cause shown.

12.01.210 Indemnification

Any indemnity provided shall include, but not be limited to, the city's reasonable attorney fees incurred in defending against any such claim, suit, or proceeding. Recovery by the city of any amounts under insurance, the performance bond or letter of credit, or otherwise shall not limit in any way a person's duty to indemnify the city, nor shall such recovery relieve a person of its obligations pursuant to a franchise or in any respect prevent the city from exercising any other right or remedy it may have.

12.01.220 Severability

If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding on owners and operators.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

PASSED, ADOPTED AND APPROVED this ___ day of _____, 2018

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

**PLANNING BOARD
SPECIAL MEETING MINUTES
April 25, 2018**

The Hobbs Planning Board met on April 25, 2018 at 10:00 a.m. at City of Hobbs Annex Building, First Floor Commission Chambers, located at 200 E. Broadway, Hobbs, NM 88240 with Mr. W.M. "Tres" Hicks Chairman presiding.

Members Present:

W.M. "Tres" Hicks, Chairman
Phillip Ingram
Bill Ramirez

Members Absent:

Guy Kesner, Vice Chairman
Larry Sanderson
Brett Drennan

Also present were members of the public and City staff as follows:

Kevin Robinson, Project Manager
Julie Nymeyer, Staff Secretary
Dennis Holmberg

Todd Randall, City Engineer
Mike Stone, City Attorney

1) Call To Order.

Mr. W.M. "Tres" Hicks Chairman called the meeting to order at 1:43 pm. He welcomed the new Planning Board member Mr. Phillip Ingram.

2) Review and Consider Approval of Agenda.

The first item of business was to review and approve the Agenda for the April 25, 2018 meeting. Mr. Hicks asked if there were any changes or additions to the Agenda? Mr. Robinson said there were none. Mr. Ramirez made a motion, seconded by Mr. Sanderson to approve the agenda as presented. The vote on the motion was 6-0 and the motion carried.

3) Review and Consider proposed Right - of - way management Ordinance.

Mr. Hicks said the ROW Subcommittee went through this item several times. He opened this to the Board and asked if they had any comments before going through this item by item. He asked if the language was consistent? Mr. Robinson said he is fairly comfortable with the language being consistent. He said he thought there should be occupancy license and work permits to make them two different items. Mr. Randall said right now they are listed as right-of-way occupancy license. Mr. Hicks said there is a need to clean up the language.

Mr. Robinson said that there are two separate issues working in the right-of-way and occupying the right-of-way. Mr. Hicks asked what the importance of getting this done? Mr. Robinson said historically right-of-ways are being more and more utilized. He said the franchise agreements have worked in the past and charged a franchise fee for the occupancy of the right-of-ways. He said there are infrastructures today that are being proposed to occupy the right-of-ways that are not necessarily available to every property adjacent to the right-of-way. He said that is the goal is to include the small mobile cell towers and others in the right-of-ways.

Mr. Hicks asked if legal has gone through this? Mr. Stone said yes and he will go over it again before it goes to Commission. Mr. Hicks asked Mr. Stone about a bond or letter of credit and rather or not a bond or letter of credit would need to be issued? He said the amount shall be the cost of removal and restoration and applies the bond must be in effect for the life of the license.

Mr. Stone said unless there is a tool like a bond it will be hard to enforce. Mr. Kesner said the insurance companies are going to ask what the surety requirements are and if the bond cannot be cancelled the underwriters will not write it. Mr. Hicks said because basically you are asking a bond forever. Mr. Stone said it is a protection. Mr. Hicks asked if it was reasonable. Mr. Stone said they are just looking for ways to protect the public. He said maybe they should place a deposit.

Mr. Drennan left the meeting at 2:53.

Mr. Sanderson asked if there would be a company that will leave a bond or should they leave a letter of credit. Mr. Hicks said his suggestion is to determine at the time of the permit if it is acceptable to abandon the project in the right-of-way. He said he did like the ideal of the agreement stating that it had to be removed or capped for underground utilities. Mr. Sanderson said what is the level of risk? Mr. Robinson said he does not think the bond or letter of credit would negatively affect the people who are looking at using our right-of-way.

Mr. Hicks said maybe there needs to be some flexibility. He said anything that goes underground should have a company name stamped or marked on it. He suggested charging a fee and the fee goes in to an abandonment fund. Mr. Ingram asked if the licensing fee had to be a flat rate or can it be associated with their installation cost. Mr. Robinson said the State Statute gives maxes that you can charge. Mr. Ingram said if the licensing fees are appropriate and you get them from everyone it should cover a percentage in cleaning up. Mr. Robinson said he agreed with that.

Mr. Stone said the amount of the bond or fee shall not be in excess of State of NM statutory limitations. He said they are not going to violate any state statute. The Board agreed. Mr. Hicks suggested that legal look over the bond issues and move this forward.

Mr. Sanderson made a motion, seconded by Mr. Ramirez to recommend approval of this ordinance to the City Commission. The vote on the motion was 5-0 and the motion carried.

4) Adjournment.

With nothing further to discuss the meeting adjourned at 11:53 am.

W.M. "Tres" Hicks, Chairman



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM


MEETING DATE: May 7, 2018

SUBJECT: PUBLICATION OF AN ORDINANCE TO AMEND CHAPTER 5.04 AND CHAPTER 5.20 OF THE CITY OF HOBBS MUNICIPAL CODE IN THEIR ENTIRETY.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: April 30, 2018
SUBMITTED BY: Kevin Robinson – Planning Department

Summary: The City of Hobbs Planning Board has been reviewing the implementation of policy, procedures and regulations in regard to the Mobile Vending Industry since May of 2015. Currently there are municipal codes in place governing the permitting of these types of businesses but upon review the Planning Board determined that additional regulations were required to protect the health and safety of the public. A proposed Ordinance was approved by the City of Hobbs Planning Board on June 16, 2015 and presented to the Commission as a discussion item on July 6, 2015. The Commission requested additional public meetings to be held regarding this issue. An additional 8 public meetings were held on this issue including special meetings held after 5:00 p.m. to allow for public input from Mobile Vendors. While a more comprehensive Ordinance was originally proposed offering specificity on location and basic operation of a Mobile Vendor business, the Planning Board ultimately determined that a more concise alternative would be to amend our current municipal code to better reflect the community's desires. The addition of 2 paragraphs within MC Chapter 5.04 (Business Registration Ordinance) and 2 paragraphs within MC Chapter 5.20 (Temporary Vendors) offers the most basic guidance to Mobile Vendors as to locations. The attached Amendment to MC Chapter 5.04 & 5.20 was recommended for adoption by the City of Hobbs Planning Board at the regular meeting held on December 15, 2015 by a vote of 6 to 0, and was also a discussion item on the March 15, 2016 regular meeting and the March 20, 2018 regular meeting.

Fiscal Impact:

Reviewed By: 

Finance Department

No Fiscal impact.

Attachments: Ordinance and Planning Board minutes.

Legal Review:

Approved As To Form: 

City Attorney

Recommendation:

Staff recommends consideration of the Publication of the Ordinance Amending Chapter 5.04 and Chapter 5.20 of the Municipal Code in their entirety.

Approved For Submittal By:


Department Director


City Manager

CITY CLERK'S USE ONLY
COMMISSION ACTION TAKEN

Resolution No. _____
Ordinance No. _____
Approved _____
Other _____

Continued To: _____
Referred To: _____
Denied _____
File No. _____

CITY OF HOBBS

ORDINANCE NO. _____.

AN ORDINANCE TO AMEND CHAPTER 5.04 AND CHAPTER 5.20 OF THE HOBBS MUNICIPAL CODE IN THEIR ENTIRETY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the following Chapters of the Hobbs Municipal Code be and is hereby amended in their entirety.

Chapter 5.04 - BUSINESS REGISTRATION

FOOTNOTE(S):

--- (1) ---

Note—Prior history: Prior code §§ 14-11—14-19, 21—21.1 and Ord. 899.

5.04.010 - Short title.

This chapter may be cited as the "Business Registration Ordinance." It is declared that the registration of each place of business conducted within the City as set out in this chapter and as authorized by Section 3-38-3 of the New Mexico Statutes Annotated is conducive to the promotion of the health and general welfare of the City.

(Ord. 930 (part), 2004)

5.04.020 - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Engaging in business" means persons operating, conducting, doing, carrying on, causing to be carried on or pursuing any business, profession, occupation, trade or pursuit for the purpose of profit and who are required to obtain a State taxpayer identification number.

"Mobile business activity" means a person possessing a valid business registration engaging in business within the City but at a location which is not their place of business.

"Mobile business activity unit" Any publicly or privately owned vending stand, vending trailer, mobile food vehicle, or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.

"Person" means any individual, male or female, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in a business, profession, occupation, trade or pursuit.

"Place of business" means a location where business is primarily conducted in a non-temporary structure within the City.

(Ord. 930 (part), 2004)

5.04.030 - Imposition of business registration fee.

There is imposed on each place of business located in the City an annual business registration fee of twenty-five dollars (\$25.00) for each calendar year. The fee is imposed pursuant to Section 3-38-3 of the New Mexico Statutes Annotated as it now exists or is amended, and shall be known as the "business registration fee." Proof of place of business, as defined in this chapter, may be required by the City Clerk at the City Clerk's discretion as a condition of issuance of a business registration. The required proof may include production of a utility bill or a New Mexico driver's license. The business registration fee may not be prorated for business conducted for a portion of the year.

(Ord. 930 (part), 2004)

5.04.031 - Imposition of mobile business activity fee.

In addition to the business registration fee, there is imposed an annual mobile business activity fee of one hundred dollars (\$100.00) for each calendar year for those persons who engage in mobile business activity. The mobile business activity fee may not be prorated for mobile business activity that occurs only once in any calendar year and/or for only a limited number of days in any calendar year.

(Ord. 930 (part), 2004)

5.04.040 - Exemption.

No business registration fee or mobile business activity fee shall be imposed on any business which is licensed under City ordinance or otherwise exempted by law.

(Ord. 930 (part), 2004)

5.04.050 - Locations of mobile business activity units.

Mobile business activity units shall be permitted on private property only in areas where 75% of the parcels within a three hundred (300) foot radius of the proposed mobile business unit location have been developed as commercial usage or are unoccupied. Mobile business activity units, excluding ice cream/snow cone trucks and/or pushcarts, are prohibited in primarily residential areas. Connection to Municipal or Franchisee utilities negates the mobile status of the unit and subjects the site and any structure attached thereto to be in full compliance with all commercial development rules, regulations and permitting requirements.

5.04.060 - Application to do business.

All persons proposing to engage in business within the municipal limits of the City shall apply for and pay a business registration fee for each outlet, branch or location within the municipal limits of the City prior to engaging in business.

(Ord. 930 (part), 2004)

5.04.070 - Renewal.

Prior to January 31st of each year, any person with a place of business in the City and subject to this chapter shall apply and pay the fee for renewal of business registration with the City Clerk.

(Ord. 930 (part), 2004)

5.04.080 - Late fee.

There shall be imposed upon each delinquent registration fee a late fee in the amount of ten dollars (\$10.00) in the event a new business does not pay the registration fee before it commences business or the annual renewal fee is not paid prior to January 31st.

(Ord. 930 (part), 2004)

5.04.090 - Required information.

Any person filing an application for issuance or renewal of any business registration shall include in the application a current taxpayer identification number or evidence of application for such current revenue division taxpayer identification number as issued by the revenue division of the State Department of Taxation and Revenue and any other information required by the City Clerk.

(Ord. 930 (part), 2004)

5.04.100 - City Clerk to keep register.

The City Clerk shall keep a register in which shall be entered the date of each registration, the date of expiration of the registration, name of the person to whom such registration certificate has been issued and the amount of the fee paid therefor. It shall be the duty of the City Clerk to also issue, sign and deliver to the person paying the registration fee an appropriate receipt and a certificate of registration showing date of registration, to whom issued, the date of expiration thereof, the purpose or occupation for which the certificate of registration was issued and the amount of the fee paid.

(Ord. 930 (part), 2004)

5.04.110 - Transfer—Authority of holder's agents.

A business registration and mobile business activity license issued under this chapter shall not be transferable nor given to any person nor an employee or agent of the holder, the authority to conduct business pursuant to the business registration or mobile business activity license.

(Ord. 930 (part), 2004)

5.04.120 - Enforcement.

This chapter may be enforced by appropriate legal or administrative action brought to prevent the conduct of business, restraining, correcting or abating the violation of this chapter, to prevent the occupancy of a building, structure or land on which the business is located, or to withhold the issuance of permits or inspections as appropriate.

(Ord. 930 (part), 2004)

5.04.130 - Penalties.

Any person convicted of a violation of any provision of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 930 (part), 2004)

Chapter 5.20 - TEMPORARY VENDORS

5.20.010 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Mobile business activity unit" Any publicly or privately owned vending stand, vending trailer, mobile food vehicle, or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.

"Temporary" means any such business transacted or conducted in the City for which definite arrangements have not been made for the hire, rental or lease of premises for a term of at least thirty (30) days in or upon which such business is to be operated or conducted.

"Temporary vendor" means all persons, as well as their agents or employees, who do not maintain a valid business registration with the City Clerk and who engage in the temporary or transient business in the City of selling, or offering for sale, any goods or merchandise, or exhibiting the same for sale or who for the purpose of taking orders for the sale thereof and who for the purpose of carrying on such business or conducting such exhibits, either hire, rent, lease or occupy any room or space in any building, tent, structure, motor vehicle or other enclosure in the City or any other place whether enclosed or not within the City, in, on, through or from which any goods or merchandise may be sold, offered for sale, or exhibited for sale for the purpose of taking orders for the sale thereof.

"Transient" means such business of any such temporary vendor as may be operated or conducted by persons or by their agents or employees who have their headquarters in places other than the City, or who move stocks of goods or merchandise or samples thereof into the City with the purpose or intention of removing them or the unsold portion thereof away from the City before the expiration of thirty (30) days.

(Ord. 931 (part), 2004)

5.20.020 - Required.

It is unlawful for any temporary vendor to sell, offer for sale, exhibit for sale or exhibit for the purpose of taking orders for the sale thereof, any goods or merchandise in the City without first obtaining a license therefor from the City. A person which falls within the definition of a temporary vendor as defined in this chapter shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or other person.

(Ord. 931 (part), 2004)

5.20.030 - Application.

- A. Any person desiring a license required by this chapter shall make application therefor to the City Clerk at least five (5) days prior to the date of contemplated sale or exhibit in the City, which application shall be in the form of an affidavit stating the full name and address of the applicant, the location of his or her principal office and place of business, the applicant's current State Revenue Division taxpayer identification number or evidence of an application for the same, and such other information as the City Clerk finds necessary for the administration of this chapter. If the applicant is a corporation, the application shall give the names and addresses of its officers and, if a partnership, the partnership name and the names and addresses of all partners.
- B. The application shall be accompanied by a statement showing the kind and character of the goods or merchandise to be sold, offered for sale or exhibited.

(Ord. 931 (part), 2004)

5.20.040 - Fee.

Before any license is issued under this chapter, the applicant therefor shall pay to the City Clerk a fee of five hundred dollars (\$500.00) which sum shall be compensation to the City for the services required of it by this chapter and to enable the City to partially defray the expenses of administering and enforcing the provisions of this chapter.

(Ord. 931 (part), 2004)

5.20.050 - Issuance.

The City Clerk shall issue to any applicant a temporary vendor's license authorizing him or her to sell and exhibit for sale his or her goods and merchandise if such applicant has fully complied with all provisions of this chapter.

(Ord. 931 (part), 2004)

5.20.060 - Display.

Each license issued under this chapter shall be prominently displayed in a conspicuous place on the premises where the sale or exhibit is being conducted and shall remain so displayed so long as any goods or merchandise are being sold or exhibited.

(Ord. 931 (part), 2004)

5.20.070 - Transfer—Authority of holder's agents.

A license issued under this chapter shall not be transferable nor given to any promoter or vendor not listed in the application for the license authority to sell or exhibit goods or merchandise as a temporary vendor, either by agent or clerk or in any other way than his or her own proper person, but any person having obtained such a license may have the assistance of one (1) or more persons in conducting the sale or exhibit, who shall have authority to aid the principal, but not to act for or without him or her.

(Ord. 931 (part), 2004)

5.20.080 - Term.

A temporary vendor's license issued under this chapter shall continue and be in force for a period not to exceed seven consecutive days for the sale of goods or merchandise between the hours of 8:00 a.m. and 8:00 p.m., which license shall expire at 8:00 p.m. on the seventh day. The fee required shall not be prorated or refunded.

5.20.090 – Locations of mobile business activity units.

Mobile business activity units shall be permitted on private property only in areas where 75% of the parcels within a three hundred (300) foot radius of the proposed mobile business unit location have been developed as commercial usage or are unoccupied. Mobile business activity units, excluding ice cream\snow cone trucks and/or pushcarts, are prohibited in primarily residential areas. Connection to Municipal or Franchisee utilities negates the mobile status of the unit and subjects the site and any structure attached thereto to be in full compliance with all commercial development rules, regulations and permitting requirements.

(Ord. 931 (part), 2004)

5.20.100 - Exemptions.

This chapter shall not be applicable to:

- A. Ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying, selling or utilizing such goods or merchandise;
- B. Vendors of farm produce, poultry, stock or agricultural products in their natural state, including Christmas trees;
- C. Sale of goods or merchandise donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose;
- D. Hobby shows, including but not limited to gun, coin, rock, stamp and mineral shows, where such shows are sponsored by or associated with the corresponding local hobby organization;
- E. A person holding a valid business registration under Chapter 5.04, whose principal place of business is within the City, and who is subject to the business gross receipts tax under Chapter 5.08.

(Ord. 931 (part), 2004)

5.20.111 - Fee to be in lieu of occupation tax.

The license fee assessed in Section 5.20.050 shall be in lieu of, and shall excuse such temporary vendor from the payment of, any other license, occupation fees or taxes.

(Ord. 931 (part), 2004)

5.20.112 - Penalty.

Anyone found guilty of violating the provisions of this chapter shall be punished by a fine of up to five hundred dollars (\$500.00) or imprisonment of up to ninety (90) days, or by both such fine and imprisonment.

(Ord. 931 (part), 2004)

PASSED, ADOPTED AND APPROVED this ___ day of _____, 2018

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk

Proposed Mobile Vendor Ordinance History

May 19, 2015 - Planning Board Discussion Item.

Minutes

Mr. Robinson said this item involves several different departments. He said this is a new ordinance that is being proposed and this is a draft ordinance. He said the City Clerk's Office will be responsible for implementation of this ordinance. He said if you have a vacant lot next door to you as per our existing ordinances and a mobile vendor wanted to sell tacos they would be able to do that currently unless they have restrictive covenants that would not allow this. Mr. Robinson said the City of Hobbs will now be requiring written permission or leases to get a permit. He said they will also have to stay off the public right-of-ways.

Ms. Jan Fletcher, City Clerk said there are more and more food vendors around and not all of them are food vendors but sell other items as well. She said the people leasing land to these vendors also have a responsibility to make a safe place for patrons. She said there is no handicap accessibility and is just not safe for citizens.

June 16, 2015 – Planning Board Consideration Item.

Minutes

Mr. Hicks asked if 30 days was needed to get a permit. Mr. Robinson said it never takes that long but it does give staff time to get all the information they are requesting. Mr. Hicks thought it should be 21 days. The Board agreed. Mr. Hicks did not think side walk sales should be limited to 3 per year. He said it did not seem appropriate for downtown merchants. Mr. Shaw said he didn't think it should even be limited to 3 a month. Mr. Robinson said sidewalk sales have never been addressed in the Municipal Code. The Board agreed sidewalk sales should be exempt but must maintain pedestrian access.

Mr. Robinson said it is the intent of the city to make sure Mobile Vendors are on a developed parcel with an impervious surface. He said when there is no rain in this area the grass becomes very dry and can cause a grass fire from the mufflers. He said as they enter and exit the site there are no driveways so they are eroding asphalt on city roadways. Mr. Hicks said there is an issue with traffic tearing up the road going to and from these sites.

Mr. Robinson said vending locations within the City of Hobbs Public Parks and Municipal properties will be approved by the Parks Department. He said staff does not want to limit vendors to a specific location. Mr. Hicks asked about hours of operation? Mr. Robinson said 7 am to 10 pm. Mr. Kesner asked why 7 am? After a brief discussion the Board agreed that hours of operation should be stricken because they will not be in a residential area.

Mr. Hicks said he thought that it should be changed from 500 feet away from a school to 100 feet to be consistent. Mr. Robinson said litter and trash removal will be the vendor's responsibility.

Ms. Pam Acevedo has mobile food vendor trailer and they are parked at their house on Acoma and she was wondering if they would be allowed to keep it there? Mr. Robinson said this will not go into effect until January 2016. Mr. Shaw said he felt like the owners should check their restrictive covenants for violations. Mr. Hicks said the Board would have to look into rather or not this location would work for a mobile vendor.

Mr. Robinson asked if there needed to be a variance clause for this ordinance? Mr. Hicks said he felt like there should be and notifications on variances and it should be the same as for mobile homes which is 300 feet. Mr. Keszner agreed.

Mr. Penick made a motion, seconded by Mr. Shaw to approve the Mobile Vendor Ordinance as amended. The vote on the motion was 5-0 and the motion carried.

July 6, 2015 – Commission Discussion Item.

Minutes

Proposed Ordinance Adopting Permitting Procedures and Development Regulations for the Mobile Vending Industry. Mr. Kevin Robinson, Development Coordinator, stated the Planning Board has been reviewing the policy, procedures and regulations in regard to the Mobile Vending Industry since May of this year. He stated currently there are municipal codes in place governing the permitting of these types of businesses but upon review, the Planning Board determined that additional regulations are required to protect the health and safety of the public. Mr. Robinson stated the two requirements that are being established for a single mobile unit is paving and access of a designated right-of-way. He further added that a new section regarding vending parks has been added. Mr. Robinson stated vending parks is a new trend and would require landscaping and buffering.

In reply to Mr. Robinson's question, Ms. Jan Fletcher, City Clerk, stated there were 26 mobile vendors registered in Hobbs in 2014 and currently there are 27 registered mobile vendors. She stated the Clerk's Office is seeing an increase of mobile vendors doing business in Hobbs.

In response to Commissioner Newman's question, Mayor Cobb stated that if there is anyone in the audience to address the mobile vendor license, they may speak.

Mr. Charlie Acevedo, owner of Acevedo's Burgers, stated he has concern regarding the proposed procedures and developmental regulations for the mobile vending.

Mayor Cobb stated the proposed procedures and developmental regulations for the mobile vending is for the purpose to regulate and not to run anyone out-of-town.

In reply to Commissioner Newman's inquiry, Ms. Fletcher stated the Clerk's Office does maintain addresses for all registered mobile vendors. It was the recommendation of Commissioners Mullins and Newman for the City to invite all registered mobile vendors to the Planning Board meeting to revisit the proposed ordinance.

Mayor Cobb stated that the City does not have zoning but subdivisions often have restricted covenants that can prohibit mobile vendors and business in its neighborhoods through a private process. He stated this proposed ordinance would assist homeowners in prohibiting mobile vendors in their neighborhood without having to hire an attorney. Mr. Robinson agreed and stated mobile vendors would be prohibited to set up in residential areas.

Ms. Barbara Whitson, previous snow cone vender, spoke against the proposed procedures and developmental regulations for the mobile vending and the creation of a mobile park.

Mayor Cobb stated the intent of the proposed procedures and developmental regulations for mobile vending is to set parameters on where they can and cannot sell.

July 21, 2015 – Planning Board Notification of Commission’s Direction.

Minutes

Mr. Robinson said that it has been requested by the City Commission for this Board to have another public meeting for the Mobile Vendor Ordinance. He said the Commission would like an evening meeting. The Board agreed the Regular Meeting date of August 18 at 5:00 pm would work for them.

August 18, 2015 - Planning Board Public Hearing.

Minutes

Mr. Robinson said he would like to clear up some inaccuracies. He said personally he doesn't think there is another public body that is more interested in the effects of the ordinances they pass. He said that he believes we are a very business friendly community. He said this proposed mobile business will not run anyone out of town. He said mobile vendors are allowed to operate within the city limits. He said this ordinance will place minimal developmental standards for vendors. He said the city is not interested in being involved in a mobile vendor park. He said private property owners have the right to put in a mobile vendor park however, the municipality will not be the owners of a mobile vendor park.

Mr. Robinson said there were some additional suggestions about changes in the ordinance and that is the reason this item has come back to this Board.

Mr. Robinson said that Ice Cream and Snow Cone vendors are allowed within residential neighborhoods on minor residential streets. He said the most substantial change is on private property. He said a developed property for a single vendor shall have 50 feet of minimum frontage. He said they would like vehicles to be able to enter the site and park in front of the vendor and receive their products and exit the site without backing up. He said the concept is in the Major Thoroughfare Plan.

Mr. Robinson discussed the FAQ's. He said this is a list of frequently asked questions developed by staff. He said the City of Hobbs encourages mobile vendors. He said all vendors are permitted through a regular business application. He said health and safety concerns are being addressed by the current code. He said the point of the proposed ordinance is to dwell more on the site and site safety. He said every vehicle that travels in our community is traveling on public roadways that we are paying for and maintaining. He said access to a business is granted through the public right-of-way. He said when a drive way that is installed that is insufficient to carry that type of traffic then you get slough off and debris dragged from the lot to the street which wears the street down. He said then the site negatively impacts the entire community.

Mr. Robinson said there are two different site development standards for a reason. He said a single vendor selling their product will not be as big of an impact as what a mobile vendor court would be. He said what staff is looking at in that situation would be good access from the street and good parking areas and flow areas around the unit.

Mr. Robinson said when you start talking about a mobile vendor court is a higher use and potentially higher densities. He said there should be a lot more usage of the sites. He said there are rules and regulations that are in place and that are required for all developments in Hobbs. He said if you have a mobile vendor park then you must build to higher standards.

Mr. Robinson said there is a question if single or multiple vendor sites can be located anywhere in Hobbs? He said the answer yes. He said the locations have to be within an area where 75% of the adjacent sites have been developed as commercial uses and are prohibited in primarily residential areas.

Mr. Robinson said the new regulations will not take effect until January of next year. Mr. Kesner asked what the surface is that is required for vendor locations? Mr. Robinson said asphalt or chip seal surface. Mr. Robinson said if a vendor had a caliche packed area with adequate drive ways and had a drive pad free from vegetation and no pot holes then he could see them getting a variance from the Board.

Mr. Shaw said this Board has discussed this ordinance several times and they really have tried to analyze how they are going to affect the vendors but they want to hear from the vendors on how it is going to affect you. Mr. Kesner asked about the ordinance and where it states "in public parking space or public parking lot" he is not sure if that is a defined term. He asked what the word "public" meant? Mr. Robinson said that is parking spaces that are like K-Mart parking lot for the use of the public. Mr. Kesner said if they have permission from the land owner then that might be too restrictive. Mr. Hicks said he thought public parking meant public thoroughfare or right-of-way. Mr. Robinson said correct. Mr. Kesner said it should state "publically owned" as the public parking lot.

Mr. Hicks opened the public hearing at 5:53 pm.

Mr. Gregory Gonzales said he owns a food truck and Hobbs is not as big as Houston and California to have a food court. He said he is opposed to food courts. Mr. Hicks said the city is not making any food court parks but people will be allowed to develop a food court if they wish. He said you can select your food vendor site as long as it meets the requirements. Mr. Kesner said this will be a City of Hobbs Ordinance and will only be enacted inside the city limits.

Ms. Azevedo said by setting these ordinances in place you are essentially forcing them to go to a park. She said before they set up their trailer at their home they were in compliance. She said with the new rules they are not in compliance of approximately 9 of the items. She is unsure how they measure the 75% commercial. Mr. Robinson said 75% of the properties around your area will need to be commercial. Mr. Shaw asked if that will be a radius of 300 feet? Mr. Robinson said yes.

Mr. Kesner said the City of Hobbs does not enforce restrictive covenants. He said what can happen is they can get a variance and have their property considered commercial. He said it is a burden on the infrastructure in a residential area. She wants to know what is causing them to be a burden. She said it also states they cannot run hoses or cords to the mobile vending unit. She asked if they could clarify that. Mr. Robinson said the units should be self-contained. He said in a mobile vendor park you can run hoses but if you are on a single vendor site then each night you will have to dispose of your waste and resupply your water. Ms. Azevedo said they are wired directly to their home. Mr. Robinson said that is a problem. He said wiring the unit on to your house is using your house as a commercial property. Mr. Penick said you cannot be hooked up to utilities like that because it is against the city code. He said you have to have your own utilities with your own address. Mr. Robinson said they can use a generator but it has to be set so far back from the mobile vendor unit.

Ms. Acevedo asked about variances and if these issues could hinder her from getting a variance? Mr. Penick said it could. Mr. Kesner said it states in the ordinance the building setback line in the thoroughfare to allow patrons. He said it discusses building setbacks and states main building or garage must be 21 feet from property line.

Ms. Kami Randolph from Rattlers asked if all the mobile food vendors need to be parked on something that has cement, trees and flowers? She said mobile food vendors go to places that have dirt. She said dirt brings

money. She said when you start having to set up then you have to pay people and then they don't make as much. She said people want to come to the best to get the best and they will go on dirt or wherever the best is. Mr. Kesner said the concern is not to push concrete or an all paved surface but to make sure we are not damaging the right-of-way because it is not fair for the citizens at large to pay for the damage done to the roadway when clients are going to a business.

Mr. Shaw said they need to have a proper water hook up, proper sewer hookup and a proper electrical hookup. Mr. Robinson said correct and once they do all of that and get it inspected then it protects our community water source, sewage plant and electrical safety.

Mr. Garry Buie said he has watched this Board work on numerous occasions and change their minds when they have listened to the public but they cannot change their minds when no one speaks. He said give them the changes you want, give them the opportunity to work for you.

Mr. Mike Stone said he had a couple of suggestions. He said there are a couple of areas of concern. He said the City of Hobbs cannot enforce private covenants. But the vendors should know you can be sued by your neighbors. Mr. Hicks said the Board has always been very reluctant to approve anything that is in conflict with the restricted covenants. Mr. Stone said in C1A of the ordinance there needs to be more definition of "primarily residential areas". He said D1 of the ordinance needs to be changed to publicly owned. He said the final item is on page 9 paragraph E the statement "without exception is met" should read "finding that each of the following criteria is considered".

Mr. Sanderson asked Mr. Stone if the existing vendors might have an extra year to come in to compliance. Mr. Stone said that is much more palatable to everyone. Mr. Robinson said the issues that this board has heard so far have been variance request issues rather than site development issues. Mr. Robinson said the person who is applying for the permit has to have at least one site.

Mayor Sam Cobb thanked the Board on behalf of the Commission and himself personally. He said they do an outstanding job and he hopes the citizens have a respect for the amount of time and effort the staff and Board puts in on behalf of the community. He said we want to make sure we give people an opportunity to do business but there needs to be a balance on what we do in terms of making sure that we not change but help them maintain the character of their neighborhoods.

Mr. Marshall Newman said he has received calls from several of the food vendors and the request was to make the meeting at 5 pm because they were busy during the day. He said 30 letters were sent out to vendors and there has been 3 people speak today. He said he wished there had been more participation but thank you for your time.

Mr. David Soto said he is a vegetable food vendor. He asked if someone wants him to sale corn in a particular area can he use his generator? Mr. Robinson said the generator has to be within 6 feet of your unit and the cord has to be taped down. Mr. Kesner told him that he could not be in public right-of-ways to do that. Mr. Soto thanked the Board for listening to them.

Mr. Hicks asked if there were any further comments? There were none. Mr. Shaw made a motion, seconded by Mr. Drennan to close the public hearing at 6:47pm. The vote on the motion was 6-0 and the motion carried.

Mr. Hicks said he thought this ordinance should have one more edit to come before the Planning Board. Mr. Hicks suggested bringing this item back to the Board at the next Regular Meeting or get together for a Special Meeting. Mr. Kesner made a motion, seconded by Mr. Penick to table the proposed Mobile Vendor Ordinance. The vote on the motion was 6-0 and the motion carried.

August 27, 2015 – Planning Board Public Hearing.

Minutes

Mr. Kesner asked Mr. Robinson if he wanted to give a brief overview of the ordinance. Mr. Robinson said this is before the Board again because of the urgency to set the minimum site standards before January 1st of 2016. He said this will have to be adopted as an ordinance. Mr. Ramirez asked if there was someone with the city who could interpret the ordinance in Spanish? Mr. Robinson said it has not been published in Spanish but said the city could do that if requested.

Mr. Robinson said there is a frequently asked questions sheet. He asked if it would be better to convert that to Spanish or the entire ordinance? Mr. Ramirez said he thought the entire ordinance. Commissioner Newman asked how many mobile vendors were at the meeting and how many would need this ordinance in Spanish? Several members of the public raised their hand. Mr. Ramirez said he felt like they needed to read the ordinance before the meeting. Commissioner Newman said this is the second time they have showed up to the meeting and he said it is tough for them to understand what is going on and he wants them to have the best information they can.

Mr. Hicks arrived at the meeting.

Mr. Robinson said the reason it is back to this Board is because it needs to be presented in the September Commission Meeting to meet the 45 days to be published in October. Mr. Ramirez asked how long it would take to interpret the ordinance in to Spanish. Mr. Robinson said he thought it could be done in a weeks' time. Mr. Drennan asked if the city normally made all the ordinances in Spanish? Mr. Robinson said the Municipal Code is written in English but there is staff that assists with interpretation.

Mayor Sam Cobb said he thought this was an issue that probably needed to be tabled. He said from a discriminatory stand point he thinks this is a bigger question. He said if the city is going to embark on putting ordinances in languages then they need to be put in multiple languages. He said there are people in this community that are Korean, Indian, and American Indian. He said there are a lot of different nationalities in this community. He said to specify that our ordinances only be in Spanish is probably discriminatory. He said if that is going to create a situation where we cannot move this ordinance on then that will take a substantial amount of deliberation by the Commission and a lot of other public input before we start choosing a language to put our ordinances on.

Mayor Cobb said his preference would be to establish a policy so if someone wishes to come and speak to a public body and desire to speak a language other than the language our ordinance is currently in then we should allow them to bring their interpreter so the communication can be properly done. He said he personally has a problem with him speaking and having someone else that is not his friend or business associate interpreting for him. He thinks that could create problems as well. He thinks the appropriate policy would be if someone wishes to speak to the Commission or Planning Board in their native tongue then they bring an individual that is proficient in both English and their language. He said he really hesitates to endorse putting something in any particular language without putting it in multiple languages and that is a huge burden from a staff stand point and an interpretation stand point. Mr. Kesner agreed with that. Mr. Newman also agreed with the Mayor. Mr. Buie said unfortunately because of the laws they have to protect themselves and the

Mayor is right. He said he would love to see it in Spanish but it will take time and money to translate into Spanish or Korean or whatever the language may be.

Mr. Robinson said in staff's defense at the last Planning Board Meeting the opportunity was given to the participants to come in and talk to staff on a one on one basis and the municipality does have staff members who are interpreters. He said translating the frequently asked questions may be an easier option. Mr. Ramirez suggested interpreters and the vendors come up with their own frequently asked questions.

Mr. Mike Stone said this is an open public forum and he suggested if someone does not understand what is going on then are we really getting public input. Mr. Stone said this item is not a real time crunch. He said it takes 45 to 60 days to get an ordinance in place. He said he does not care to have a staff member put in the position of interpreting. He said his legal recommendation from the fly would be to table this item and determine from a policy level what due diligence needs to be done to provide a format that the majority of the vendors can understand.

Mr. Kesner said this is probably not an urgent issue but what Mr. Robinson said is that the city is currently not enforcing a lot of violations by vendors because they are waiting of the adoption of this ordinance. He said it may make sense to enforce the violations while they are waiting to adopt an ordinance. Mr. Robinson said the very heart and soul of this ordinance is the minimal developmental standards that would be associated with this type of use. He said as it sets right now there are no standards. Mr. Stone said the public that participates in these public forum meetings should have the ability to know what is going to be passed. He said he did not have a problem with people bringing their own interpreter but he does think notice is a big deal in this matter. Commissioner Newman said they have shown up at the last two meetings so that does mean they are concerned. He said this body has decided to have the meeting at 5:00 pm so it is convenient for the vendors.

Mr. Kesner said the vendors need to schedule a time to meet with staff or get a copy of the ordinance and then come back before the Board with their questions. MOP said most of the vendors feel like the city is trying to close them down. MOP asked if she could move to Eunice and run her business? Mr. Robinson said they could move their business to Eunice but the International Building Code would not allow them to have tables and chairs in front of a mobile vendor. He said once they have tables and chairs it makes them set up for outdoor dining for a restaurant which would be a violation of the IBC. He said if you do that you also must become handicap compliant. MOP asked if this ordinance just applied to Hobbs. Mr. Robinson said correct. Mr. Kesner said the City of Hobbs is in the process of getting an ordinance passed.

Mayor Sam Cobb said for this evening what we have done is learn that the City Commission needs to come together and in all fairness to those of you that serve on the Boards, they have an obligation to provide a policy. He said also they need to provide the citizens the rules so they will know. Mr. Cobb said they would provide each Board with a policy. He said if they table this item it will give the individuals in this room confidence that they can operate their business as long as they maintain the rules currently in place and then the Commission can come back with a broad policy for all Boards so when there are public hearings they will know what will be expected of them.

Mr. Kesner said because there are citizens who want to come before the Board so he does want to open this meeting to the public and allow them the opportunity for a few questions and answers. Mr. Kesner opened the public meeting at 5:50 pm.

Member of the public said she had a mobile license here in Hobbs. She wanted to know who was making the ordinance? Mr. Robinson said the Governing Authority makes the rules and regulations not staff. She wanted to know the reason for the ordinance and what problems have they had? Mr. Robinson said most of the rules and regulations are complaint driven. He said the primary complaint has been the location of where your unit

is sitting. She asked if it was just complaints and not about safety? Mr. Robinson said it is definitely about safety which is what everything is geared too. She said if there are two or more vendors in a place then you want to make it into a mobile vendor's park? Mr. Robinson said correct and there would be higher development standards and that is because of the higher density at that location. Commissioner Buie said this is not forcing them to do that though. He said you can stay at your same location if you want.

Mr. Kesner said if you were to park in an unsafe area and your unit caught on fire and then caught the neighbor's property on fire it would be a problem. She said there are a lot of safety issues and she knows safety is important but the city doesn't enforce it on all the places. She said she thought the ordinance only need to be in Spanish and English. Mr. Robinson said if they would come in and talk to staff they are the first link to the Board and Commission.

Ms. Estella Hernandez said her main concern is that when they applied for their vendor's license there were no regulations or ordinances given to them. She said at that time they could have do things differently. She said they have only been in business for nine days. Mr. Hicks said this is a new ordinance that they are contemplating. He said they are building the ordinance right now based on the comments at this meeting and research that the staff does. She said when she applied for the license they did not mention anything at that time about a new ordinance. Mr. Shaw said just because there is not a Mobile Vendors Ordinance in place at this time does not void the fact that there are other ordinances that regulate what you do. He said there may be several ordinances in place that are for safety or the IBC standards.

Mr. Greg Gonzales said that he thought having to pave where the vendors are parked is a little too much. He said there are 18 wheelers that bring caliche onto the roads and why don't you put something on them too. He said paving is not cheap. Mr. Kesner said as a tax payer you talk about the trucks and the city should not allow them to pull onto public roads and cause damage but that is not this Board's issue but a Code Enforcement issue. He said they are just trying to protect the assets that are owned by the city. Mr. Hicks said new development rules do require appropriate driveways but a lot of the yards have been there for a long time.

Ms. Jessica Garcia asked if the ordinance does pass what is the time limit that they will be notified of the changes. Mr. Hicks said that is why the Board is working four months early on this ordinance because after it is complete it will take 60 days to get the ordinance in place. Ms. Garcia asked if the ordinance does get passed when will the ordinance go in place? Mr. Stone said he thought all of the vendors that have a license will be notified.

Mr. Kesner asked the City Clerk, Ms. Jan Fletcher if all of the vendors would have notices sent out to them in advance for their business renewal? Ms. Fletcher said all of the mobile vendors are required to have a business registration. She said they will get a notification for their business registration as well as their mobile vendor's license. She said they will usually receive notification about the first of December for their renewals.

Commissioner Buie said first and foremost most of the people here are under the assumption that this has become law or an ordinance but it has not yet. He said get back to work. He said that is what this meeting is for is to get the opinion from the vendors. He said this ordinance is not devised to hurt you. He said go to the city and talk to the staff and tell them what you need to make your business work. He said if it passes this Board you all have a City Commissioner that lives near you or in your district so just call and let them know how your feel. He said each of you is our boss. Mr. Buie said that he thought the concrete would be too much. He said maybe a hard surface would work.

MOP interpreted for his dad Mr. Sipirano Urquid and he said his mobile food truck is called Montano Burritos and he has been successful and would like to keep working. He said most of them start at the bottom and work up. He said it is not fair to remove all the food trucks because it helps the city from taxes. He said he

would eventually like to open a restaurant. He said if they take away the food trucks how are they supposed to support their family. He said they work very hard. Mr. Kesner said that he appreciates their hard work and they want them to be successful. But they also want to make sure what you do does not injure or harm anyone or anything that is owned by the city.

Mr. Hicks said their goal is not to remove the food trucks but make it safe and protect the public.

MOP translating for Ms. Pena said they have a mobile food truck. She is asking why they are making rules that make it harder for them to stay in business. She said they are open very early before the restaurants. She said a lot of their customers can't go to restaurants because they cannot get their trucks in and out of their parking lots. She thinks the complaints come from the local restaurants because they are taking away their business. She also asked that they not make them put pavement at their locations because that is a lot of money.

Mr. Kesner asked what the city did about complaints? Mr. Robinson said once the city receives a complaint it is directed to the department that will handle the complaint. He said most of the time they are Code Enforcement complaints. He said they will send personnel out to the location and see if the complaint is valid. He said there are some complaints the city cannot resolve such as property owner to property owner.

Ms. Veronica Molina is translating for her husband. He said they were here at the last meeting and there were other points that were mentioned such as the sewer, electricity and the location. He said they also cannot be in a residential area that they have to be in a commercial area. He said if they are hooked on the sewer at the house then what difference does it make if it is them or Applebee's that is hooked onto the sewer? Mr. Kesner said for a commercial restaurant versus a residence there are different steps you would have to take. Mr. Robinson said it is a different connection. He said ultimately everything the restaurant and the residential does is the responsibility of the city. He said it flows to our Waste Water Treatment Plant and your tax dollars pay for that. He said if there are not separators for a restaurant and it starts becoming more expensive to treat the waste that entered into the point of origin illegally then that becomes a problem. Mr. Kesner said if the separators are not in place it could cause sewer to back up and cause problems for your neighbors.

Ms. Molina also said he wanted to know about electricity. He said they use their house electricity but they pay for it. Mr. Kesner said the issue there is it has to meet the electrical codes. He said if you are running an extension cord it becomes a fire hazard.

Ms. Maria Soto said the oilfield is down right now and she works at the food truck to try and help her husband pay the bills. She wants to know why there are so many rules. She said it is hard for a Spanish person that does not speak English to find a job. She said the restaurant owners are wealthy and they don't have to worry about money. Mr. Kesner said that is not a true reflection for every restaurant. She said there are people working for food trucks that don't have papers and how will they get a job if they don't have that. Mr. Kesner said if that food truck is hiring an employee and they are a business then they have to abide by the same laws that the restaurant does. He said if they are hiring an illegal employee they are violating the law. He said you have to obey by the City Ordinances, State and Federal laws.

Mr. Kesner said he feels like everyone has discussed the fact that everyone is concerned by the ordinance and shutting them down. He asked if they had another topic beside that they would like to hear that.

Ms. Jackie O'Campo said they all think you want to shut them down. She said the big problem is the translation and they have a hard time understanding. She knows there are a lot of safety issues. She said it is just a lot of misunderstanding. She would like the facts and ordinance in Spanish. Mr. Kesner said all the other ordinances are in English. Ms. O'Campo said it would be good if they got together with questions for the Board.

Mr. Kesner said that he thought staff could create dual language informational brochures. He said not the ordinance but some of their questions we can get translated.

Mr. Kesner said the City Clerk's Office will try and get the questions translated and you can contact them and get a copy of the proposed ordinance.

Mr. Hicks asked if it would be feasible to have their permits extended until February is needed? Ms. Jan Fletcher said yes assuming that the City Commission would have no objection to that but it would work for the Clerk's Office.

Mr. Kesner closed the public meeting at 7:24 pm.

Mr. Hicks made a motion, seconded by Mr. Ramirez to table the Mobile Vendor Ordinance. The vote on the motion was 6-0 and the motion carried.

September 15, 2015 – Planning Board Discussion Item.

Minutes

Mr. Robinson said the reason this is a discussion item only is because this item has already been recommended to the City Commission. He said since that there have been two additional meetings in the evening to get the mobile vendors involved. He said one of the things that came out of the last meeting was the desire to have the frequently asked questions translated from English to Spanish. He said the Board needs to set a time for another meeting to complete this ordinance and get it sent to the City Commission. He said at the last meeting it was also conveyed that the Board is not under as much time constraints as first thought.

Mr. Hicks asked if there have been any mobile vendors come in to get clarification on the issues since the last meeting? Mr. Robinson said at the last three public meetings individual meetings for clarification have been offered to the mobile vendors. He said since then one party has come in and requested the ordinance and frequently asked questions. Mr. Robinson said the frequently asked questions have not been approved yet. Mr. Hicks said that he thinks the Board should get the frequently asked questions approved. Mr. Hicks asked about number 10 in the FAQ and if this ordinance will be in effect January 1, 2016? Mr. Robinson said it could be done. Mr. Kesner said it might be better to have a 90 day grandfather clause. He said this ordinance may not get approved until February 2016. Mr. Kesner suggested to state 90 days after the approval date.

Mr. Shaw asked how many mobile vendors were already in compliance? Mr. Robinson said he felt like the majority of the vendors were compliant.

Mayor Sam Cobb said that he thinks they need to keep continuity in the business registration side of it. He said everyone registers their business on January 1st. He said if they drafted a landscape ordinance then everyone is subjected to the landscape ordinance when the Commission implements it. He said he thought they ought to bifurcate the two issues. He said they should maintain the January 1st business registration and then based on the Planning Boards recommendation and the Commission's then the mobile vendor ordinance can be effective June 1st. He said he thought that would be the best way to make the proper transition. He said there are some things that need to be addressed. He said in all fairness to those who are in compliance they need to be sure the playing field is level for those who are not.

Mr. Sanderson said one of the frequently asked questions is always do we have to shut down? He said the answer is no and that should go on the frequently asked questions as number one. Mr. Robinson said the Board would like to change number one on the FAQ's and also number ten.

The Board also discussed the requirement for mobile vendors in a residential area versus commercial. Mr. Randall said they need to establish something for staff to look at administratively. He said if there was a situation where there were three houses next to an all commercial area then there would be a great potential for a variance. He said the purpose is to protect the residential uses. He said most complaints come from the residential uses not the commercial properties. He said a lot of the residential uses are situations where that individual person that owns a house is looking to city staff or the community to protect them. He said the purpose is to establish a standard. Commissioner Buie asked about Lovington Highway and if it was commercial with all the house behind the street on Northwest. Mr. Robinson said they would need to be behind the setbacks and an approved driveway access. Mayor Cobb said the underlying decision should be what is the impact to the character of the neighborhood. Mr. Hicks agreed. He said that language is in other ordinances so he thought it should be in the mobile vendor's ordinance.

Mr. Larry Sanderson said this is more a principal of public policy for reasonable protection of infrastructure while still accommodating businesses as best as you can. He said good public policy is good public policy. Here we are talking about protection of infrastructure and what is a reasonable protection of that and reasonably avoiding an additional burden on other tax payers.

Mr. Sanderson said he understands the sensitivity to the vendors. He said we are really talking about the property owner who has an undeveloped parcel that they are going to use and make money off the vendor. He said making an accommodation to a property owner to make a reasonable investment to protect public structure and not place an additional burden on the public. He said they wouldn't just let commercial property owners go do whatever they want to do. He said we are having this conversation in the contexts of the mobile vendors but it is really a property owner's conversation. He said they are as much or more invested in this as the mobile vendors are. He said he is not trying to put them out of business or make it difficult for them but they also can't write a blank check to a property owner who has an investment and obligations associated with the investment. He said this is really a property owner ordinance as well.

October 20, 2015 – Planning Board Final Review Item.

Minutes

Mr. Robinson this is the final review of the Mobile Vendor Ordinance. He said the next meeting all of the mobile vendors will be invited. He said the biggest issue that the Board has had has been the minimum site requirement. He said this Board has settled on 50 feet from the edge of the pavement to the setback line. He said he thought it was important to have consistency for the Code Enforcement Officers. Mr. Hicks said he thought the only issues the Board had was the hard surface requirement and the length.

Mr. Hicks asked if it was necessary to set the Mobile Vending Unit on the hard surface? After a brief discussion the Board agreed the site did not have to be a hard surface as long as it is behind the setback line. The Board agreed it should read "a property proposed for occupation by a single mobile vendor shall have 50 feet of minimum frontage adjacent to a dedicated thoroughfare, an all-weather asphalt, chip seal or concrete driveway at least 50' in length from the edge of pavement allowing ingress and egress to the occupied property.

Mr. Robinson said the Mobile Vending Unit must be self-contained. Mr. Ramirez asked if the word "Conveyance" could just be "Vendor Unit". He said it will be easier for interpretation purposes.

Mr. Hicks asked how they were going to measure locations and rather they were commercial or residential. Mr. Robinson said staff still believes they should do the 300 foot radius for the adjacent parcels. He said that he also thought the variance procedure needed to be more specific. He said he thought the 300 feet from the

center of the proposed location of the Vending Unit would be where the variance would be measured from. Mr. Hicks asked if they would count the 75% based on the number parcels? Mr. Robinson said correct.

Mr. Kesner thought on page 9, the first sentence "without exception" should be removed. Mr. Sanderson said maybe it should state "each of the criteria have been considered". The Board agreed. Mr. Hicks asked if the Board if they were ready to recommend publishing this ordinance and set a date for a new public meeting. Mr. Sanderson made a motion, seconded by Mr. Ramirez to publish the amendments to the ordinance. Mr. Hicks asked how soon the next meeting could be set up. The Board agreed on November 12th at 5:30pm for the next public meeting.

November 12, 2015 – Special Session Meeting.

Minutes

Mr. Hicks said he wanted to reaffirm that the objective of this ordinance was originally proposed to provide a safe environment and protect the public infrastructure and the public in general. He asked the Board if they would like to speak about the ordinance and where they are going with it so far. Mr. Ramirez said he just wants them to understand they do not want to put anyone out of business and that is not their goal. Mr. Shaw said in saying that he is afraid that is what they are going to do. He said he thinks they are over regulating this industry. Mr. Penick said they are not here to hinder businesses. He said they are here to make sure things are safe for the public. He said he is a big supporter of free enterprise.

Mr. Robinson discussed the units having to move overnight in case of a fire. Mr. Sanderson said he thought the likelihood of that happening would be very rare. Mr. Robinson said they did not want the unit left unattended.

Mr. Robinson said for units occupying a compliant single vendor site they may run their apparatus but they must be able to be contained within the mobile unit when not in use. Mr. Penick said he drove around several mobile vendor locations and they have their lines out of the way and they are not causing any public nuisance or anything and their lines are insulated. He said he did not agree with making them pull up all their lines and stuff if they are in a safe environment and not causing a public nuisance. He asked if they had to be fully self-contained? Mr. Robinson said yes.

Mr. Hicks opened the meeting for public comments at 6:11 pm.

Mr. Monty Randolph asked about special events. He said they are a vendor registered in the county. He asked if it was an additional permit they would have to apply for? He said as a mobile food vendor there is a process you go through to prepare. He asked if this was going to be something they would have to look at as an additional business expense? Mr. Kesner said any vendor that sales a product in the City of Hobbs has to get a vendor's license from the City of Hobbs. Ms. Jan Fletcher said that is correct. She said the mobile vendor license is only applicable to the businesses who have already established business registration here in Hobbs. She said you have to have a physical location within the city. She said if you are a temporary vendor outside the city limits then you would have to have a temporary license that is for seven consecutive days and the fee is 500 dollars. She said in answer to your question about special events for Gus Macker the Parks and Recreation Department establish the fee for that and there would not be a separate fee established. She said you would have to have your food license and pay Parks and Recreation for the permit.

Mr. Randolph said \$500 dollars for a 2 or 3 day event is unheard of. He said most event fees for a one day event are \$50 to \$100 dollars depending on the number of attendees at the event. Mr. Sanderson said the fees are not associated with this ordinance as presented. Ms. Fletcher said for the Gus Macker Event you would not

have to pay \$500 dollars for the two day event. She said Parks and Recreation would assess the fee but she thought it would be \$50 or \$100 dollars.

Mr. Ken Awtry said he has a mobile food trailer and he wanted to make a clarification. He said their business is event driven and he does not park in the right-of-way or outside of the right-of-way on a daily basis. He said their last event was at the drag races and they were on paved surfaces. He said he had some land and if he made the investment to put in an all-weather surface and all the utilities are hooked up he still cannot leave his unit on his land overnight? Mr. Hicks said the all-weather surface has been stricken. He said they are no longer requiring an all-weather surface. He asked about putting their addresses in 2 inch letters on their mobile vending units. He said he worries about someone coming to their house after they close up for the evening with the day's money. Mr. Kesner suggested putting a registration number on the unit instead. MOP said he thought the name and number on the unit was required by the NMDOT. Mr. Awtry asked since he was an event based business on private property will that be a problem. Mr. Hicks said that will not be a problem.

Mr. Hicks asked if anyone else would like to speak. With no one else coming forward he closed the meeting for public comments at 6:30 pm.

Mr. Robinson said if it is the desire of the Planning Board to strike the 2 inch letters that is fine. Mr. Hicks said he would like to make it consistent with the NMDOT requirements. Mr. Kesner said he did not think it needed an address posted. He thought just the business name and registration number. The Board agreed.

Mr. Sanderson said he is for the residential protection and he gets the 75% residential. He said his concern is saying that they can only be in these other places if they are 75% commercial. He said if there was a location that was 66% commercial and it was not permitted because it needed to be 75% commercial because there was unoccupied land is not right. He said the assumption is because someone may use that as residential, well they might use it as commercial too. He said this is a mobile vendor ordinance where the vendors can move. He said an area today could be compliant for a few years and then change to residential and it becomes a non-compliant area. He said if the location becomes more residential then it becomes no longer compliant. He said it is a problem if we limit vendors because it might become non-compliant. He said he is ok with the residential part of the ordinance but not comfortable with the only place they can be is a place that is 75% commercial.

Mr. Hicks asked if they just shouldn't count vacant properties? Mr. Sanderson said he thought vacant properties had to count. He said maybe the percentage needed to change. He said he doesn't think you can presume what vacant land will be. He said it will be what it is going to be and if it changes then the vendor moves on. Mr. Hicks said he agreed and they could change the ordinance to say they can be in any area that is not primary residential. Mr. Kesner said they want to strict C1Aa and on page 5 put in the restrictions that says primarily residential areas.

Mr. Hicks said since they have changed the requirement for hard surface then does "O" need to be stricken? The Board said to strike it. He said there is a fair amount of mixed use areas so that number needs to make sense. Mr. Robinson said there are two definitions. He said one is "J" and one is C1Aa. He said the only difference between the two is vacant parcels. Mr. Sanderson said if they get rid C1Aa he would be ok leaving the primary residential with the 75% figure. Mr. Kesner said the key word is developed. He said in area where 75% of the area is developed for residential use. He said then if someone has an area that has 10% for residential use and 90% that is undeveloped that would be an acceptable area? Mr. Hicks asked if he meant platted? Mr. Kesner meant built on. Mr. Hicks said they needed to define developed. He said they need to say being "used as" instead of developed.

Mr. Stone said this is not an easy issue. He said he had four suggestions. He said he did like the ideal of being more specific on the definition of primary residential area. He said the impression he gets is they want to protect the residential areas. He suggested stating a location currently utilized as a residential usage. He said C1Aa could be stricken in its entirety. He said it is a lot simpler to say if 75% of the area is being currently utilized as residential then they cannot park there. He said on the outdoor vendor has three different situations where the definitions does not include outdoor vendor. He said they might consider adding a private party catering not open to the general public. He said on page 6 there is discussion about special events. He said item Gd on page 6 should have "not subject to special events" interjected into that sentence.

Mr. Kesner said they should find out the wishes of the Planning Board on overnight parking. Mr. Sanderson said he is ok with overnight parking. Mr. Penick said he agreed. He thinks it would be a burden on the mobile vendors to roll everything up every night. Mr. Shaw agreed. He did say he was concerned about what time they become permanent if they are not moving. He said should they have a time limit. Mr. Penick said they will have to move to empty their waste. Mr. Ramirez agreed. Mr. Kesner agreed but there has to be an understanding they are mobile vendors and their units are self-contained. He said it is not a mobile vendor if they hook up to utilities. Mr. Hicks said at the Board's wishes they will remove Gd on page 6.

Mr. Kesner said as long as mobile vendors are self-contained why does it matter if there is one vendor or five as long as there is enough space for patrons to come to the location and leave the location. Mr. Robinson said on a hard surface it doesn't matter but once you get off the hard surface requirements then it would become important. Mr. Kesner said if there is only enough room for one mobile vendor then having more mobile vendors in one space would put citizens at large at risk. Mr. Kesner said if the mobile vendors are getting utilities then it needs to be listed as a mobile vendor park.

Mr. Hicks asked if there would be locations where more than one vendor could park at a particular location. Mr. Robinson said there are some locations where there are multiple lots. He said each lot would need to be developed. The Board agreed.

Mr. Hicks said they needed to discuss driveway lengths. Mr. Sanderson said he felt like 50 feet of driveway was an overkill. He said these are mobile food vendors and do we want the land owners to have to put in 50 feet of concrete. Mr. Randall said most of the setbacks on commercial development is 40 feet from the property line. Mr. Hicks said he thought 25 feet was a reasonable driveway. Mr. Penick said if these people are leasing a space then the land owner may not want a concrete driveway on their land. Mr. Shaw said finding a company who had time to put in a concrete driveway might be impossible right now but finding someone who could put down gravel may be easier. Commission Buie said if it is the land owner or the mobile food vendor who pays for the driveway they are pricing the mobile food vendors out of business. He said these are mobile food vendors and they move and are they going to be required to build a driveway every time they move. He said he thinks they need to do everything they can to keep them in business. Mr. Penick agrees.

Mayor Sam Cobb said lets digress a little bit. He said there was a rapidly expanding industry and city staff came to Commission and the Planning Board and asked that they recognize that and do something about it. He said he wanted to commend staff because their role in this process for the benefit of this Board and the public is to bring the laundry list to be reviewed and make decisions. He said for him personally the key points they discussed tonight are important. He said they do need to ensure that the appropriate atmosphere of the neighborhood is important. He said an appropriate setback for ingress and egress is important. He said the safety issues such as propane tanks are important. He said when this first started there were people without any regard for their fellow neighbors, or any regard to public safety. He said they are to a point now with a minimum amount of verbiage they can put together an ordinance that would create an appropriate level playing field so the vendors and the citizens know what they have to do to compete in the market.

Mr. Hicks said he thought they should recommend a 20 foot gravel driveway. Mr. Sanderson said they can always increase the requirement in the future if they find instances where it is not serving the public well.

Mr. Randall asked if they wanted a minimum of 20 foot driveway with compacted gravel. He said a typical driveway width is 21 feet. Mr. Robinson said for the inspectors they are just going to look at the site not get into densities. Mr. Kesner said he thinks it would make more sense to define square footage for mobile vendors than restrict just one mobile vendor per area. Mr. Robinson said a Mobile Food Court is defined by multiple units and demands a higher development. He said it will be difficult for the Environmental Department to be able to tell the difference between a food court or multiple food vendors. Mr. Kesner said with Mobile Food Parks they can put in restrooms and picnic tables and have utility hookups.

Mr. Shaw said he would like to see 2 or 3 units on the same location. Mr. Hicks said there could be two types of outdoor vendor parks. He said one park would not have seating or bathrooms or permanent hookups. He said it could have minimum for space for access and sufficient driveways and parking. He said the 2nd type would have all the hookups and restrooms. Mr. Hicks asked if staff would put this together that would satisfy the minimal safety areas for a multiple vendor area. Mr. Robinson said such as mobile vendor park A and B. He said "A" could have onsite consumption not allowed and "B" being onsite consumption allowed.

Member of the public said that since the last meeting they had there have been three mobile vendors that have closed their businesses. Mr. Penick said he feels like they have proved tonight that they are trying to work with the vendors and not hurt their business and still protect their business.

The Board directed staff to make the recommended changes for future approval by the Planning Board.

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Minutes

Mr. Robinson said the Mobile Vendor ordinance they have been considering has been currently regulated in the Business Registration Municipal Code. He said the last time they reviewed the proposed Mobile Vendor Ordinance the Board had requested changes and staff has not made the changes yet. He said if it is the Board's will to restrict Mobile Vendors from residential properties then that can be expressed with the two paragraphs that would amend the existing code. He said that is under the definitions on the first page under Business registration. He said they could add the paragraph describing what a mobile unit is. He said the proposed Mobile Vendor Ordinance was a lot more comprehensive. He said the only thing the proposed changes would do is eliminate the units outside of the residential areas.

Mr. Robinson said in his opinion the Municipal Code is the first line of defense and a lot more explanatory to the vendors. Mr. Kesner said he thought this Mobile Vendor Ordinance were not the wishes of the Planning Board so they were trying to figure out an alternative way of regulating the vendors. He said they wanted to hit the highlights that were important to the Board. He said the highlights were no residential areas and no units attached to infrastructure. Mr. Shaw asked what about the 75% rule on residential was? Mr. Robinson said if there are two houses in a residential neighborhood that is a 100 lot block and out of that the two houses occupy ten of the lots, then a Mobile Vendor could go on the two lots. Mr. Shaw said they have to state that it cannot be in violation of restrictive covenants. Mr. Kesner said the Mobile Vendor has the right to locate where they want to as long as it does not violate city ordinance.

Mr. Shaw said he thought when they go in to get their permit it has to have an address attached to it. Mr. Robinson said that was true in the more comprehensive Mobile Ordinance but with this it does not have to have an address. Mr. Sanderson said he felt like what they have here is a step in the right direction and that it doesn't go so far that you have to look at backing off. He said you could add to it if you had too.

Commissioner Buic asked if they could get a variance. Mr. Robinson said he thinks that everything in the Municipal Code is subject to a variance. He said everything in the variance request procedures has always been to the property line not to the center of the unit. He said the reason for that is they are always trying to mitigate the usages that may not be compliant. He said they want to protect the residential area which is why they have buffering laws. He said since this proposed amendment is not tying down any site development it will open up a lot more spaces.

Mr. Kesner said there are Mobile Vendors that are connected to two gallon propane tanks and others that have set up tables and chairs and they will be in violation of the IBC Codes. He said it is not addressed in this code but by the IBC. He said those vendors will have to comply with the site built location or convert back to a Mobile Food Vendor. Mr. Kesner asked if the only thing they are changing on the existing code is the two highlighted sections that are modifying definitions. Mr. Robinson said yes and numbers. He said if this is the Boards wish to send this to Commission then this will be just like a regular ordinance change. He said there will be a publication by the Commission and will be in the Newspapers and then the Commission will do a final adoption approximately 45 days later.

Mr. Penick asked with these changes are they allowing vendors to hook up to utilities? Mr. Robinson said no hooking up to utilities is expressly forbidden. He said that is in the last line where it says connection to municipal or franchise utilities negates the mobile status of the unit and subjects the site and any structure attached thereto to be in full compliance with all commercial developmental rules, regulations and permitting requirements. Mr. Robinson said the Municipal Code is the first line of direction to the people wanting to have a business in your community. He said we can tell them to look at the Municipal Code first and be compliant with the Municipal Code and then in all likelihood you will be compliant with other governing regulations that the municipality has adopted. Mr. Shaw asked if there wasn't some way they could hookup like an RV hooks up to utilities? Mr. Robinson said they would have to be in a mobile vendor park to do that. Mr. Penick said he thought it would force 90% of mobile vendors out of business if they couldn't hook up to utilities. Mr. Kesner said it will require them to be self-contained and purchase a generator. Mr. Penick asked if he would rather them have a generator than hook up to power? Mr. Kesner said no he would not but he would rather them have a site that is developed that meets their needs.

Mr. Shaw said he is not convinced that IBC restricts them from hooking up to utilities. Mr. Stone said that if someone hooks up to utilities then they are no longer a mobile food vendor. He said they are then treated like a normal restaurant. He said there are three other cities in NM that are struggling with this issue. He said there are very different issues in each of these communities. He said he thought it needed to be differentiated between Mobile Food Vendor and RV's. He said if you hookup to power and sewer you are no longer a mobile food vendor. He said they need to be as specific and straightforward as possible.

Mr. Kesner said that Mr. Stone hit the two important issues which is private property and residential. Mr. Shaw said and the third issue is that they be self-contained. Mr. Robinson said this simplistic approach doesn't negate someone from creating a Mobile Food Park in the future. He said there would have to be a variance for that site. Commissioner Buie said there has to be give and take on the Mobile Vendor side because they are getting into business very inexpensively compared to restaurants in town. He said he thinks this Board has also given a lot. He said there are also variances that can be done. Mr. Stone said he need to clear up one thing he said when he said they have looked at 100's of ordinances that was a stretch there have just been several. Mr. Kesner asked what the consensus of the Board was to move forward with changing the current ordinance or go back and look at adopting the ordinance they were reviewing in the past. Mr. Penick said he likes the changes to the existing ordinance. Mr. Drennan said he was in agreement with Mr. Penick and he thought the other ordinance was too restrictive. He said we need to protect the majority of business owners. Mr. Ramirez said that he has attended every meeting on this issue and a lot of the Mobile Vendors that have left is because they did not understand the ordinance. He said he thinks they should all understand now and he thinks they should move this forward. Mr. Shaw said that he agreed and simplifying it down is good. He said he still has a little bit of problem that they cannot hook up to electricity. He said he definitely thinks they should move forward with this. Mr. Sanderson said he agreed. He said nothing is perfect but this is closer and he is more comfortable with this.

Mr. Ramirez made a motion, seconded by Mr. Penick to approve the changing of the two current ordinances with the wording as proposed from the Planning Department. The vote on the motion was 6-0 and the motion carried. Mr. Stone asked if the motion was to send this to the City Commission? Mr. Kesner said yes with the wording changes from the current ordinances and kill the proposed Mobile Vendor Ordinance.

5.04.050 – Locations of mobile business activity units.

Mobile business activity units shall be allowed on private property wherein 75% of property within the block is either vacant or utilized for commercial, providing no unit shall occupy a lot occupied by a residential structure. The unit shall be compliant with the required setback of the thoroughfare it is accessed from. Mobile business activity units, excluding ice cream\snow cone trucks and\or pushcarts, are prohibited in primarily residential areas. A permanent connection to Municipal or Franchisee utilities negates the mobile status of the unit and is not allowed. Temporary connections may be permitted providing the site and any structure or unit located thereon are in full compliance with all commercial development rules, regulations and permitting requirements.