

# Commission Meeting Agenda



## Mayor

Samuel D. Cobb

## City Commission

R. Finn Smith – District 1  
Christopher R. Mills – District 2  
Larron B. Fields – District 3  
Joseph D. Calderón – District 4  
Dwayne Penick – District 5  
Don R. Gerth – District 6

## City Manager

Manny Gomez

*October 18, 2021*



## **Hobbs City Commission**

Regular Meeting

City Hall, City Commission Chamber

200 E. Broadway, 1<sup>st</sup> Floor Annex, Hobbs, New Mexico

**Monday, October 18, 2021 – 6:00 p.m.**

Sam D. Cobb, Mayor

R. Finn Smith  
Commissioner – District 1

Christopher R. Mills  
Commissioner – District 2

Larron B. Fields  
Commissioner – District 3

Joseph D. Calderón  
Commissioner – District 4

Dwayne Penick  
Commissioner – District 5

Don R. Gerth  
Commissioner – District 6

Regular in-person meetings have now resumed in the Hobbs City Commission Chamber. Members of the public are asked to wear a face mask and follow social distancing guidelines. The public is invited to address public comments to the Commission in person at the meeting or submit written comments prior to the meeting. Written comments should be submitted no later than 4:30 p.m. on October 18, 2021, addressed via email to the City Clerk at [jfletcher@hobbsnm.org](mailto:jfletcher@hobbsnm.org) or faxed to (575) 397-9334.

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## **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](http://www.hobbsnm.org)

### **CALL TO ORDER AND ROLL CALL**

### **INVOCATION AND PLEDGE OF ALLEGIANCE**

### **APPROVAL OF MINUTES**

1. Minutes of the September 27, 2021, Commission Work Session (*Jan Fletcher, City Clerk*)
2. Minutes of the September 29, 2021, Commission Special Meeting (*Jan Fletcher, City Clerk*)

3. Minutes of the October 4, 2021, Commission Regular Meeting (*Jan Fletcher, City Clerk*)

### **PROCLAMATIONS AND AWARDS OF MERIT**

4. Proclamation Proclaiming the Month of October, 2021, as “*Cyber Security Awareness Month*” (*Matthew Blandin, I.T. Security Specialist*)
5. Proclamation Proclaiming October 17 - 23, 2021, as “*Pharmacy Week*” (*Jennifer Pyeatt, Pharm.D., R.Ph*)
6. Recognition of City Employees - Milestone Service Awards for the Month of October, 2021, (*Manny Gomez, City Manager*)
  - 5 years – Irene Sealy, Library
  - 5 years – Franklin Sifford, Parks Dept.
  - 5 years – Antonio Alarcon, Hobbs Fire Department
  - 15 years – Rafael Marquez, Hobbs Fire Department
  - 15 years – Danny Garrett, Hobbs Police Department
  - 15 years – Audrey Likins, Hobbs Express
  - 15 years – Julia Henry, Planning Department
  - 15 years – Jim Jarrett, Water Distribution
  - 15 years – Angela Courter, Senior Center
  - 15 years – Barbara Dunford, Recreation Dept.
  - 15 years – Matthew Hughes, Parks Dept.
  - 20 years – Adrian Enriquez, Hobbs Fire Department

**PUBLIC COMMENTS** (*Citizens who wish to speak must sign the Public Comment Registration Form located in the Commission Chamber prior to the beginning of the meeting.*)

Due to COVID-19, public comment may be submitted in person or in writing. Written comments should be submitted to the City Clerk at [jfletcher@hobbsnm.org](mailto:jfletcher@hobbsnm.org) or faxed to (575) 397-9334 no later than 4:30 p.m. on the day of the meeting, October 18, 2021.

**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.*)

7. Resolution No. 7114 - Approving the Final Plan for Liberty Crossing Subdivision, Unit 1, Located Southeast of the Intersection of Glorietta and Jefferson, as Submitted by ALJO, LLC. (*Kevin Robinson, Development Director*)

8. Resolution No. 7115 – Authorizing Additional Allocations of Lodgers’ Tax Funds for FY 2022 for the Tuff Hedeman Bull Riding Tour and the City of Hobbs Annual Tree Lighting Ceremony (*Toby Spears, Finance Director*)
9. Consideration of Approval of a Memorandum of Agreement with the Hobbs Municipal Schools for Transportation Services for the 21<sup>st</sup> Century Community Learning Centers Grant (*Jan Fletcher, City Clerk*)
10. Resolution No. 7116 – Approving an Agreement with the Hobbs Municipal Schools Regarding Middle School Athletic Programs (*Doug McDaniel, Recreation Director*)
11. Resolution No. 7117 – Authorizing the Submission of a Grant Application with the New Mexico Department of Health EMS Fund Act Special Projects Grant for FY 2023 in the Amount of \$19,597.83 for the Purchase of a Ferno Power X1 Gurney (*Barry Young, Fire Chief*)

## **DISCUSSION**

None

## **ACTION ITEMS** (*Ordinances, Resolutions, Public Hearings*)

12. Resolution No. 7118 - Approval of a Memorandum of Understanding with the District Attorney’s Office, Law Office of the Public Defender, Guidance Center of Lea County and the United Way of Lea County for a Law Enforcement Assisted Diversion Program “LEAD” (*John Ortolano, Police Chief*)
13. Resolution No. 7119 – Amending Prior Resolution No. 6667 Related to Police Recruitment and Retention (*John Ortolano, Police Chief*)
14. Resolution No. 7120 – Authorizing Budgetary Adjustment #1 for FY 2021-2022 (*Deborah Corral, Assistant Finance Director*)
15. Resolution No. 7121 – Calling for a Municipal Officer Election on March 1, 2022, and Notifying the Lea County Clerk and Secretary of State of the Positions to be Filled (*Jan Fletcher, City Clerk*)
16. Resolution No. 7122 – Appointing a Redistricting Committee to Review the City of Hobbs Commission Districts (*Jan Fletcher, City Clerk*)
17. Resolution No. 7123 – Authorizing a Memorandum of Agreement with the New Mexico Department of Transportation for Public Transportation Services for Federal FY 21-22 (*Jan Fletcher, City Clerk*)

18. Resolution No. 7124 – Authorizing a Contribution of \$25,000.00 to the Eddy-Lea Energy Alliance, LLC (*Mayor Sam Cobb*)
19. Resolution No. 7125 – Approving a Development Agreement with ALJO, LLC, Concerning the Development of Market Rate Single-Family Housing (*Kevin Robinson, Development Director*)
20. Resolution No. 7126 – Approving a Development Agreement with Black Gold Estates Concerning the Development of Market Rate Single-Family Housing (*Kevin Robinson, Development Director*)

### **COMMENTS BY CITY COMMISSIONERS, CITY MANAGER**

21. Next Meeting Date:

- City Commission:  
Regular Meeting – ***Monday, November 1, 2021, 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) 397-9200 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: October 18, 2021

**SUBJECT: City Commission Meeting Minutes**

DEPT. OF ORIGIN: City Clerk's Office  
DATE SUBMITTED: October 11, 2021  
SUBMITTED BY: Jan Fletcher, City Clerk

**Summary:**

The following minutes are submitted for approval:

- Commission Work Session of September 27, 2021
- Special Commission Meeting of September 29, 2021
- Regular Commission Meeting of October 4, 2021

**Fiscal Impact:**

Reviewed By: \_\_\_\_\_  
*Finance Department*

N/A

**Attachments:**

Minutes as referenced under "Summary".

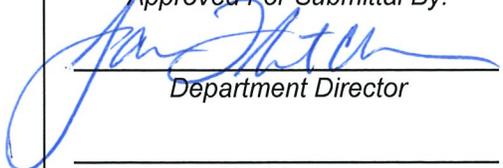
**Legal Review:**

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 work session of the Hobbs City Commission held on Monday, September 27, 2021, in the City Commission Chamber, 200 East Broadway, 1<sup>st</sup> Floor Annex, 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 R. Finn Smith  
Commissioner Christopher Mills  
Commissioner Larron B. Fields  
Commissioner Dwayne Penick  
Commissioner Don Gerth

Absent: Commissioner Joseph D. Calderón

Also present were Mr. Manny Gomez, City Manager, Mr. Toby Spears, Finance Director, Mr. Efren Cortez, City Attorney and Ms. Jan Fletcher, City Clerk. Other staff members and 50 citizens were also present.

Mayor Cobb welcomed everyone to the work session and explained the purpose of the meeting is to discuss the proposed ordinance adopting Chapter 5.06 of the Hobbs Municipal Code for the possession, cultivation, manufacture and sale of cannabis. He further stated the State has passed the law regulating cannabis, the City's proposed ordinance will further regulate the sale, possession and consumption of cannabis within City Limits.

Mr. Efren Cortez, City Attorney, expressed his appreciation to the citizens at the meeting for being present and their willingness to contribute their opinions so the City is able to create an ordinance that will be beneficial to the public. He presented a PowerPoint presentation outlining specific information for the Cannabis Regulation Ordinance. Mr. Cortez explained the difference between the Cannabis Regulation Act, the law passed by the State of New Mexico, and the Cannabis Regulation Ordinance, which is the law proposed by the City. He stated the resources consulted for this presentation include the following:

- Food and Drugs Act (21 U.S.C. § 812)
- Cannabis Regulation Act (NMSA 1978, 26-2C-1, et seq.)
- New Mexico Administrative Code (NMAC)(Title 16, Chapter 8)
- Hobbs Municipal Code
- State of New Mexico Regulation and Licensing Department (RLD)
- Massachusetts Cannabis Control Commission Guidance (April 4, 2019)
- New Frontier Data Cannabis H2O Guide (February, 2021)
- Oxford University Journal of BioScience (June 24, 2015)

Mr. Cortez thanked the following City Departments for their assistance in formulating the proposed ordinance for the possession, cultivation, manufacture and sale of cannabis:

- Engineering
- Utilities
- Hobbs Police Department (HPD)
- Hobbs Fire Department (HFD)
- City Attorney's Office

Mr. Cortez stated the City's proposed ordinance cannot and does not legalize or criminalize marijuana. He further stated the proposed ordinance does not authorize or prohibit marijuana based businesses. He added the City's proposed Cannabis Regulation Ordinance does not establish Tetrahydrocannabinol (THC) limits for operating a motor vehicle. Mr. Cortez explained the proposed ordinance does not protect an employee from being fired for use at work or require an employer to allow employees to use marijuana, nor does it require a hotel or rental property to allow use of marijuana. He stated the City's proposed ordinance does not undo anything enacted by New Mexico House Bill 2 (HB2) or prohibit personal use growing of cannabis plants.

Mr. Cortez explained the City's proposed Cannabis Regulation Ordinance can and does institute time, place and manner restrictions on cannabis businesses while ensuring the cannabis businesses comply with all City and State laws and regulations specific to municipalities and protecting the net long term municipal water supply. He noted the proposed ordinance primarily addresses business location and building/infrastructure concerns. Mr. Cortez stated Section 12 of HB2 gives local control to municipalities as long as the municipality's ordinance does not conflict with HB2, the Lynn and Erin Compassionate Use Act or the Dee Johnson Clean Indoor Air Act. He further stated the municipality must allow for indoor and outdoor consumption areas as long as the consumption area is no less than 300 feet from a school or daycare.

In response to a question from Commissioner Mills, Mr. Cortez stated a consumption area is a specific place that allows the ingestion of cannabis onsite, similar to a bar that serves alcohol. He further stated unlike liquor establishments, there are currently no regulations stating whether or not you must purchase the cannabis onsite.

Mr. Cortez stated because the City does not have zoning laws, the City cannot prohibit the sale of cannabis in neighborhoods. He stated cannabis businesses must be treated like any other business.

Mr. Cortez displayed a video regarding fire safety during the extraction process to emphasize the importance of fire suppression devices at cannabis businesses which are a requirement of the proposed ordinance.

In response to Commissioner Smith's question, Mr. Cortez stated the extraction process is necessary to extract the cannabis oil for edibles and wax. He added it is the next step after harvesting the cannabis plants.

In answer to an inquiry from Commissioner Fields, Mr. Cortez stated butane gas is a common form of heating the cannabis for extraction.

Mr. Cortez stated the city's proposed Cannabis Regulation Ordinance adopts the fire suppression standards as outlined in the International Fire Code (IFC). He added fire suppression systems and labels for all extraction chemicals are a result of the Hobbs Fire Marshal's inclusion in the ordinance writing process.

As he proceeded in his presentation, Mr. Cortez stated another area of concern is the depletion of the Ogallala Aquifer, which feeds the City's municipal water supply. He stated Lea County is currently under D4 drought conditions which is defined as exceptional drought and corresponds to an area experiencing exceptional and widespread crop and pasture losses, fire risk, and water shortages that result in water emergencies. Mr. Cortez stated the Ogallala Aquifer is a closed basin meaning once it has been depleted, it will not replace itself.

In response to Commissioner Mills' question, Mr. Cortez stated Hobbs Municipal Code Section 13.04.060 allows the City to disconnect water service to any location.

Mayor Cobb stated the Economic Development Corporation (EDC) does not pursue businesses that are heavy water users. He further stated his business is a heavy water user; however, he is required to retreat the water at his facility before it can go back through the City's reclamation process.

Mr. Cortez stated research is being done to determine whether or not the City could reclaim and reuse water from a cannabis producer. He added it is a concern because all of the water may not be reusable.

Mayor Cobb stated he is required to treat the water at his facility before it leaves the plant.

Mr. Cortez stated effluent water, or water that has been cleaned, is used to water the local golf course and parks. It is marked not for human consumption.

In answer to Commissioner Mills' question, Mr. Cortez stated the City does not have commercial growers currently tied into the water system. He further explained a microbusiness, with 1-200 cannabis plants, would be similar to a nursery such as Home Depot or Lowe's. He further stated indoor growers could experience a longer growing period. He added the current outdoor growing season for cannabis is June to October.

In response to Commissioner Gerth's question, Mr. Cortez stated currently there is no way to determine how much water will be reclaimed. Six gallons of water per plant per day is based on outdoor growing. He stated the ability to reclaim the water is there as technology advances; however, it will be expensive to treat the water. He further stated growers operating indoors will have different irrigation needs based on the type of growing. Mr. Cortez stated water usage is expected to rise approximately 86% from 2019 to 2025.

In answer to an inquiry from Commissioner Mills, Mr. Cortez stated HB2 requires a Cultivation Plan as part of the application process. He further explained the rules are not quite clear on the irrigation method required.

In answer to Mayor Cobb's question, Mr. Cortez stated by not writing water usage rules into HB2, the State gave municipalities the right to regulate water usage by default.

Commissioner Penick stated he looked into the water usage for a new restaurant and they use 140,000 to 170,000 gallons per day.

Mayor Cobb stated there is a difference as the water from the restaurant is required to go through the cleaning process to be discharged into the City's waste water and reclaimed as effluent water.

Mr. Cortez stated the discharge from a cannabis producer will be a different procedure as the water will contain the chemicals used in the extraction process as well as the water filtered through the plants. He stated there will be extra steps required if and when the cannabis producer's water can be reclaimed.

A brief discussion was held regarding the storage of effluent water and what type of reclaimed water is safe for human consumption.

Mr. Cortez stated the City has an active Water Conservation Period that would apply to any cannabis growers. He stated the City's Water Conservation Plan is working and saving approximately 306,000,000 gallons of water per year. Mr. Cortez stated a study by the Oxford University Journal of Bioscience determined the use of six gallons of water per plant per day. He further stated the actual usage is yet to be determined. He stated a study from New Frontier Data suggests the actual use per square footage of indoor growing space will be significantly less. He added there is just no hard fast data yet for New Mexico.

In response to Commissioner Mills' inquiry, Mr. Cortez stated the City currently has 10" water lines running through most of the City's major thoroughfare. He stated anything smaller than 10" might limit the flow of water to the neighbors.

Mayor Cobb explained, from the Planning Board perspective, that the use of 10" water lines is not restrictive to cannabis producers. It applies to most new businesses.

Mr. Cortez clarified the water restrictions do not apply to the home grower with 12 mature plants for personal use. He stated there are four levels of producer that are regulated by the State. He explained the producer could petition the New Mexico Regulation and Licensing Department (RLD) to change their level. He further explained RLD set the limit of 8,000 cannabis plants because of the sustainability of the new industry.

Mr. Cortez concluded his PowerPoint presentation with a video clip from KRQE News reporting on the Public Safety concerns experienced by the officials in Colorado where cannabis has been legal for several years.

In response to Mayor Cobb's question, Mr. Cortez stated the proposed Cannabis Regulation Ordinance will go before the Commission at the October 4, 2021, meeting for final adoption. Once published after adoption, the proposed ordinance will become effective five days after publication. Mr. Cortez stated if amendments are needed, the City will need to republish the proposed amendments and go through the process again.

Commissioner Mills pointed out that Section 5.06.110 of the proposed ordinance allows for an appeal process if a producer has been denied based on their Cultivation Plan. He stated he would like to see the appeal process spelled out clearly.

Mr. Cortez stated the Cultivation Plan for cannabis producers is spelled out in the New Mexico Administrative Code (NMAC). He further stated the guidelines could be specifically written into the HMC to avoid being arbitrary and capricious.

In response to Commissioner Penick's inquiry, Mr. Cortez stated the proposed ordinance will regulate both indoor and outdoor cannabis growth for micro-producers within City Limits as long as the producers are connected to a 10" water line.

In reply to Commissioner Smith's question, Mr. Cortez stated a cannabis producer may grow up to 200 cannabis plants in a residential location as long as the producer is connected to a 10" water line.

Mayor Cobb stated the odor of cannabis alone cannot be used to deny a grower from opening a business at any location.

In response to Commissioner Gerth's comment regarding applying the same rules to a restaurant and a cannabis producer, Mr. Cortez pointed out that a new restaurant is also subject to all of the International Building Codes (IBC) and IFC regulations.

Mayor Cobb pointed out that a restaurant with new construction must comply with the regulations on water as well as the parking and occupancy which can limit where the restaurant can be built.

In response to Commissioner Fields' inquiry, Mr. Cortez stated the City can adopt the ordinance as it is written and amend it once they have an even better understanding. Mr. Cortez stated the proposed ordinance is strong and would stand up if challenged in court.

Mr. Cortez stated the Cannabis Regulation Act became law on July 1, 2021; however, rules were not promulgated until August 24, 2021.

In further response to a question from Commissioner Gerth, Mr. Cortez stated the licensure is different for each type of cannabis business and there may be multiple

licenses at each location depending on the business activity, for example a business could be a grower, an extractor and a retailer. This business would need a license from the State for each business activity.

Ms. Victoria Bruce of Bryan's Green Care and the Lea County Cannabis Coalition, voiced concerns to the Commission regarding the 10" water lines and the discussion she had with Mr. Todd Randall, City Engineer, about using parallel water lines that are 6" and 8". She stated the indoor growers would have more control of their water usage while an outdoor producer would also benefit from local rainfall. She added the chemicals used for extraction are approved by the Attorney General and there is a definite correlation between the number of plants and the amount of water used. Ms. Bruce thanked the Commission for listening to the concerns of the cannabis business owners.

Mr. Daniel Johnson, also a member of the Lea County Cannabis Coalition, stated he would like to become a producer at his residence in the Gibbs Addition of South Hobbs. He stated he has a 3,500 sq. ft. shop that would accommodate his plants and he would like to operate a hydroponic system with a 500-gallon water storage tank. He further explained he would fill the water storage tank at night during non-peak user hours; therefore, he would not disrupt the flow of water to neighbors. Mr. Johnson stated he lives in an area off of Texaco Road that has several industrial businesses already in place, so it would not necessarily be in a residential neighborhood. He added the number of plants allowed to a microproducer does not yield a high rate of return. He stated because of Federal restrictions, it is difficult to get the start-up funds for this type of business and 200 plants is not enough for growers to make their money back.

In response to Mayor Cobb's question, Mr. Johnson explained that 200 plants is not enough to run a successful business with the proposed Cannabis Regulation Ordinance in place.

Mr. Logan McIlroy of the Lea County Cannabis Coalition and Bryan's Green Care addressed the Commission regarding the potential economic impact the sale of cannabis will have on the community. He stated the sale, possession and consumption of cannabis will create hundreds of jobs in Hobbs. He further stated while he does not have the average wage of workers, approximately 77,000 jobs were created in Colorado to accommodate the cannabis industry. He added there have been more than 321,000 cannabis related jobs created nationwide.

Mr. Isaac Martinez addressed the Commission and stated he has requested the State to amend the Cannabis Regulation Act to allow a variance for the number of plants. He further stated the use of 20 gallons of water per eight – ten plants is possible but the yield is approximately a quarter of what it could be. Mr. Martinez stated the funds spent to set up his business are being taken away from his family. He added he would like to see a variance clause in the City's proposed ordinance as well.

Mr. Steve Thomaschefskey, a local oilfield worker, also addressed the Commission regarding the 10" water line. He stated, in regard to the Public Safety video, the local

growers are not advocating the illegal sale, production and consumption of cannabis. They want to be a legal business producing pure products the right way. He further stated the local growers want to be safe and grow cannabis correctly to build trust in the community.

Commissioner Smith stated while an oilfield may drink alcohol on a Friday night after work with no ill effects on Monday, cannabis is different. Oilfield employers are very stringent with their rules regarding cannabis use, regardless of the legality of cannabis.

In response to Commissioner Smith's question, Mr. Thomaschefskey stated he personally abstains from smoking cannabis; however, he uses Cannabidiol (CBD), an oil derived from the hemp plant, for aches and pains. He further stated he has read up on the possibility of a breathalyzer test to detect cannabis.

Commissioner Penick stated the consumption of cannabis is the responsibility of the user, just as it is for those with a medical marijuana card.

Mr. Juan Gonzalez addressed the Commission regarding the requirement of an F1 fire suppression system for cannabis growers. He stated while cannabis extraction can be dangerous, there is not a need for a fire suppression system in a smaller space. He further noted oil and gas wells create bad smells throughout the City as well.

Mr. Shawn Williams, Fire Marshal, stated the F1 fire suppression system required by the ordinance will assist in alerting the Hobbs Fire Department should they ever have to enter the building in response to a fire.

Lea County Chairperson Rebecca Long stated there was snickering and comments during the Public Safety video. She addressed the audience and questioned their amusement over the effects of cannabis on the law enforcement officials in Colorado and how theft and illegal activity would affect their businesses. Several citizen spoke out stating the cannabis users are a peaceful community with no desire to cause trouble. The product is here and even dispensaries cannot sell to just anyone.

Mayor Cobb stated the impact of illegal activity would be at the dispensary level. He suggested consumption and the business of cannabis be looked at separately. He further stated this proposed ordinance will not take away the sale, possession or use of cannabis within City Limits. Mayor Cobb stated the City had two K-9 drug dogs that had to be given to another entity because those K-9s were trained to sniff out cannabis, which is now legal in New Mexico. He encouraged the cannabis community to support the City as it moves forward in support of cannabis. Mayor Cobb stated the City does not want to see a growth in crime or illegal activity.

Reverend B.J. Choice, Chairman of the Hobbs Utility Board, addressed the Commission regarding staffing at the Hobbs Police Department (HPD) and whether there is currently enough officers at HPD to cover an increase in crime that could stem from the growth and sale of cannabis.

Mayor Cobb stated the City would prefer local sales to local customers. He further stated Police Chief John Ortolano and HPD are doing well.

Commissioner Penick suggested raising the limit of plants being grown by producers might raise the gross receipts taxes for the City.

Commissioner Mills stated a higher plant count might increase the illegal activity. He suggested regulation of water usage.

A citizen commented that the cannabis community is strong in Hobbs. She stated cannabis users are a mellow group that do not want to cause trouble.

Commissioner Penick pointed out that no one on the Commission or with the City is implying that cannabis users are bad people.

There being no further discussion, Mayor adjourned the work session at 7:15 p.m.

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SAM D. COBB, Mayor

ATTEST:

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JAN FLETCHER, City Clerk

Minutes of the special meeting of the Hobbs City Commission held on Wednesday, September 29, 2021, in the City Commission Chamber, 200 East Broadway, 1<sup>st</sup> Floor Annex, Hobbs, New Mexico. This meeting was also viewable to the public via Livestream on the City's website at [www.hobbsnm.org](http://www.hobbsnm.org).

### **Call to Order and Roll Call**

Mayor Cobb called the special meeting to order at 9:00 a.m. and welcomed everyone in attendance to the in-person meeting and everyone viewing through Livestream. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb  
Commissioner Christopher Mills (*Telephonically*)  
Commissioner Larron B. Fields  
Commissioner Dwayne Penick  
Commissioner Don Gerth

Absent: Commissioner Joseph D. Calderón

Also present: Manny Gomez, Acting City Manager/Fire Chief  
Efren Cortez, City Attorney  
Valerie Chacon, Assistant City Attorney  
August Fons, Deputy Police Chief  
Nicholas Goulet, Human Resources Director  
Barry Young, Fire Chief  
Tracy South, Assistant Human Resources Director  
Toby Spears, Finance Director  
Deb Corral, Assistant Finance Director  
Shelia Baker, General Services Director  
Meghan Mooney, Communications Director  
Wade Whitehead, Parks Superintendent  
Matt Hughes, Rockwind Golf Course Superintendent  
Ron Roberts, Information Technology Director  
Ann Betzen, Risk Manager/Executive Assistant  
Mollie Maldonado, Deputy City Clerk  
Jan Fletcher, City Clerk  
2 citizen

### **Invocation and Pledge of Allegiance**

Commissioner Penick delivered the invocation and Commissioner Gerth led the Pledge of Allegiance.

### **Public Comments**

Due to COVID-19, public comments may be submitted in person or in writing. Written comments should be submitted to the City Clerk at [jfletcher@hobbsnm.org](mailto:jfletcher@hobbsnm.org) or faxed to

(575) 397-9334 no later than 8:30 a.m. on the day of the meeting, September 29, 2021. There were no public comments submitted either in person or in writing.

### **Action Items**

#### **Resolution No. 7106 – Authorizing the Mayor to Execute an Acknowledgement and Approval Form Relating to General Liability Insurance Renewal for 2021-2022**

Ms. Ann Betzen, Risk Manager/Executive Assistant, explained the resolution and stated the City's General Liability coverage expires September 30, 2021. She further stated Daniels Insurance Agency, Inc. has provided quotes to continue coverage effective October 1, 2021, through September 30, 2022. She briefly outlined some of the difficulties which the City and the insurance company faced in securing the City's insurance renewal. She introduced Mr. Guy Kesner and Mr. Brad Caress, with Daniels Insurance Agency, Inc.

Mr. Kesner explained when most other public entities are renewing their insurance as of July 1, keeping underwriters very busy, and another large portion of public entities renewing insurance as of January 1, the underwriters have difficulty obtaining rates for those October 1 renewals, like the City of Hobbs. He stated it was particularly difficult for governmental entities to obtain quotes due to changes in New Mexico House Bill 4 (HB4) and also substantial losses to carriers. He reviewed the City's historical data for insurance and the breakdown of individual cost lines. Mr. Kesner stated Daniels Insurance Agency, Inc., requested quotes from 12 different markets and ten carriers would not even offer terms for a governmental entity. He further stated Allied Public Risk offered similar coverage to the City's existing plan; however, there was an increase to the general liability and business liability premiums. They would not offer a quote to cover public officials or law enforcement due to high hazards. Mr. Kesner explained the process of obtaining terms for coverage and thanked City staff for getting the application forms to him quickly so he could submit a mono-lined application to the carrier.

In response to a question from Commissioner Smith, Mr. Kesner stated insurance companies are required to notify the customer if they, the customer, are being dropped from coverage. He further stated Argonaut did notify the City in sufficient time. He added they thought with so many other markets, they would be able to find coverage similar but it was all unknown until they could view the terms.

Mr. Kesner stated finding a carrier to insure law enforcement was difficult. He further stated Police Chief John Ortolano and City Attorney Efen Cortez both addressed concerns with underwriters during the renewal process.

After a lengthy discussion regarding the premiums and towers of service from insurance carriers, the history of litigation with law enforcement insurance and the deductibles for past premiums, Mr. Kesner stated he received quotes earlier in the day and announced the City's 2021 Insurance Premiums will be as follows:

- \$200,002.00 Allied Public Risk
- \$ 83,385.05 Indian Harbor Insurance Company - PO & EPL
- \$ 45,071.02 Kinsale Insurance Company - Excess PO & EPL
- \$448,853.08 QBE Specialty Insurance Company - LEL
- \$155,874.44 Kinsale Insurance Company - Excess LEL
- \$970,535.52

	General Liability	Employee Benefit Liability	Public Officials	Employment Practices Liability	Law Enforcement	Business Automobile
Occurrence Limit	\$ 6,000,000	\$ 6,000,000	\$ 2,000,000	\$ 2,000,000	\$ 3,000,000	\$ 6,000,000
Annual Aggregate	\$ 7,000,000	\$ 7,000,000	\$ 2,000,000	\$ 2,000,000	\$ 3,000,000	
Deductible / Retention	\$ 1,000,000	\$ 1,000,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,000,000
Excess Occurrence Limit			\$ 4,000,000	\$ 4,000,000	\$ 3,000,000	Auto PD Comprehensive
Excess Annual Aggregate			\$ 4,000,000	\$ 4,000,000	\$ 3,000,000	Collision
Deductible / Retention						\$ 50,000

Mr. Kesner explained the premiums and breakdown for General Liability, Employee Benefit Liability, Public Officer Liability, Employment Practices Liability, Law Enforcement Liability and Business Automobile coverage.

In response to questions from Commissioner Smith, Mr. Toby Spears, Finance Director, stated funds to cover the deductibles are higher and not included in the current budget. He further stated a Budget Adjustment will need to be approved to cover the deductibles and premiums. Mr. Spears stated funds can be moved from the General Fund.

In answer to Commissioner Fields' inquiry, Mr. Kesner explained the risk factor is based on past years of coverage, specifically, the risk factor for 2021 is based on the number and amount of claims processed in 2017. He added the number of claims has significantly declined since 2017 with 2021 having the lowest number of claims.

In response to a question from Commissioner Gerth, Mayor Cobb stated due to the current political climate, it is unlikely the premium will decrease. He further stated increases in insurance premiums will be seen all the way up to the legislative level due to HB4. Mayor Cobb stated the Legislature has put municipalities at a higher risk.

Mr. Kesner answered several questions from Commissioner Smith regarding payments from the insurance company, which are not paid to the City. He further stated there is currently only one claim that exceeds the amount of the deductible.

Ms. Betzen explained the claims process and stated once the City has fully assessed the claim, it is forwarded to the insurance company for review and evaluation. Once this has been completed, the claim is forwarded to the Legal Department for processing.

In further response to a question from Commissioner Smith, Mr. Spears confirmed that while the total cost of the insurance premiums are in excess of the City's budgeted

amount, a Budget Adjustment Request (BAR) can be done at the next Commission Meeting on October 18, 2021, to increase the insurance budget line item.

Mr. Cortez suggested entertaining a motion to first amend the resolution to include the need for a BAR to increase the budget and then making the motion to approve the City's 2021-22 General Liability Insurance Renewal.

Commissioner Fields moved to amend the Resolution No. 7106 to use a BAR to increase the budget line item by \$37,000 to cover the cost of the insurance premiums. Commissioner Gerth seconded the motion and roll call vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Gerth yes, Cobb yes. The motion carried.

Commissioner Gerth moved to approve Resolution No. 7106 to execute an Acknowledgement and Approval Form relating to the General Liability Insurance Renewal for 2021-2022 as amended. Commissioner Smith seconded the motion and roll call vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Gerth yes, Cobb yes. The motion carried.

### **Adjournment**

There being no further business or comments, Commissioner Smith moved that the meeting adjourn. Commissioner Penick seconded the motion and roll call vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 10:10 a.m.

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SAM D. COBB, Mayor

ATTEST:

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JAN FLETCHER, City Clerk

Minutes of the regular meeting of the Hobbs City Commission held on Monday, October 4, 2021, in the City Commission Chamber, 200 East Broadway, 1<sup>st</sup> Floor Annex, Hobbs, New Mexico. This meeting was also viewable to the public via Livestream on the City's website at [www.hobbsnm.org](http://www.hobbsnm.org).

### **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 and everyone viewing through Livestream. The City Clerk called the roll and the following answered present:

Mayor Sam D. Cobb  
Commissioner R. Finn Smith  
Commissioner Christopher Mills  
Commissioner Larron B. Fields  
Commissioner Joseph D. Calderón  
Commissioner Dwayne Penick (*Telephonically*)  
Commissioner Don Gerth

Also present: Manny Gomez, City Manager  
Efren Cortez, City Attorney  
Valerie Chacon, Deputy City Attorney  
Rocio Ocano, Assistant City Attorney  
Barry Young, Deputy Fire Chief  
Kevin Shearer, Battalion Chief  
Shawn Williams, Fire Marshal  
John Ortolano, Police Chief  
Missy Funk, Hobbs Animal Adoption Center Manager  
Doug McDaniel, Recreation Director  
Wade Whitehead, Parks Superintendent  
Tracy South, Assistant Human Resources Director  
Toby Spears, Finance Director  
Todd Randall, City Engineer  
Tim Woomer, Utilities Director  
Ron Roberts, Information Technology Director  
Meghan Mooney, Communications Director  
Bobby Arther, Municipal Judge  
Shelia Baker, General Services Director  
Bob Hamilton, Reference Librarian  
Sandra Boltshauser, Clerk Record Specialist  
Jan Fletcher, City Clerk  
8 citizens

### **Invocation and Pledge of Allegiance**

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

### **Approval of Minutes**

Commissioner Calderón moved that the minutes of the regular meeting held on Monday, September 20, 2021, be approved as written. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Calderón yes, Gerth yes, Penick yes, Cobb yes. The motion carried.

### **Proclamations and Awards of Merit**

#### **Proclamation Proclaiming October 3 - 9, 2021, as "Fire Prevention Week"**

Mayor Cobb read the Proclamation proclaiming the week of October 3-9, 2021, as Fire Prevention Week and presented the Proclamation to Fire Chief Barry Young and Fire Marshal Shawn Williams. Fire Chief Young thanked the Commission and stated due to COVID-19, the fire fighters will not be making presentations to the schools in person this year. He explained Hobbs Fire Department (HFD) will be working with the Communications Department to make videos to send to the Hobbs elementary schools. He added the theme for Fire Prevention Week is "*Learn the Sounds of Fire Safety*". Ms. Meghan Mooney, Communications Director, stated billboards are up throughout Hobbs with the 2021 Fire Prevention Week theme.

### **Public Comments**

Due to COVID-19, public comments may be submitted in person or in writing. Written comments should be submitted to the City Clerk at [jfletcher@hobbsnm.org](mailto:jfletcher@hobbsnm.org) or faxed to (575) 397-9334 no later than 4:30 p.m. on the day of the meeting, October 4, 2021.

Mr. Nicholas Maxwell addressed the Commission regarding his opposition to mandated vaccines for City employees based on religious beliefs. He stated other municipalities have adopted mandates for employee vaccinations without acknowledging the employee's religious beliefs and he does not want to see Hobbs move in that direction.

Ms. Victoria Bruce with Bryan's Green Care wished to address the proposed cannabis ordinance; however, she withdrew her public comment until she could hear the presentation of Ordinance No. 1133.

Mr. Maxwell also addressed concerns with the City's final adoption of the cannabis ordinance. He spoke against the proposed ordinance as it is written.

### **Consent Agenda**

**Resolution No. 7107 - Approving the Final Plan for Tanglewood Unit 5 at Ranchview Estates Subdivision Located Northwest of the Intersection of East Bender Blvd. and Ranchland Drive**

Resolution No. 7108 - Approving the Final Plan for Tanglewood Unit 6 at Ranchview Estates Subdivision Located Northwest of the Intersection of East Bender Blvd. and Ranchland Drive

Resolution No. 7109 - Approving the Final Plan for Mesquite Draw Subdivision Located South of the Intersection of Alabama and Braniff Within the Extra-Territorial Jurisdiction

Resolution No. 7110 - Approving the Vacation and Dedication of Portions of Certain Alleyways Within the Ballew Subdivision Located Northeast of the Intersection of Marland Street and Elm Place

Resolution No. 7111 - Approving an Encroachment Agreement with Dixie Electric, LLC, Concerning the Placement of Structures Within Public Easements and Setbacks

Resolution No. 7112 - Approving the Dedication of a Portion of Dal Paso and Public Well Site Located in Section 23, Township 18 South, Range 38 East, N.M.P.M., Lea County, New Mexico

## **Discussion**

### Zia Natural Gas Company - Integrated Resource Plan

Ms. Leslie Graham, General Manager for Zia Natural Gas Company (Zia), introduced herself, Mr. Oscar Saucedo, Business Development Manager and Mr. Seborn South, District Manager. She presented a PowerPoint presentation outlining Zia's Integrated Resource Plan (IRP) which discussed the System Overview and Load Forecast as well as an evaluation of the supply and demand along with the need for additional resources. She further discussed the evaluation of potential additional resources, a cost effective portfolio of resources and a brief overview of the Energy Efficiency Program. Ms. Graham stated the goal of the IRP is to identify the most cost effective portfolio of resources to supply the existing and future energy needs of their customers. She briefly discussed the IRP requirements, the IRP report contents, and the IRP process. Ms. Graham stated Zia serves approximately 39,500 customers in New Mexico with gas distribution lines in Lea, Eddy, Lincoln, Colfax and Dona Ana counties. She further stated the State of New Mexico moratorium to freeze past due accounts during the COVID-19 pandemic recently expired, so Zia saw a decline in the number of active accounts. She added customers seemed to weigh their options and let the gas be disconnected during warmer months. Ms. Graham stated Zia purchases Hobbs' natural gas from the DCP gas plant located nine miles west of Hobbs and feeds the City through an 8" pipeline. She further explained Zia currently feeds gas to approximately 11,000 customers currently but has served up to 14,000 customers in the past; therefore, Zia does not anticipate capacity issues in the future. Ms. Graham stated February, 2021, saw unprecedented cold weather in New Mexico and Texas, which crippled the states and drove gas prices extremely high. She further stated the cost of gas went from \$10 to \$200 overnight and remained high for a period of seven

days. She further stated Zia received emergency funding to supply customers during this time which will be amortized over 36 months.

In response to Commissioner Smith's question, customers will see an increase in their bill of approximately \$11 monthly.

Commissioner Mills expressed concern regarding the affect the increase will have on families that are on a fixed or low income.

Ms. Graham stated because of this price spike, Zia came up with a contingency plan to keep prices stable for the future by locking in a price rate for 90% of the gas to be used.

Ms. Graham continued her presentation and stated Zia has completed an assessment of need for additional resources and concluded they have sufficient capacity for the growth of Hobbs. She added Zia has identified potential additional resources for gas and alternatives considered are biomass, dairy and hydrogen. She further stated there are concerns with the expensive start-up costs, the low availability, inconsistent supply and quality control. Zia is looking for public input on these concerns. Ms. Graham stated the Energy Efficiency Program is looking to incentivize the use of space heating and water heating when customers upgrade to high efficiency appliances or when the customers are involved in new construction. She stated Zia will continue to offer home assessments to low income customers and rebates will be offered to commercial customers.

In response to a question from Commissioner Calderón, Ms. Graham stated Farmington, New Mexico, did have issues with gas lines freezing in 2011 during an ice storm. She stated the likelihood of that happening in Hobbs is slim. She added Zia's parent company, Natural Gas Processing Company, is based out of Wyoming, and they have designed the gas lines and backups to prepare as if the gas lines were in a much colder climate.

### **Action Items**

#### **FINAL ADOPTION: Ordinance No. 1133 - Adopting Chapter 5.06 of the Hobbs Municipal Code for the Possession, Cultivation, Manufacture and Sale of Cannabis**

Ms. Valerie Chacon, Deputy City Attorney, presented the proposed ordinance for the possession, cultivation, manufacture and sale of cannabis and stated the proposed ordinance complies with House Bill 2 (HB2) which was passed during the 2021 First Special Session of the 55th Legislature and is now codified in NMSA 1978, Section 26-2C-1, et seq. The legislation authorized the possession, cultivation, manufacture, and sale of cannabis and cannabis-derived products in New Mexico. Ms. Chacon explained that NMSA 1978, Section 26-2C-12 authorizes a municipality to adopt time, place and manner rules regarding cannabis establishments. She stated pursuant to NMSA 1978, Section 3-17-3, publication of this proposed ordinance was published in the Hobbs News Sun on September 14, 2021. She further stated if adopted tonight, the ordinance will become effective five days after the final publication.

In response to Mayor Cobb's question, Ms. Chacon stated if the Commission fails to adopt this ordinance, the City would start over in the adoption of a Cannabis Regulation Ordinance. She further stated the Legal Department would change the ordinance as decided by the Commission, it would be presented to the Commission again for publication, published in the Hobbs News Sun pursuant to State statutes and brought before the Commission again for final adoption at a Commission Meeting in November, 2021. Ms. Chacon further stated if the Commission adopts the proposed ordinance as presented, amendments can be made later. The timeline for amendments would be similar to the timeline for a new ordinance with both becoming enforceable in November, 2021.

Mayor Cobb stated Ordinance No. 1133 can serve as a placeholder for any amendments the Commission may choose to adopt.

Commissioner Penick stated it is important to the businesses and the public to move forward in order to adopt Ordinance No. 1133.

In response to Mayor Cobb's inquiry, no members of the audience wished to speak for or against Ordinance No. 1133.

In response to Mayor Cobb's inquiry, Ms. Victoria Bruce declined to make comments to the Commission.

Ms. Jan Fletcher, City Clerk, stated she has received written comments from Ms. Roberta Bruce, Ms. Christy Gonzales, Mr. Jordan McIlroy and Mr. Nick Maxwell throughout the process of the Cannabis Regulation Ordinance. She further stated all of the comments received have been shared with the Commission.

Commissioner Mills stated it is difficult for him, as a defense attorney, to understand the legalization of a substance that has put so many people in prison. He further stated the State has legalized cannabis and the City must follow suit. He added the City may have to amend Ordinance No. 1133 more than once but the City has come a long way in accepting cannabis.

Commissioner Calderón stated he has been an educator for 47 years and during the entire time he has talked to his students against drugs and alcohol. He stated he no longer drinks alcohol and he does not smoke so he is concerned about seeming hypocritical if he votes in favor of Ordinance No. 1133.

Commissioner Fields stated the cannabis situation is very complex. He further stated the Commission is required to make hard decisions based on the needs and wants of their constituents, not their own opinions and beliefs.

Commissioner Smith thanked Commissioner Mills for his statement. He stated the Commission is faced with a difficult decision. He further stated his desire is to treat every business in the same manner regardless of the type of business.

In response to Commissioner Penick's question, Mr. Cortez stated after speaking with New Mexico Congresswoman Yvette Herrell, there is still no clear answer at the present time regarding whether or not the service of cannabis businesses with municipal water will affect the Federal water grants to the City. He further stated in regard to the reclamation side, there should not be an issue with Federal funding; however, the infrastructure funding is still unknown.

Proper publication having been made, and there being no further public comment or discussion by the Commission, Commissioner Gerth moved that Ordinance No. 1133 be adopted as presented. Commissioner Mills seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. A copy of the ordinance is attached and made a part of these minutes.

*FINAL ADOPTION: Ordinance No. 1134 - Amending the Uniform Traffic Ordinance as Set Forth in Chapter 10.04 of the Hobbs Municipal Code*

Ms. Rocio Ocano, Assistant City Attorney, stated the Uniform Traffic Ordinance (UTO) was adopted by the City of Hobbs on September 5, 2016, via Ordinance No. 1095. In 2017, 2019, and 2020, the New Mexico Municipal League (NMML) proposed amendments to the UTO which corresponded to changes the New Mexico Legislature implemented to the State's Motor Vehicle Code (NMSA 1978, Chapter 66). The proposed ordinance amendments are authorized by Section 10.04.030 of the Hobbs Municipal Code. The proposed amendments pertain to Articles VI, VII, IX, and X of the UTO. All amendments comply with various changes to the Motor Vehicle Code enacted by the New Mexico Legislature. Pursuant to NMSA 1978, § 3-17-3, the proposed ordinance was published in the Hobbs News Sun on September 14, 2021.

Commissioner Mills stated the State has already adopted these amendments; however, he feels by voting to approve them for the City of Hobbs, he is giving his stamp of approval. He expressed displeasure over the writing of Section 12-9-9 of the State's Motor Vehicle Code regarding "Parking in Designated Disabled Parking Spaces". Commissioner Mills stated as written, this section discriminates against handicapped persons. He further stated there is no provision to allow the Court's discretion in the case of a person who has a placard but forgets to display it. He added judges in Hobbs should not have to work around a law.

In response to a question from Mayor Cobb, Ms. Ocano stated it is the discretion of the officer ticketing an individual as to what Court the individual should appear. She further agreed with Mayor Cobb that an individual ticketed with traffic violations should appear before the Municipal Court opposed to Magistrate Court.

Commissioner Penick agreed with Commissioner Mills and stated Hobbs currently has wonderful judges who are compassionate; however, there is no guarantee that the next person in the office of Municipal Judge will follow the UTO to the letter of the law and there is no forgiveness to the UTO as written.

Proper publication having been made, and there being no public comment or further discussion, Commissioner Calderón moved that Ordinance No. 1134 be adopted as presented. Commissioner Smith seconded the motion and the vote was recorded as follows: Smith yes, Mills no, Fields yes, Penick no, Calderón yes, Gerth yes, Cobb yes. The motion carried. A copy of the ordinance is attached and made a part of these minutes.

*FINAL ADOPTION: Ordinance No. 1135 - Amending Chapter 9.28 of the Hobbs Municipal Code Related to Drugs and Drug Paraphernalia*

Mr. Efren Cortez, City Attorney, addressed several comments to the Commission on the prior two agenda items. He praised the attorneys and City staff for all of their hard work and research on these legal matters.

Mr. Cortez explained the proposed ordinance amending Chapter 9.28 of the Hobbs Municipal Code entitled "Drugs and Drug Paraphernalia." Specifically, the amendments bring Chapter 9.28 into compliance with the statutory changes enacted by the New Mexico Legislature related to "paraphernalia" and the decriminalization of marijuana. Pursuant to NMSA 1978, § 3-17-3, this proposed ordinance was published in the Hobbs News Sun on September 14, 2021. If adopted, this ordinance will become effective five days after it has been published.

Proper publication having been made, and there being no public comment or discussion by the Commission, Commissioner Gerth moved that Ordinance No. 1135 be adopted as presented. Commissioner Smith seconded the motion and he vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. A copy of the ordinance is attached and made a part of these minutes.

*Consideration of Approval of a Professional Services Agreement with the Lea County Humane Society*

Hobbs Police Chief John Ortolano introduced Ms. Missy Funk, Animal Adoption Center Manager, and stated in 2009, a partnership began between the Lea County Humane Society (LCHS) and City of Hobbs to become a no kill facility and it has proven to be very successful. The LCHS partnership provides multiple adoption events, shot clinics, and spay and neuter certificates to Lea County residents. Police Chief Ortolano stated the partnership also includes the rescue transport that rescues thousands of animals annually by transporting them to places for adoption nationally and internationally. The Professional Services Agreement establishes the relationship of the City of Hobbs and

the Lea County Humane Society and designates the duties of each and includes the provisions for liability insurance on all volunteers. The term of the agreement is one year with three additional one-year renewal options.

In response to Mayor Cobb's question, Ms. Funk stated LCHS currently has liability insurance. She further stated the Hobbs Animal Adoption Center will remain a no kill shelter.

Commissioner Calderón stated a family member recently adopted a Chihuahua from the Animal Adoption Center. He thanked Ms. Funk for all of her assistance throughout the adoption process.

There being no further comment or discussion, Commissioner Calderón moved to approve the Professional Services Agreement with the Lea County Humane Society as presented. Commissioner Fields seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick 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. 7113 - Approving a Legislative Grant Agreement for a Capital Appropriation Project in the Amount of \$500,000.00 for Security Improvements and Accessibility Compliance for Public Buildings*

Ms. Shelia Baker, General Services Director, explained the resolution and stated the City of Hobbs has received a Capital Appropriation Project grant agreement for \$500,000 to plan, design, construct, purchase, furnish, equip, install, renovate and improve infrastructure, including security improvements and accessibility compliance, for public buildings. The General Services Department intends to utilize the funding for security improvements at Municipal Court and the Hobbs Police Department (HPD). The safety improvements are designed to provide ability for the staff to "Run. Hide. Fight." Ms. Baker outlined the main components of the proposed construction.

In response to a question by the Commission, Ms. Baker stated the bids for security improvements at HPD and Municipal Court will be bid separately to ensure the projects do not go over the appropriated amount of \$500,000.

There being no further comment or discussion, Commissioner Calderón moved to approve Resolution No. 7113 as presented. Commissioner Smith seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Calderón 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.

Consideration of Approval of a Professional Services Agreement with ImageTrend, Inc., to Provide Electronic Third-Party Billing Services for Emergency Medical Services Pursuant to RFP No. 523-21

Hobbs Fire Chief Barry Young explained the agreement and stated the City of Hobbs solicited proposals to provide electronic third-party billing services for emergency medical services (ambulance billing). The scope of the proposal consisted of, but not limited to: preparing and submitting accurate and complete insurance claims electronically to include, but not limited to, Medicare, Medicaid, and any other applicable carriers including both commercial and private insurances; verification and missing information for follow up; prepare and mail invoices to patients responsible for co-pays and/or deductibles, private pay, and uninsured patients; provide the City of Hobbs with reconciled monthly receivables showing beginning balances, charges, adjustments, collections, and ending balances; and provide training to EMS staff and the Finance Department. He further stated RFP #523-21 was awarded to Imagetrend at the Commission Meeting held on June 7, 2021, and the City wishes to enter into a professional services agreement for the third-party EMS billing services. He added the cost of the third-party billing service will be 5.85% commission on collections. Fire Chief Young stated the estimated cost for the third-party billing service will be approximately \$117,000. The contract will become effective on December 1, 2021, to allow a smooth transition with the existing vendor.

There being no further comment or discussion, Commissioner Calderón moved to approve the Professional Services Agreement with ImageTrend, Inc. as presented. Commissioner Fields seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Penick yes, Calderón yes, Gerth yes, Cobb yes. The motion carried. A copy of the supporting documentation is attached and made a part of these minutes.

**COMMENTS BY CITY COMMISSIONERS, CITY MANAGER**

Mayor Cobb stated the next regular Commission meeting will be held on October 18, 2021, at 6:00 p.m.

City Manager Manny Gomez thanked the Commission for its support of the cannabis ordinance. He stated the Legal Department has been dedicated to the creation of this ordinance that will support the community with the best of intentions.

City Manager Gomez stated the third large item pick up was held this past Saturday, October 2, 2021, servicing the area north of Sanger Street and west of Fowler Street. He further stated the next large item pick up day will be November 6, 2021, which will be for the areas north of Sanger Street and East of Fowler Street to the city limits.

City Manager Gomez stated the City's Facebook and Instagram accounts were down earlier today. He apologized for any inconvenience this outage may have caused and

stated any citizen may contact Ms. Meghan Mooney, Communications Director, at (575) 391-4169 with questions or concerns.

Commissioner Fields stated he recently had a constituent contact him regarding neighbors playing loud music late at night. He suggested the City take a look at existing ordinances, such as the noise ordinance and the weed ordinance, and make changes where necessary. He stated there are weeds on Dal Paso that are as tall as he is.

Commissioner Mills stated he is looking forward to making the cannabis ordinance better. He stated he is excited about the future of Hobbs.

Mayor Cobb stated there is a lot of work coming up in the next few weeks, such as the American Rescue Plan, and the Commission will be busy keeping up with the work of the City.

### **Adjournment**

There being no further business or comments, Commissioner Calderón moved that the meeting adjourn. Commissioner Gerth seconded the motion and the vote was recorded as follows: Smith yes, Mills yes, Fields yes, Calderón yes, Penick yes, Gerth yes, Cobb yes. The motion carried. The meeting adjourned at 7:20 p.m.

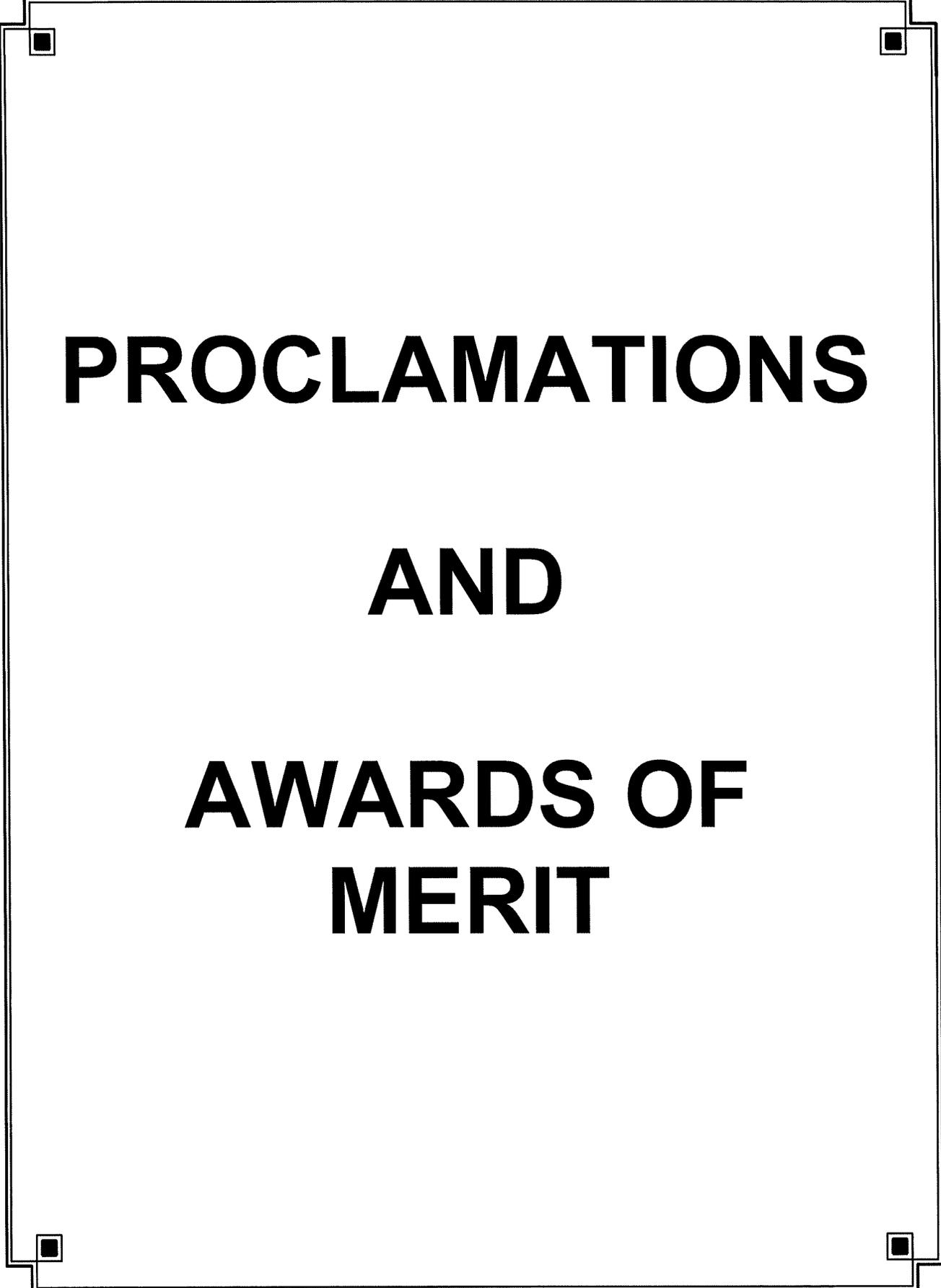
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SAM D. COBB, Mayor

ATTEST:

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JAN FLETCHER, City Clerk



**PROCLAMATIONS**

**AND**

**AWARDS OF  
MERIT**

Office of the Mayor  
Hobbs, New Mexico

## PROCLAMATION

**WHEREAS**, National Cyber Security Awareness Month, celebrated every October, remains a collaborative effort between government and industry to ensure every American has the resources they need to stay safer and more secure online; and

**WHEREAS**, National Cyber Security Awareness Month is a time to focus on how cybersecurity is a shared responsibility that affects all Americans and to raise awareness about the importance of cybersecurity; and

**WHEREAS**, the City of Hobbs recognizes the importance in identifying, responding to and protecting against cyber threats that may have significant impact to our individual and collective security and privacy; and

**WHEREAS**, critical infrastructure sectors are increasingly reliant on information systems to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and

**WHEREAS**, the 2021 Cyber Security Awareness Month focuses include: Be Cyber Smart; Phight the Phish!; Explore.Experience.Share; and Cybersecurity First; and

**WHEREAS**, maintaining the security of cyberspace is a shared responsibility in which each of us, elected officials, City staff and community members, play a critical role.

**NOW, THEREFORE**, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim the month of October, 2021, as:

# ***“National Cyber Security Awareness Month”***

and encourage all citizens to learn about cyber security and put that knowledge into practice in their homes, schools, workplaces, and businesses.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 18<sup>th</sup> day of October, 2021, 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**, pharmacists are experts in the successful use of today's complex medications; and

**WHEREAS**, patients in hospitals and outpatient clinics receive better care when pharmacists are directly involved in medication management decisions; and

**WHEREAS**, pharmacists' direct involvement in patient care helps reduce unnecessary costs and burden on the health system; and

**WHEREAS**, the pharmacists and pharmacy technicians practicing in the acute and ambulatory care settings of Hobbs, New Mexico, contribute to the health and well-being of our citizens, especially in their extra efforts and tireless hours spent helping others during the COVID-19 health pandemic; and

**WHEREAS**, ASHP and the NMSHP have declared October 17-23, 2021, as Pharmacy Week.

**NOW, THEREFORE**, I, Sam D. Cobb, Mayor of the City of Hobbs, New Mexico, do hereby proclaim October 17-23, 2021, as:

### "Pharmacy Week"

in Hobbs, New Mexico, and urge all of our citizens to acknowledge the valuable services of the pharmacists and pharmacy technicians who work in inpatient, outpatient, home-care, and long-term-care settings and all they do to help patients make the best use of their medicines.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 18<sup>th</sup> day of October, 2021, and cause the seal of the City of Hobbs to be affixed hereto.



SAM D. COBB, Mayor

ATTEST:

  
JAN FLETCHER, City Clerk

# October Milestones 2021

## 5 years

Irene Sealy	Library	10/24/2016
Franklin Sifford	Parks	10/23/2016
Antonio Alarcon	HFD	10/31/2016

## 15 years

Rafael Marquez	HFD	10/02/2006
Danny Garrett	HPD	10/04/2006
Audrey Likins	Hobbs Express	10/18/2006
Julia Henry	Planning	10/23/2006
Jim Jarrett	Water Distribution	10/25/2006
Angela Courter	Senior Center	10/30/2006
Barbara Dunford	Recreation	10/30/2006
Matthew Hughes	Parks	10/30/2006

## 20 years

Adrian Enriquez	HFD	10/16/2001
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# **CONSENT AGENDA**



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

SUBJECT: RESOLUTION TO APPROVE THE FINAL PLAN FOR LIBERTY CROSSING SUBDIVISION UNIT 1. Located southeast of the intersection of Glorietta and Jefferson within the municipal boundaries, submitted by ALJO, LLC.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: October 11, 2021
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: The Final Plan for Liberty Crossing Subdivision Unit 1 is submitted by ALJO, LLC. The subdivision is located southeast of the intersection of Glorietta and Jefferson within the municipal boundaries. The subdivision encompasses +/- 3.42 acres and will contain 15 single family residential lots. A Bond is being presented to the City of Hobbs to ensure completion of public infrastructures. The dollar amount of uninstalled public infrastructure is estimated to be \$237,521.00 not including GRT. The City Engineer has approved the Engineer of Records completion estimate. The Bond, in the amount of \$281,925.57, has been approved by the Finance Director, City Attorney and the Development Director. The Planning Board consider this item at an October 11, 2021 special meeting.

Fiscal Impact:

Reviewed By: [Signature] Finance Department

The positive impact of the new development and new housing from GRT collections and monthly utility bills of the residents should offset any expenses that the City will incur from the maintenance responsibility of streets, water and sewer lines.

Attachments: Resolution, Final Plan, Draft Planning Board Minutes.

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Approval of the Resolution to approve the Final Plat of Liberty Crossing Subdivision Unit 1.

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. 7114

**A RESOLUTION TO APPROVE THE FINAL PLAN FOR LIBERTY CROSSING  
SUBDIVISION UNIT 1.**

WHEREAS, ALJO, LLC has submitted a Final Plan for Liberty Crossing Subdivision Unit 1; and

WHEREAS, a Bond has been submitted in an amount to secure the placement of all public infrastructures not in place as of this date.

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

1. The City of Hobbs hereby grants Final Plan Approval to Liberty Crossing Subdivision Unit 1; and

2. The City officials and staff are directed to do any and all acts necessary to carry out the intent of this Resolution.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2020.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, CITY CLERK





October 7, 2021

Mr. Todd Randall  
City Engineer  
City of Hobbs  
200 E. Broadway  
Hobbs, New Mexico 88240

Re: **Liberty Crossing Unit 1**  
**Hobbs, New Mexico**

Dear Mr. Randall:

Periodic inspection indicates that the construction to date which includes all utility work has been completed pursuant to the plans, and specifications.

Remaining is the paving and concrete work itemized on the attached spread sheet.

I estimate this work will cost \$281,925.57 to complete.

If you have any questions regarding the project, please contact our office.

Sincerely,

the Ross Group

Philip L. Ross, PE

Cc: Kevin Robinson

UNIT I LA BREA AVE. AND SABRITA CR.					
1	6" SUB-GRADE PREPARATION	2,124	SY	\$2.00	\$4,248.00
2	6" BASE COURSE	2,124	SY	\$9.96	\$21,155.04
3	PRIME PEP (0.25	2,124	SY	\$1.27	\$2,697.48
4	2" HOT-MIX SP IV	2,124	SY	\$11.90	\$25,275.60
5	VALLEY GUTTERS				\$2,340.00
6	FILLETS				\$3,360.00
7	MH & VALVE ADJUSTMENTS				\$1,180.00
8	CURB & GUTTER	1121	LF	\$21.00	\$23,541.00

SUBTOTAL	\$83,797.12
GRT	\$5,708.68
<b>TOTAL</b>	<b>\$89,505.80</b>

JEFFERSON					
1	6" SUB-GRADE PREPARATION	7,020	SY	\$2.00	\$14,040.00
2	6" BASE COURSE	7,020	SY	\$13.35	\$93,717.00
3	PRIME PEP (0.25	7,020	SY	\$1.27	\$8,915.40
4	2" HOT-MIX SP IV	7,020	SY	\$17.86	\$125,377.20
5	VALLEY GUTTERS				\$2,340.00
6	FILLETS				\$3,360.00
7	MH & VALVE ADJUSTMENTS				\$0.00
8	CURB & GUTTER	1400	LF	\$21.00	\$29,400.00

SUBTOTAL	\$277,149.60
GRT	\$18,880.82
<b>TOTAL</b>	<b>\$296,030.42</b>

<b>GRAND TOTAL</b>			<b>\$385,536.22</b>
Minus 50% of Jefferson	50%		\$148,015.21
X 130 of the 50%	130%		\$192,419.77
Plus Unit 1 totals			\$89,505.80
Bond amount needed			<b>\$281,925.57</b>



Phone: 877 816 2800

PO Box 32577  
Waco, Texas 76703-4200

### SUBDIVISION IMPROVEMENTS PERFORMANCE BOND

BOND NO. CNB-39630-00

KNOW ALL MEN BY THESE PRESENTS:

THAT we, ALJO Development Company, LLC, as Principal, and INSURORS INDEMNITY COMPANY, a corporation organized and doing business and under and by virtue of the laws of the State of Texas and duly licensed to conduct surety business in the State of Texas, as Surety, are held and firmly bound unto City of Hobbs, as Obligee, in the sum of Two Hundred and Eighty-One Thousand Nine Hundred and Twenty-Five Dollars and Fifty-Seven Cents Dollars (\$ 281,925.57 ) for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above named Principal, has agreed to construct in Liberty Crossing, Subdivision, in Hobbs the following improvements: Liberty Crossing - Unit I & Jefferson, Paving & Concrete.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term thereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

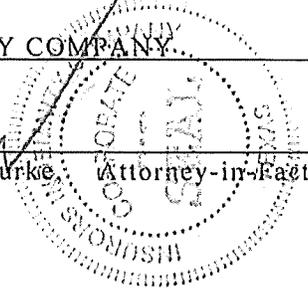
IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact, this 7th day of October, 2021.

ALJO Development Company, LLC  
Principal

BY: \_\_\_\_\_

INSURORS INDEMNITY COMPANY

BY: William W. Burke Attorney-in-Fact



**POWER OF ATTORNEY of INSURORS INDEMNITY COMPANY  
Waco, Texas**

**KNOW ALL PERSONS BY THESE PRESENTS:**

**Number:** CNB-39630-00

That INSURORS INDEMNITY COMPANY, Waco, Texas, organized and existing under the laws of the State of Texas, and authorized and licensed to do business in the State of Texas and the United States of America, does hereby make, constitute and appoint

William W. Burke of the City of Las Cruces, State of NM

as Attorney in Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of document, to-wit:

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; Indemnity in all cases where indemnity may be lawfully given and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company.

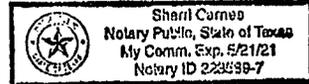
Attest: Tammy Tieperman  
Tammy Tieperman, Secretary

INSURORS INDEMNITY COMPANY  
By: Dave E. Talbert  
Dave E. Talbert, President

State of Texas  
County of McLennan

On the 11<sup>th</sup> day of November, 2014, before me a Notary Public in the State of Texas, personally appeared Dave E. Talbert and Tammy Tieperman, who being by me duly sworn, acknowledged that they executed the above Power of Attorney in their capacities as President, and Corporate Secretary, respectively, of Insurors Indemnity Company, and acknowledged said Power of Attorney to be the voluntary act and deed of the Company.

Sherril Carneal  
Notary Public, State of Texas



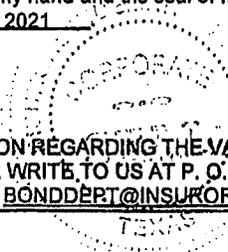
Insurors Indemnity Company certifies that this Power of Attorney is granted under and by authority of the following resolutions of the Company adopted by the Board of Directors on November 11, 2014:

RESOLVED, that all bonds, undertakings, contracts or other obligations may be executed in the name of the Company by persons appointed as Attorney in Fact pursuant to a Power of Attorney issued in accordance with these Resolutions. Said Power of Attorney shall be executed in the name and on behalf of the Company either by the Chairman and CEO or the President, under their respective designation. The signature of such officer and the seal of the Company may be affixed by facsimile to any Power of Attorney, and, unless subsequently revoked and subject to any limitation set forth therein, any such Power of Attorney or certificate bearing such facsimile signature and seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signature and seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached.

RESOLVED, that Attorneys in Fact shall have the power and authority, subject to the terms and limitations of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and any such instrument executed by such Attorneys in Fact shall be binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary or Assistant Secretary of the Company.

I, Tammy Tieperman, Secretary of Insurors Indemnity Company, do hereby certify that the foregoing is a true excerpt from the Resolutions of the said Company as adopted by its Board of Directors on November 11, 2014, and that this Resolution is in full force and effect. I certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In Witness Whereof, I have set my hand and the seal of INSURORS INDEMNITY COMPANY on this 7th day of October, 2021



Tammy Tieperman  
Tammy Tieperman, Secretary

NOTE: IF YOU HAVE ANY QUESTION REGARDING THE VALIDITY OR WORDING OF THIS POWER OF ATTORNEY, PLEASE CALL 800 933 7444 OR WRITE TO US AT P. O. BOX 32577, WACO, TEXAS 76703 OR EMAIL US AT [BOONDDERT@INSURORSINDEMNITY.COM](mailto:BOONDDERT@INSURORSINDEMNITY.COM).



Phone: 877 816 2800

PO Box 32577  
Waco, Texas 76703-4200

## IMPORTANT NOTICE - AVISO IMPORTANTE

To obtain information or make a complaint:

You may call Insurors Indemnity Company's toll-free telephone number for information or to make a complaint at:

1-877-816-2800

You may also write to Insurors Indemnity Company at:

P.O. Box 32577  
Waco, TX 76703-4200

Or  
225 South Fifth Street  
Waco, TX 76701

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

1-800-252-3439

You may write the Texas Department of Insurance at:

Consumer Protection (111-1A)  
P.O. Box 149091  
Austin, TX 78714-9091  
Fax: 512-490-1007

Web: <http://www.tdi.texas.gov>

E-mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

### PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

### ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de Insurors Indemnity Company's para informacion o para someter una queja al

1-877-816-2800

Usted tambien puede escribir a Insurors Indemnity Company:

P.O. Box 32577  
Waco, TX 76703-4200

O  
225 South Fifth Street  
Waco, TX 76701

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

Consumer Protection (111-1A)  
P.O. Box 149091  
Austin, TX 78714-9091  
Fax: 512-490-1007

Web: <http://www.tdi.texas.gov>

E-mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

### DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

### UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18th, 2021

SUBJECT: Resolution authorizing an allocation of lodgers' tax to various entities for events

DEPT. OF ORIGIN: Finance  
DATE SUBMITTED: October 10, 2021  
SUBMITTED BY: Toby Spears, Finance Director

The Lodgers' Tax Board met on October 14<sup>th</sup>, 2021 and recommended funding for the following events:

Tuff Hedeman Bull Riding	- \$20,000.00
City of Hobbs – Christmas Tree Lighting	- \$18,713.81

**Fiscal Impact:**

Reviewed By:   
Finance Department

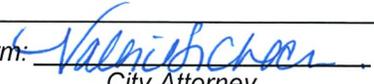
Unallocated Cash Balance as of September 30, 2021 for the Lodgers' Tax Fund is as follows:

Cash for Grants	\$137,663.93
City and County	\$320,999.67

**Attachments:**

Breakdown of request  
Financial Summary  
Resolution

**Legal Review:**

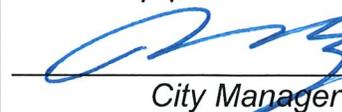
Approved As To Form:   
City Attorney

**Recommendation:**

To be determined by City Commission.

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. _____

CITY OF HOBBS

RESOLUTION NO. 7115

A RESOLUTION AUTHORIZING ADDITIONAL ALLOCATIONS OF  
LODGERS' TAX FUNDS FOR FISCAL YEAR 2022

WHEREAS, the Lodgers' Tax Advisory Board met on October 14, 2021, and recommends awarding additional funding to various events for Fiscal Year 2022.

	Amount Requested	Lodgers' Tax Board Recommendation	City Commission Recommendation
Tuff Hedeman – Bull Riding Tour	\$20,000.00	\$20,000.00	
City of Hobbs CVB – Annual Tree Lighting	\$18,713.81	\$18,713.81	

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be and hereby is authorized to allocate Lodgers' Tax Funds in the total amounts as specified herein.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

SUBJECT: Memorandum of Agreement Between the City of Hobbs and the Hobbs Municipal Schools

DEPT. OF ORIGIN: City Clerk's Office
DATE SUBMITTED: October 11, 2021
SUBMITTED BY: Jan Fletcher, City Clerk

Summary:

The City of Hobbs and the Hobbs Municipal Schools have entered into an agreement to work together for the 21st Century Community Learning Centers Grant Initiative. The contract provides that the City will transport students via Hobbs Express from Will Rogers Elementary School to Edison Elementary School. It also provides for use of the Teen Center as a destination location, if needed. This has been a successful opportunity to work together to provide academic, artistic and cultural enrichment opportunity in order to meet state and local standards in core academic subjects such as reading, math and science for the youth of Hobbs. Both parties recommend continuation of this partnership.

Fiscal Impact:

Reviewed By: [Signature] Finance Department

There is no fiscal impact to the Teen Center. Currently, there are no fares being charged by Hobbs Express for any passengers. Fares are \$10.00 per student per month when fare charging resumes.

Attachments:

Memorandum of Agreement approved by the Hobbs Municipal Schools.

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Motion to approve the resolution.

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. \_\_\_\_\_

MEMORANDUM OF AGREEMENT  
BETWEEN THE CITY OF HOBBS  
AND THE HOBBS MUNICIPAL SCHOOLS

THIS AGREEMENT is made and entered into on the \_\_1st\_\_ day of \_\_October\_\_, 2021, between the CITY OF HOBBS, NEW MEXICO, a municipal corporation, (hereinafter referred to as "City") and the HOBBS MUNICIPAL SCHOOL DISTRICT, (hereinafter referred to as "School").

WHEREAS, the 21<sup>st</sup> Century Community Learning Centers Grant Initiative (hereinafter referred to as "21<sup>st</sup> CCLCG") is a federally funded grant School has been awarded. The grant provides funding for students to be involved in an after school educational program in Learning Centers four days per week, three hours per day, during the bulk of the school year;

WHEREAS, in conjunction with the 21<sup>st</sup> CCLCG, School is desirous of utilizing the City's public transportation services to assist in transporting students on high demand routes to community Learning Centers that provide academic enrichment opportunities;

WHEREAS, in conjunction with the 21<sup>st</sup> CCLCG, School is desirous of utilizing City's Teen Center as a Destination Location;

WHEREAS, the City has the technical and professional expertise required for the operation of public transportation services in the City of Hobbs, and has equipment and properly licensed drivers in order to perform the necessary transportation services;

WHEREAS, City's Teen Center is an appropriate facility and location to be utilized as a Destination Center; and

WHEREAS, the parties desire to approve this Memorandum of Agreement, by and through their respective School Board and Commission, to memorialize their agreement regarding the transportation services and use of the Teen Center as a Destination Location in conjunction with the 21<sup>st</sup> CCLCG.

NOW, THEREFORE, THE PARTIES HEREBY COVENANT AND AGREE AS FOLLOWS:

I.  
**PURPOSE**

The purpose of this Memorandum of Agreement is to delineate the duties and rights of the parties regarding School's implementation of the 21<sup>st</sup> CCLCG and City's

role in the 21<sup>st</sup> CCLCG. City shall provide its Teen Center as a specific location to be utilized as a Destination Location and provide public transportation to students for transportation to various Learning Centers throughout Hobbs connected to the 21<sup>st</sup> CCLCG, as fully set forth herein. The parties understand City has not budgeted any funds for its participation in the 21<sup>st</sup> CCLCG and City shall not be responsible to provide funding for additional staffing or expenses associated with the 21<sup>st</sup> CCLCG. It is the expectation that there will not be additional expenses to the City of Hobbs in regards to direct services that may be covered under the grant.

## II. DUTIES

### A. CITY DUTIES

City will ensure the following duties are met:

1. City will make the Teen Center available as a 21<sup>st</sup> CCLCG Destination Location during scheduled activities and reasonable times, as determined by the Teen Center Manager, or his designee, for School staff preparation to conduct 21<sup>st</sup> CCLCG activities. All 21<sup>st</sup> CCLCG activities and preparation shall be scheduled through the Teen Center Manager, or his designee.
2. City agrees to operate appropriate public transportation services from October 1, 2021, through May 27, 2022, to include the pickup of passengers on high demand routes connected with the 21<sup>st</sup> CCLCG which are destined as follows:

Edison Elementary School to Will Rogers Elementary School

3. The parties agree that no transportation services will be provided during inclement weather or emergency situations or during City-observed and/or school observed holidays. Hobbs Schools needs to be notified a week in advance when possible of no transportation services in order to notify parents.
4. City agrees to provide safe, clean, public transportation vehicles and maintain general liability insurance in the amount of \$1,000,000 during the term of this contract.
5. All passengers must follow appropriate rules of passenger conduct, as determined by City's Director of Transportation, or her designee. Failure to abide by the rules will result in loss of passenger transportation

privileges. For elementary students, a non-certified School employee will check students on and off the bus from their home school to the various after school sites.

## B. SCHOOL DUTIES

School will ensure the following duties are met:

1. School shall provide all funding or expenses associated with necessary staffing, equipment, furnishings (as per the requirements of the grant), IT requirements/upgrades or computers/installation connected with the 21<sup>st</sup> CCLCG. City shall not be expected to provide any additional staff associated with the 21<sup>st</sup> CCLCG Learning Center activities.
2. School shall be responsible for the implementation and cost of any background investigation(s) for School and/or City personnel required for the 21<sup>st</sup> CCLCG.
3. School shall be responsible for all programing costs associated with the 21<sup>st</sup> CCLCG. There are costs that the grant cannot cover due to the grant guidelines: food, building maintenance, construction, daily operation, supplanting.
4. School shall be responsible for all snacks provided to the 21<sup>st</sup> CCLCG participants. Hobbs School's Nutritional Services will provide snacks for the 21<sup>st</sup> Century students.
5. School shall be responsible and pay the cost of high demand route transportation service for each passenger transported under the 21<sup>st</sup> CCLCG or companion program in the amount of \$10.00 per student per month. This amount will be determined by the number of students using the transportation services. Both entities will meet should expenses exceed the total budgeted amount.
6. Each passenger who uses the high demand route transportation service will pay the monthly student fare rate of \$10.00. No pro-rated fare will be allowed and no cash will be accepted from students. City will submit an invoice to the School on or before the 5<sup>th</sup> day of each month for all fares incurred during the preceding month. School shall promptly remit payment of all amounts owed within 30 days from receipt of any invoice(s).

**III.  
LIABILITY**

Each party agrees to bear liability and responsibility for the negligent, reckless or deliberate acts or omissions of their own officers and employees, as limited by the New Mexico Tort Claims Act.

**IV.  
INSURANCE**

Both City and School shall maintain liability insurance or qualify as a self-insured entity to adequately cover Learning Center Activities associated with the 21<sup>st</sup> CCLCG program.

**V.  
SOVEREIGN IMMUNITY**

Nothing in this agreement shall be construed as waiving governmental sovereign immunity as to City or School and any and all requirements in conjunction with governmental sovereign immunity.

**VI.  
TERM**

This Agreement shall be in effect from October 1, 2021, until May 27, 2022. The parties may extend this agreement for the 2022-2023 school year, and each school year thereafter in connection with the 21<sup>st</sup> Century Grant with the parties' mutual agreement and City Commission and School Board approval. Future agreements shall be approved on or before May 31 of each subsequent year.

**VII.  
NEW MEXICO DOT VIOLATIONS**

In the event this Agreement violates any terms and conditions of the City's Memorandum of Agreement with the New Mexico Department of Transportation for the operation of public transportation services within the City of Hobbs, this Agreement shall terminate immediately.

**VIII.  
MERGER OF AGREEMENT**

The agreement incorporates all agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this Agreement.

No prior statements, representations, promises or agreement of understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

**IX.  
THIRD PARTY BENEFICIARIES**

It is specifically agreed between the parties executing the Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary, or to authorize anyone not a party to the Agreement to maintain, pursuant to the provisions of the Agreement, a suit of any nature, including but not limited to suits alleging wrongful death, bodily and/or personal injury to person(s), damages to property(ies), and/or any cause of action.

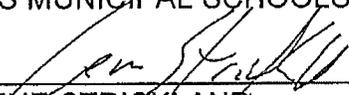
**X.  
SEVERABILITY**

If any provision of this Memorandum of Understanding is found to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Memorandum of Understanding is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

[REQUIRED SIGNATURES ON NEXT PAGE]

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

HOBBS MUNICIPAL SCHOOLS

BY:   
GENE STRICKLAND,  
Superintendent

THE CITY OF HOBBS, NEW MEXICO

BY: \_\_\_\_\_  
SAM D. COBB  
Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
EFREN CORTEZ, City Attorney



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM
MEETING DATE: October 18, 2021

SUBJECT: RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF HOBBS & THE HOBBS MUNICIPAL SCHOOLS REGARDING MIDDLE SCHOOL ATHLETIC PROGRAMS.

DEPT. OF ORIGIN: RECREATION
DATE SUBMITTED: October 11, 2021
SUBMITTED BY: Doug McDaniel, Recreation Director

SUMMARY:

For many years, the City of Hobbs operated a winter basketball program for boys and girls. Beginning in 1999, the City and the Hobbs Municipal Schools entered into an agreement that funded the basketball program which the Hobbs Municipal Schools began to operate. The program has since evolved to include basketball, football and volleyball for 6th and 7th grade students.

The Hobbs Municipal Schools will use New Mexico Activities Association certified coaches for these programs and will provide documentation of such training to the City of Hobbs. The Hobbs Municipal Schools will also provide a report of activities and participation, and the City has the right to request and/or examine these records as provided in the agreement.

Participation totals: 2018 800
2019 760
2020 No Program/COVID-19 pandemic

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

\$75,000 budgeted in FY21 budget in Recreation line item 01-0330-42601 (Professional Services).

Attachments:

- 1) Resolution authorizing agreement
2) Professional Services Agreement

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Approve the Resolution authorizing the 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. 7116

A RESOLUTION APPROVING AN AGREEMENT  
BETWEEN THE CITY OF HOBBS AND THE HOBBS MUNICIPAL SCHOOLS  
REGARDNG MIDDLE SCHOOL ATHLETIC PROGRAMS

WHEREAS, beginning in 1999 the City of Hobbs has funded a community basketball program which was operated by the Hobbs Municipal Schools; and

WHEREAS, the Middle School Athletic Program has since expanded to include basketball, volleyball and football programs for 6<sup>th</sup> and 7<sup>th</sup> grade students; and

WHEREAS, the Hobbs Municipal Schools will use New Mexico Activities Association certified coaches for these programs and will provide documentation of such training to the City of Hobbs; and

WHEREAS, the Hobbs Municipal Schools will also provide a report of activities and participation, and the City has the right to request and/or examine these records as provided in the Agreement;

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 execute this Professional Services Agreement between the City of Hobbs and the Hobbs Municipal Schools, a copy of which it attached hereto and incorporated herein.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CITY OF HOBBS, NEW MEXICO, a municipal corporation, (hereinafter referred to as "CITY") and the local School Board of Hobbs Municipal School District, (hereinafter referred to as "SCHOOLS").

NOW, THEREFORE, THE PARTIES HERETO HEREBY DO COVENANT AND AGREE AS FOLLOWS:

### I.

SCHOOLS shall operate football, volleyball, and basketball programs for 6<sup>th</sup> and 7<sup>th</sup> grade students (hereinafter referred to as "Middle School Athletic Program"). SCHOOLS shall perform the necessary services toward promoting these activities in the community, and such services shall include, but not be limited to, the following:

- A. Provide facilities to operate the Middle School Athletic Program;
- B. Provide necessary equipment as needed to fulfill requirements of the Middle School Athletic Program. This includes, but is not limited to employee uniforms, balls, helmets, jerseys, pants, protective equipment, whistles and awards associated with the program. Equipment shall be the property of SCHOOLS;
- C. Hire and maintain a program coordinator and adequate staff to service the Middle School Athletic Program. Program coordinator and staff shall be employees of SCHOOLS and shall not be employees of CITY and are not entitled to any City of Hobbs benefits, including, but not limited to, insurance, leave, worker's compensation, and/or retirement;
- D. Design and place news releases and advertising in the appropriate media, naming CITY as co-sponsor;
- E. Maintain daily records of activities and the number of participants in the program and submit a report of actual expenses at the conclusion of the program;
- F. Coordinate with City's Parks and Recreation Department on an as needed basis on any issues arising from program;
- G. Maintain all trash and general cleanliness of the facility. Maintain and operate all concession stands, restroom facilities, bleachers and other gym amenities;
- H. Ensure all coaches for all football, basketball and volleyball teams are New Mexico Activities Association certified coaches and SCHOOLS shall provide documentation of such certification for all coaches to the CITY. SCHOOLS shall also ensure all coaches and associated staff receive regular training related to safety of all

participants;

I. Perform such other related services as mutually agreed upon by both parties and requiring no additional cost as anticipated by the scope of this Agreement including a final written evaluation of the total program;

J. Provide the program free of charge to all participants, excluding equipment deposits.

II.

CITY shall not be obligated to expend funds in excess of **Seventy-five Thousand Dollars (\$75,000.00)** during the term of this Agreement. The term of this Agreement is one (1) year, commencing October 19, 2021, and terminating June 30, 2022.

CITY agrees to pay SCHOOLS for approved and accepted expenses in connection with the Middle School Athletic Program, not to exceed **Seventy-five Thousand Dollars (\$75,000.00)** for the term of this Agreement.

III.

SCHOOLS agree to expend, at a minimum, an amount equal to the amount expended by CITY under this agreement, on improvements to facilities that are used jointly by both SCHOOLS and CITY such as Hobbs High School Tennis Courts, Veterans Memorial Baseball/Softball Complex and others during the term of this agreement.

SCHOOLS agree to maintain documentation regarding the amount expended by SCHOOLS on improvements to facilities that are used jointly by both SCHOOLS and CITY and SCHOOLS further agree to provide said documentation to CITY in a timely manner.

SCHOOLS and CITY shall agree on each project, the scope of the project, and the details of the improvements to be made to the facilities that are used jointly by both SCHOOLS and CITY prior to any expenditure of money by SCHOOLS under this agreement.

SCHOOLS shall have the exclusive right to implement programs as deemed necessary. As such, SCHOOLS shall be solely responsible for any actions, inactions, or potentially tortious conduct of its personnel involved with implementing the sports programs contemplated herein.

#### IV.

SCHOOLS agree to hold CITY free and harmless from any costs determined ineligible by proper audit and SCHOOLS will not enter into any obligation which purports to be binding on CITY in any manner.

At such times and in such form as the City Manager may require, there shall be furnished to CITY such statements, records, reports, data and information as CITY may request pertaining to matters covered by this Agreement. Furthermore, at any time during normal business hours and as often as CITY may deem necessary, there shall be made available to CITY for examination, all records maintained by SCHOOLS with respect to all matters covered by this Agreement; any requested excerpts of transcripts from such records and audits of all data relating to all matters covered by this Agreement subject to the limitations set out above.

SCHOOLS covenants and agrees that it will hold and save CITY harmless from any and all liability, damage, expense, cause of action, suits, claims or judgments arising from injury to person(s) or damage to property arising out of this Agreement of which are not a result of CITY actions or inactions.

SCHOOLS shall treat all participants with respect and will not subject anyone to discrimination or harassment because of the person's race, color, sexual orientation, national origin, age, religion, gender, gender identity, disability, or any other legally protected classification.

SCHOOLS shall maintain general liability insurance in the minimum amount of \$1,000,000.00 per occurrence covering any liability, damage, expense, cause of action, suits, claims or judgments arising from injury to person(s) or damage to property during the course of execution of this agreement. SCHOOLS shall cause CITY to be named as an additional insured on said policy and shall provide a copy of said coverage to CITY. The parties agree said SCHOOLS policy shall be primary coverage in the event of a claim against SCHOOLS or CITY.

If any part or portion of this Agreement shall be in violation of the laws or Constitution of New Mexico, only such part or portion hereof shall be invalidated thereby, and any monies paid by CITY thereunder shall be repaid to it by SCHOOLS, but all other portions hereof shall remain valid and enforceable. This Agreement shall not be effective without the written approval of the Hobbs City Commission and the Hobbs ISD School Board.

This Agreement shall continue in force until the date of expiration as outlined herein, or until all funds contemplated herein are expended, whichever is sooner. This Agreement may be canceled by either party after giving sixty (60) days' written notice





CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

SUBJECT: FY23 NM EMS Special Projects Grant

DEPT. OF ORIGIN: Fire
DATE SUBMITTED: October 7, 2021
SUBMITTED BY: Barry Young, Fire Chief

Summary: The City of Hobbs Fire Department is eligible to participate in the FY23 NM Special Projects Grant. The projects for this grant must contribute to the enhancement and/or integration of the local EMS system and fall into one of four categories: EMD Program Funding, Local System Improvement, Statewide Improvement, and Vehicle Purchase.

The Hobbs Fire Department wishes to utilize this grant, under the Local System Improvement, for the purchase of a Ferno Power X1 gurney. The department has transitioned to this gurney over the last two years, and if successful, this grant would provide funding for the purchase of a new gurney to be utilized during EMS calls. The Power X1 gurney offers more power, stability, maneuverability, and speed than other powered cots in the industry.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

The total cost for this project is \$19,597.83. This is a 100% percent grant, with no matching funds necessary from the City. Therefore, there is no fiscal impact to the City of Hobbs.

Attachments:

- 1. Resolution
2. Assurances/Signature Page

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

Approval of the resolution to submit the FY23 NM EMS Special Projects Grant for the purchase of a Ferno Power X1 gurney.

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. 7117

A RESOLUTION AUTHORIZING THE MAYOR TO APPROVE  
SUBMISSION OF A GRANT APPLICATION WITH THE  
NEW MEXICO DEPARTMENT OF HEALTH EMS FUND ACT  
SPECIAL PROJECTS GRANT FOR FISCAL YEAR 2023

WHEREAS, the Hobbs Fire Department is eligible to participate in the FY23 New Mexico Department of Health EMS Fund Act Special Projects Grant; and

WHEREAS, the projects for this grant must contribute to the enhancement and/or integration of the local EMS system; and

WHEREAS, these funds will be utilized for the purchase of a Ferno Power X1 gurney;

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 execute on behalf of the City of Hobbs a Grant Application with the New Mexico Department of Health EMS Fund Act Special Projects Grant for FY23.

PASSED, APPROVED AND ADOPTED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

**ASSURANCES**

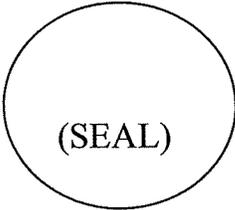
The following are required assurances associated with your EMS Local System Improvement Project for Fiscal Year 2022.

- I certify that funds received through this distribution will be used only for the purposes and under the condition expressed in the application or its approved amendment(s);
- I certify that we will provide the support and involvement either cash and/or in-kind contributions as described in this application;
- I certify that we and the local recipient(s), understand and agree to comply with all applicable requirements of the New Mexico Department of Health; and
- I certify that the information contained in this application is true and correct to the best of my knowledge.

<b><u>Chief / Director of Local EMS Service</u></b>	
NAME: <u>Barry Young</u> (Print / Type Name)	TITLE: <u>Fire Chief</u>
SIGNATURE: _____	DATE: _____

The above was sworn and subscribed to before me this \_\_\_\_ of \_\_\_\_\_, 20\_\_  
(Day) (Month)

\_\_\_\_\_  
**Notary Public**

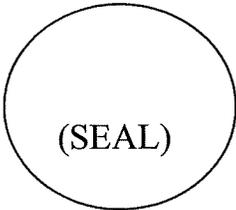


My commission expires: \_\_\_\_\_

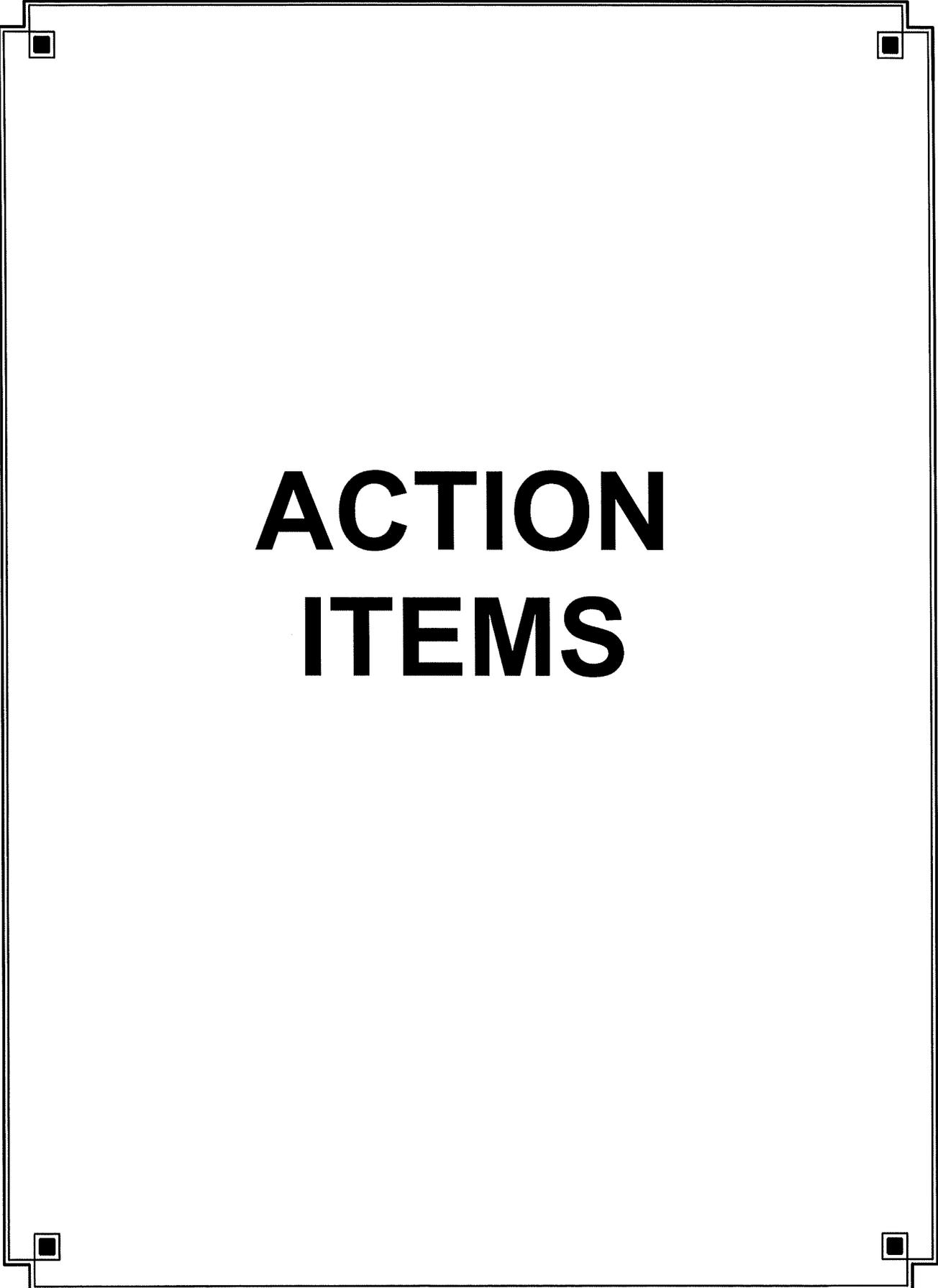
<b><u>Mayor / Chairman County Commission</u></b>	
NAME: <u>Sam D. Cobb</u> (Print / Type Name)	TITLE: <u>Mayor</u>
SIGNATURE: _____	DATE: _____

The above was sworn and subscribed to before me this \_\_\_\_ of \_\_\_\_\_, 20\_\_  
(Day) (Month)

\_\_\_\_\_  
**Notary Public**



My commission expires: \_\_\_\_\_



# **ACTION ITEMS**



# CITY OF HOBBS

COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

**SUBJECT: Authorizing the Hobbs Police Dept. to enter into a Memorandum of Understanding with the District Attorney's Office, Law Office of the Public Defender, Guidance Center of Lea County, and the United Way of Lea County for a Law Enforcement Assisted Diversion Program "LEAD".**

**DEPT. OF ORIGIN:** Hobbs Police Department  
**DATE SUBMITTED:** October 8, 2021  
**SUBMITTED BY:** John Ortolano, Chief of Police

**Summary:**

The Hobbs Police Department (HPD) requests to enter into a Memorandum of Understanding with the District Attorney's Office, Law Office of the Public Defender, Guidance Center of Lea County, and the United Way of Lea County for a Law Enforcement Assisted Diversion Program "LEAD". This program will improve public safety and public health by reducing the potential for criminal behavior by persons struggling with problematic drug use in our community.

**Fiscal Impact:**

Reviewed By:   
Finance Department

The City of Hobbs will not see any fiscal impact during the three year grant period for the LEAD program.

**Attachments:**

- 1. Memorandum of Understanding

**Legal Review:**

Approved as to form:   
City Attorney

**Recommendation:**

The City Commission approve the adoption of the Resolution to authorize HPD to enter into the MOU with the Fifth judicial District Attorney's Office, Law officer of the Public Defender, Guidance Center of Lea County, United Way of Lea County for the LEAD program.

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. 7118

A RESOLUTION AUTHORIZING THE HOBBS POLICE DEPARTMENT TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE DISTRICT ATTORNEY'S OFFICE, PUBLIC DEFENDER'S OFFICE, GUIDANCE CENTER OF LEA COUNTY AND THE UNITED WAY OF LEA COUNTY FOR LAW ENFORCEMENT ASSISTED DIVERSION PROGRAM "LEAD."

WHEREAS, the City of Hobbs, authorizes the Hobbs Police Department to enter into a Memorandum of Understanding "MOU" with the District Attorney's Office, Public Defender's Office, Guidance Center of Lea County and the United Way of Lea County for law enforcement assisted diversion program "LEAD"; and

WHEREAS, the City of Hobbs and its residents want to improve public safety and public health by reducing the potential for criminal behavior by persons struggling with problematic drug use in their community; and

WHEREAS, booking, prosecuting, and jailing individuals committing low-level drug offenses has had inconsistent effectiveness in improving either public safety or public health; and

WHEREAS, interventions that connect low-level drug offenders with public services may be more cost effective and successful at reducing criminal behavior than processing these individuals through the criminal justice system; and

WHEREAS, the parties to this MOU provide resources for the operation of robust pre-booking diversion project in the City with the understanding that the project presents a unique opportunity to work with local partners on a new strategy that holds promise for

effecting systemic change and paradigm shift in the public response to individuals' low-level drug involvement; and

WHEREAS, a program grounded in harm reduction, such as LEAD, may provide better results than traditional abstinence-only programs; and

WHEREAS, harm reduction is a public health philosophy and an intervention measure that seeks to reduce the harms associated with drug use.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, authorizes the Hobbs Police Department to enter into Memorandum of Understanding "MOU" with the District Attorney's Office, Public Defender's Office, Guidance Center of Lea County and the United Way of Lea County for Law Enforcement Assisted Diversion Program "LEAD".

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

Memorandum of Understanding  
Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into on this 28th day of September, 2021, by and between the FIFTH JUDICIAL DISTRICT ATTORNEY'S OFFICE (“District Attorney”), LAW OFFICE OF THE PUBLIC DEFENDER (“Public Defender”), GUIDANCE CENTER OF LEA COUNTY, (“GCLC”), UNITED WAY OF LEA COUNTY, (UWLC), and the HOBBS POLICE DEPARTMENT (“HPD” or “City”), regarding the LAW ENFORCEMENT ASSISTED DIVERSION PROGRAM (“LEAD”).

**WHEREAS**, the City of Hobbs and its residents want to improve public safety and public health by reducing the potential for criminal behavior by persons struggling with problematic drug use in their community; and

**WHEREAS**, booking, prosecuting, and jailing individuals committing low-level drug offenses has had inconsistent effectiveness in improving either public safety or public health; and

**WHEREAS**, interventions that connect low-level drug offenders with services may cost less and be more successful at reducing criminal behavior than processing these individuals through the criminal justice system; and

**WHEREAS**, the parties to this MOU provide resources for the operation of a robust pre-booking diversion project in the City with the understanding that the project presents a unique opportunity to work with local partners on a new strategy that holds promise for effecting systemic changes and paradigm shift in the public response to individuals' low-level drug involvement; and

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Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

**WHEREAS**, a program grounded in harm reduction, such as LEAD, may provide better results than traditional abstinence-only programs; and

**WHEREAS**, harm reduction is a public health philosophy and an intervention measure that seeks to reduce the harms associated with drug use.

NOW, THEREFORE, THE PARTIES STATE THEIR MUTUAL UNDERSTANDING AND INTENT AS FOLLOWS:

**A. Formation, Purposes and Membership in the LEAD Policy**

**Coordinating Group**

1. The LEAD Policy Coordinating Group (PCG) is hereby formed for the LEAD pre-arrest diversion project. The purpose of the PCG is to make policy and policy-level decisions regarding the LEAD program, to provide periodic administrative oversight of the program, and to protect the integrity of the LEAD model and uphold its guiding principles. The PCG membership shall consist of representatives from each of the following entities and organizations:

- a. The Hobbs Police Department,
- b. Fifth Judicial District Attorney's Office,
- c. Law Offices of the Public Defender,
- d. Guidance Center of Lea County,
- e. United Way of Lea County

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Version 1.0

2. By written amendment signed by all parties to this MOU, additional member entities and organizations may be added to the PCG, as either voting or advisory members. Additional members shall be added, upon unanimous consent of the PCG members.

**B. Responsibilities**

1. The role of the PCG is to make policy level decisions regarding the LEAD program, provide periodic administrative oversight of the program and to uphold the guiding principles of the model including a commitment to harm reduction. Specific responsibilities include:

- a. Review and approve LEAD referral and diversion protocols;
- b. Oversee the role of the Program Manager;
- c. Collaborate with the Guidance Center of Lea County and oversee the grant agreements for LEAD operation and evaluation;
- d. Review of solicitations and contract for LEAD service provision and evaluation;
- e. In accordance with the Health Insurance Portability and Accountability Act (“HIPAA”) and all other federal, state, and local laws and regulations, make available criminal justice and human services system data for comparison and evaluative purposes;

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Version 1.0

- f. Oversee LEAD program implementation, including, 1) regular review of reports from the Operations Work Group, 2) contract compliance of the Program Manager, service providers and evaluators, 3) Operations Work Group and service provider program compliance, and 4) ensure a commitment to a harm reduction philosophy and solicitation and review of community feedback; and
- g. Modification of service provision, or evaluation criteria and process, as needed by way of amending the service provider's professional services agreement.

**C. MOU signatories' individual statement of intent**

The parties signing this MOU specifically state their respective intent and commitment as follows:

1. The Hobbs Police Department agrees to: i) commit to participate in the LEAD program on both an operational and policy level; ii) assign personnel to the program, including certified officers with the Department, who will receive additional focused training on harm reduction and the LEAD referral process; and iii) provide an additional designee of the Chief of Police, who will ensure that officers remain committed to the harm reduction philosophy at the core of this project.

2. The District Attorney is dedicated to reducing the impact of problematic drug use on the community through a commitment to a harm reduction philosophy. The District Attorney will provide the following staffing to the program when practicable: an Assistant District Attorney or other prosecuting attorney to both the Policy Coordinating Group and

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Version 1.0

Operations Work Group. The District Attorney and/or the Assistant District Attorney shall serve on each group as long as both groups exist or unless and until the District Attorney withdraws from the LEAD program. The District Attorney's Office will assist with legislative advocacy and fundraising as needed. Though they will be informed by the Operations Work Group's staffing recommendations regarding participants.

3. The Public Defender commits to participate in the LEAD program on both an operational and policy level. The Public Defender will assist with legislative advocacy and fundraising as needed.

4. Guidance Center of Lea County will dedicate staffing resources for the PCG, provide technical assistance, and assist with legislative advocacy, fundraising, document drafting, stakeholder consultation, and troubleshooting as needed. GCLC, with other partners, will advocate for fidelity to agreed protocols and core principles of LEAD. GCLC, along with other partners, will be responsible for communication with interested policymakers and community leaders in other jurisdictions regarding the LEAD implementation process.

5. United Way of Lea County commits to participate in the LEAD program on both an operational and policy level, The United Way of Lea County will assist with legislative advocacy and fundraising as needed.

**D. Governance**

1. Participation in the PCG is voluntary and any member may withdraw unilaterally at any time for any reason with ten days written notice to the other parties.

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Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

2. This MOU does not amend any law or ordinance; nor does it create any binding obligation on the part of any signatory. This MOU simply memorializes the intent of the PCG members in participating in this project and describes the responsibilities they understand to be accepting through their participation.

3. All decisions of the PCG shall be made by consensus. For purposes of this MOU, "consensus" means a resolution that is acceptable to all participants even if not ideal to one or more.

4. Each PGC member shall designate one representative for purposes of determining consensus in PCG's decisions, but multiple representatives from each organization may attend meetings and participate in discussions, as non-voting representatives.

5. This MOU shall be signed in counterparts and shall be effective as of the date it is signed by all parties. It shall remain in effect until January 1, 2024. No amendment or modification of this MOU will have effect unless it is made in writing and agreed to by all signatories or their successors.

**E. Liability**

Guidance Center of Lea County Confidentiality and HIPAA Compliance.

GCLC will abide by patient confidentiality laws and regulations including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. §1320d et seq., 45 C.F.R. Parts 160 & 164, and the

Memorandum of Understanding  
Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

Confidentiality Law, 42 U.S.C. §290dd-2, 42 C.F.R. Part 2. Under these laws, Guidance Center of Lea County may not disclose to anyone that a client attends the program, nor disclose any information identifying a client as an alcohol and drug abuser, or disclose any other protected information except as permitted by federal law. Written consent must be obtained before it can disclose any information. All other parties to this MOU shall constitute “business associates” as that term is defined in 45 C.F.R. Part 160.103. All required business associate agreements shall be executed separately from this MOU.

Each party shall only be liable for its actions in accordance with this MOU. Each party shall not be liable for the acts of the other parties to this MOU, or their employees, officials, agents, executives, boards, contractors, or advisors. Any liability incurred by the City, Public Defender, and the District Attorney in connection with this MOU is subject to the immunities and the limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City, Public Defender and the District Attorney, and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in the Agreement modifies or waives any provision of the New Mexico Tort Claims Act. Each party has an affirmative duty to inform all other parties to this MOU of any “notice of claim” or other threat of litigation made against it whatsoever. In the event litigation ensues against one or all of the parties to this MOU, each party agrees to

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Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

cooperate with the defense of the named parties in the litigation.

It is expressly understood by the parties that officers with the Hobbs Police Department are charged with the protection of life and property. As a result, officers with the Hobbs Police Department shall be afforded discretion to perform their law enforcement functions at all times while performing under the aim of the MOU. The decision of a Hobbs Police Department officer to meet their duties to protect life and property shall not be a violation of this MOU.

**F. Miscellaneous Provisions**

This MOU incorporates all agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this MOU. No prior statements, representations, promises, or agreement of understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this MOU. Each party shall maintain liability insurance or qualify as a self-insured entity, as required by law. It is specifically agreed between the parties executing this MOU that it is not intended by any of the provisions of any part of the MOU to create in the public or any member thereof, a third party beneficiary, or to authorize anyone not a party to the MOU to maintain, pursuant to the provisions of the MOU, a suit of any nature, including but not limited to suits alleging wrongful death, negligence, bodily and/or personal injury to person(s), damages to property, and/or any other cause of action. This MOU shall be construed in accordance with the laws of the State

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Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

of New Mexico. This MOU shall be in full force and effect upon execution and approval of all parties hereto. If any provision of this MOU is found to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this MOU is invalid or unenforceable, but that by limiting such provision the MOU would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited. The foregoing constitutes the entire agreement between the parties and may be modified only in writing signed by all parties. Amendments and alterations to this MOU after execution may only be made in writing signed by all parties.

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Version 1.0

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Memorandum of Understanding  
Hobbs Law Enforcement Assisted Diversion Program  
Version 1.0

CITY OF HOBBS:

GUIDANCE CENTER OF LEA COUNTY:

\_\_\_\_\_  
Sam Cobb, Mayor

\_\_\_\_\_  
Carrie Cooper, CEO

FIFTH JUDICIAL DISTRICT ATTORNEY:

LAW OFFICES OF THE PUBLIC DEFENDER:

DocuSigned by:  
*Dianna Luce* 9/29/2021  
5133CBD065EB455  
\_\_\_\_\_  
Dianna Luce, District Attorney

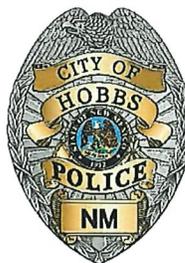
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*Ibukun Adepoju* 9/29/2021  
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\_\_\_\_\_  
Ibukun Adepoju, District Defender

CITY OF HOBBS POLICE DEPARTMENT:

UNITED WAY OF LEA COUNTY

DocuSigned by:  
*Chief Ortolano* 10/1/2021  
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\_\_\_\_\_  
John Ortolano, Chief of Police

DocuSigned by:  
*Becca Titus* 9/28/2021  
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Becca Titus, Director/CEO





# CITY OF HOBBS

## COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

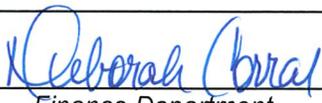
**SUBJECT: Authorizing the Amendment of Resolution No. 6667 dated 05/21/2018 and replacing it with a new police officer hiring incentive.**

**DEPT. OF ORIGIN:** Hobbs Police Department  
**DATE SUBMITTED:** October 8, 2021  
**SUBMITTED BY:** John Ortolano, Chief of Police

**Summary:**

The extremely competitive market to hire and retain police officers has caused many municipalities across the country to start or increase hiring incentives for police officers and non-certified applicants. Hobbs Police Department (HPD) requests to repeal resolution 6667 and replace with this resolution. The new hiring incentive would increase for certified officers and qualifying military police from \$30,000 to \$37,500. The increase requested for non-certified officers is to \$35,000. These increased dollar amounts would be paid upon completion of the HPD "In house" training.

**Fiscal Impact:**

Reviewed By:   
Finance Department

The City of Hobbs would see an increase in expenditures of up to \$100,000 in FY2022.

**Attachments:**

- 1. Resolution.
- 2. Attachment "A" Incentive payment schedule

**Legal Review:**

Approved as to form: \_\_\_\_\_  
City Attorney

**Recommendation:**

The City Commission approve the amendment to increase the police officer hiring incentives to \$37,500 for certified officers and qualifying military police personnel. Hiring incentives for non-certified police officers would be increased to \$35,000.

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. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 7119

A RESOLUTION AMENDING POLICE RECRUITING AND RETENTION  
RESOLUTION NO. 6667

WHEREAS, on May 21, 2018, the City of Hobbs adopted Resolution No. 6667, regarding the Police Recruiting and Retention; and

WHEREAS, the City of Hobbs intends to amend Resolution No. 6667; and

WHEREAS, Law enforcement agencies throughout the country are experiencing 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 workforce 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 amended and adopted as set forth in Attachment A herein.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

## **ATTACHMENT "A"**

### **HIRING INCENTIVES**

- Recruitment Incentive - \$1,500 - 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 for certified officers and qualifying military police personnel.
- 6 year/\$30,000 recruiting incentive for non-certified officers.
- 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. An additional \$7,500 is paid to certified officers and \$5,000 to non-certified officers upon completion of the HPD "In-House" academy.



# CITY OF HOBBS

## COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

**SUBJECT:** Resolution Adopting Budgetary Adjustment #1 for the Fiscal Year 2021-2022  
**DEPT. OF ORIGIN:** Finance Department  
**DATE SUBMITTED:** October 14, 2021  
**SUBMITTED BY:** Deborah Corral, Assistant Finance Director

**Summary:**

The fiscal budget of the City of Hobbs is adopted by resolution, and reviewed and approved by the Department of Finance & Administration. The budget is prepared prior to the beginning of the fiscal year, and as such, from time to time it becomes necessary to adjust the budget for items not contemplated at the time of its preparation or for issues that arise during the fiscal year.

Enclosed is a budgetary adjustment #1 for the current year. A summary of the funds adjusted is attached to this resolution. After this adjustment is approved by the Commission, it must be forwarded to the Department of Finance & Administration for their approval.

**Fiscal Impact:**

Reviewed By: *Deborah Corral*  
Finance Department

Total revenue is increased by \$3,659,968.00 and total expense increased by \$3,339,600.26 providing a budgeted ending cash balance of \$84,728,587.59 for all funds. General fund reserve is decreased from 48% to 47%.

This budget adjustment also includes inter-fund cash transfers.

**Attachments:**

- Budget Cash Balance Sheet
- Budgeted Adjustments Detail
- Resolution approving Budget Adjustment for the fiscal year 2021-2022

**Legal Review:**

Approved As To Form: \_\_\_\_\_  
City Attorney

**Recommendation:**

Motion to approve the resolution.

Approved For Submittal By:  
*Deborah Corral*  
Department Director

\_\_\_\_\_  
City Manager

CITY CLERKS USE ONLY  
COMMISSION ACTION TAKEN

Resolution No. \_\_\_\_\_  
Ordinance No. \_\_\_\_\_  
Approved \_\_\_\_\_  
Other \_\_\_\_\_

Continued To: \_\_\_\_\_  
Referred To: \_\_\_\_\_  
Denied \_\_\_\_\_  
File No. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 7120

BUDGETARY ADJUSTMENT #1

FISCAL YEAR 2021-2022

WHEREAS, the fiscal budget for the City of Hobbs is prepared, reviewed and approved prior to the beginning of the fiscal year; and

WHEREAS, from time to time it becomes necessary to adjust the budget due to items not contemplated at the time it is prepared; and

WHEREAS, included in this budgetary adjustment total revenue is increased by \$3,659,968.00 total expense is increased by \$3,339,600.26.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the herein referenced budget adjustments be approved.

BE IT FURTHER RESOLVED BY THE GOVERNING BODY of the City of Hobbs, New Mexico, that the budgetary adjustments be subject to the approval of the Department of Finance and Administration of the State of New Mexico and that a copy of this Resolution be forwarded to their office in Santa Fe, New Mexico, for approval.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

**City of Hobbs BAR #1  
FY22 Fund Summary**

Fund	Fund Description	Beginning Cash 06/30/2021	Total Revenue	Interfund Transfer	Total Expenditures	Ending Cash
001	GENERAL	79,692,583.32	59,842,304.86	(7,763,204.39)	89,734,691.78	42,036,992.01
002	LAND ACQUISITION	370,005.05	100,000.00	-	100,000.00	370,005.05
<b>General Fund Subtotal</b>		<b>80,062,588.37</b>	<b>59,942,304.86</b>	<b>(7,763,204.39)</b>	<b>89,834,691.78</b>	<b>42,406,997.06</b>
110	LOCAL GOV CORR	1,009,548.34	225,750.00	-	563,615.69	671,682.65
120	POLICE PROTECTION	39,073.62	79,200.00	-	118,273.62	-
130	P D N (parif, drug, narcotics)	1,918.75	-	-	-	1,918.75
150	COPS GRANT	1,000.00	128,462.11	456,013.99	417,655.68	167,820.42
160	RECREATION (CORE)	1,000.00	1,742,270.00	3,816,877.70	5,394,020.98	166,126.72
170	OLDER AMERICAN	1,000.00	197,920.00	982,672.85	1,180,592.85	1,000.00
180	GOLF	1,000.00	727,600.00	4,202,630.35	4,930,230.35	1,000.00
190	CEMETERY	1,000.00	182,900.00	616,332.50	799,232.50	1,000.00
200	AIRPORT	305,835.97	35,300.00	-	57,500.00	283,635.97
210	Legislative Appropriations	-	3,303,000.00	-	3,303,000.00	-
220	Intergovernmental Grants	-	4,835,515.50	-	4,835,515.50	-
230	LODGERS' TAX	1,184,148.04	602,000.00	(999,956.00)	602,000.00	184,192.04
270	PUBLIC TRANSPORTATION	70,302.21	1,385,703.68	-	1,420,059.05	35,946.84
280	FIRE PROTECTION	913,093.62	669,660.00	-	705,511.65	877,241.97
290	EMER MEDICAL SERV	582.73	31,225.00	-	31,807.73	-
<b>Special Revenue Subtotals</b>		<b>3,529,503.28</b>	<b>14,146,506.29</b>	<b>9,074,571.39</b>	<b>24,359,015.60</b>	<b>2,391,565.36</b>
370	COMM DEVE CONST	186,193.20	750,000.00	464,806.80	1,400,000.00	1,000.00
460	BEAUTIFICATION IMPROVEMENT	1,538,849.89	-	(1,000,000.00)	-	538,849.89
480	STREET IMPROVEMENTS	3,991,956.59	1,452,139.00	(464,806.80)	1,978,148.39	3,001,140.40
490	CITY COMM. IMPROVEMENTS	7,659,699.88	2,111,238.00	(7,011,893.67)	61,238.00	2,697,806.21
<b>Capitla Project Subtotals</b>		<b>13,376,699.56</b>	<b>4,313,377.00</b>	<b>(8,011,893.67)</b>	<b>3,439,386.39</b>	<b>6,238,796.50</b>
510	UTILITY BOND	-	-	307,004.90	307,004.90	-
530	WASTEWATER BOND	1,989,842.96	-	3,199,019.12	2,886,308.80	2,302,553.28
<b>Debt Service Subtotals</b>		<b>1,989,842.96</b>	<b>-</b>	<b>3,506,024.02</b>	<b>3,193,313.70</b>	<b>2,302,553.28</b>
100	SOLID WASTE	2,684,706.80	7,440,000.00	-	7,818,000.00	2,306,706.80
440	JOINT UTILITY EXTENSIONS CAPITAL PROJEC	1,000.00	885,736.20	4,011,893.67	4,897,629.87	1,000.00
600	JOINT UTILITY	1,000.00	-	6,860,184.02	6,860,184.02	1,000.00
610	JOINT UTILITY CONST	1,000.00	-	3,521,050.72	3,521,050.72	1,000.00
620	WASTE WATER PLANT CONST	7,773,078.39	86,202.65	4,707,707.55	12,565,988.59	1,000.00
630	JOINT UTILITY - WASTEWATER	1,000.00	-	4,481,031.13	4,481,031.13	1,000.00
650	JOINT UTILITY INCOME - WASTEWATER	7,409,090.12	8,191,619.00	(12,387,757.80)	30,619.00	3,182,332.32
660	JOINT UTILITY INCOME	6,148,526.09	8,725,500.00	(10,688,239.64)	-	4,185,786.45
680	METER DEPOSIT RES	1,146,891.55	375,000.00	-	375,000.00	1,146,891.55
690	INTERNAL SUPPLY	65,139.47	225,000.00	-	225,000.00	65,139.47
<b>Utility Subtotals</b>		<b>25,231,432.42</b>	<b>25,929,057.85</b>	<b>505,869.65</b>	<b>40,774,503.33</b>	<b>10,891,856.59</b>
640	MEDICAL INSURANCE	4,664,841.53	6,557,192.16	-	6,527,192.16	4,694,841.53
670	WORKERS COMP TRUST	1,150,237.21	605,864.34	-	605,864.34	1,150,237.21
740	INSURANCE - RISK	2,896,457.75	1,377,669.00	2,688,633.00	1,827,669.00	5,135,090.75
<b>Internal Service Subtotal</b>		<b>8,711,536.49</b>	<b>8,540,725.50</b>	<b>2,688,633.00</b>	<b>8,960,725.50</b>	<b>10,980,169.49</b>
700	MOTOR VEHICLE	29,528.42	4,000,000.00	-	4,000,000.00	29,528.42
710	MUNI JUDGE BOND FUND	106,707.34	-	-	-	106,707.34
720	RETIREE HEALTH INSURANCE TRUST FUND	9,000,000.00	1,288,970.22	-	1,288,970.22	9,000,000.00
730	CRIME LAB FUND	75,784.55	87,500.00	-	87,500.00	75,784.55
750	FORECLOSURE TRUST FUND	71.88	-	-	-	71.88
760	RECREATION TRUST	-	-	-	-	-
770	LIBRARY TRUST	5,984.15	1,500.00	-	1,500.00	5,984.15
780	SENIOR CITIZEN TRUST	3,319.94	3,000.00	-	3,000.00	3,319.94
790	PRAIRIE HAVEN MEM	5,833.22	50.00	-	-	5,883.22
800	COMMUNITY PARK TRUST	1,560.28	-	-	-	1,560.28
820	EVIDENCE TRUST FUND	262,627.64	5,000.00	-	-	267,627.64
830	HOBBS BEAUTIFUL	17,060.33	20,924.56	-	19,924.56	18,060.33
860	CITY AGENCY TRUST	2,121.56	1,000.00	-	1,000.00	2,121.56
<b>Trust &amp; Agency Subtotals</b>		<b>9,510,599.31</b>	<b>5,407,944.78</b>	<b>-</b>	<b>5,401,894.78</b>	<b>9,516,649.31</b>
<b>Grand Total All Funds</b>		<b>142,412,202.39</b>	<b>118,279,916.28</b>	<b>-</b>	<b>175,963,531.08</b>	<b>84,728,587.59</b>
			3,659,968.00		3,339,600.26	

47%

BAR #1 Details

Expense (New Money)										
Fund	Org	Obj	Proj	Dept Description	Description	FY22 Prelim Budget	Final Budget	BAR #1 Request	Total Budget	Comments
1	010100	42357		CITY COMMISSION	ADVERTISING	1,000.00	-	4,500.00	5,500.00	FY21 invoices for advertising did not get paid before June 20 (clean up related)
1	010100	42607	00329	CITY COMMISSION	LEGAL EXPENSE - TRD SETTLEMENT	-	-	291,549.00	291,549.00	budget for legal expense for TRD settlement
1	010110	42601		CITY MANAGERS C	PROFESSIONAL SERVICES	38,000.00	-	20,000.00	58,000.00	For the addition of a strategic plan
1	010140	42301		FINANCE/PURCHA	SUPPLIES-OFFICE	3,400.00	-	1,000.00	4,400.00	reimburse finance for payment of old Walmart charges
1	010190	42204		MOTOR VEHICLE	UNIFORMS	600.00	-	607.00	1,207.00	FY21 purchase order for uniforms paid August 2021
1	010190	42601		MOTOR VEHICLE	PROFESSIONAL SERVICES	-	-	1,200.00	1,200.00	shredding for MVD - overlooked in FY21 budget
1	010202	41132		POLICE PATROL	HIRING Incentive	-	-	100,000.00	100,000.00	estimated budget for police hiring incentive based on 20 positions at \$5000, can be used for higher incentives as needed
1	010207	42202		POLICE SURVEILLA	COMMUNICATIONS	180,000.00	-	8,100.00	188,100.00	9 months of service at \$900 per month for reduncant interconnectivity between HPD and LCCA
1	010208	42311		PD COMMUNITY S	ANIMAL FOOD VETERINARY	150,000.00	-	20,000.00	170,000.00	increase requested due to increased costs, budget currently at 88% expended/encumbered
1	010208	42601		PD COMMUNITY S	PROFESSIONAL SERVICES	295,000.00	-	125,207.00	420,207.00	increase in condemnations budget for demolition of 5 condemned structures in Hobbs
1	010220	42411	00328	FIRE/AMBULANCE	FIREHOUSE SUBS FOUNDATION GRANT	-	-	50,000.00	50,000.00	estimated grant award from quarterly application for Firehouse Subs Foundation Grant - offsetting revenue
1	010342	42321	00330	PUBLIC INFORMAT	SPECIAL EVENTS AND PRIZES	-	-	18,714.00	18,714.00	to cover additional expense for Tree Lighting Event - \$10,000 previously budgeted for event
1	010342	42357		PUBLIC INFORMAT	ADVERTISING	45,000.00	-	14,000.00	59,000.00	budget to cover increased costs of advertising
1	010421	44901	00242	BUILDING MAINTA	BUILDING ROOF UPGRADES	-	105,842.12	75,000.00	180,842.12	Budget for roof designs
1	010421	44901	00285	BUILDING MAINTA	HVAC REPLACEMENT PROJECT	-	-	75,000.00	75,000.00	Budget for HVAC replacements
<b>1 Total</b>								<b>804,877.00</b>		
10	104010	42248		SOLID WASTE FUN	WASTE MNGT TIPPING FEES	330,000.00	-	55,000.00	385,000.00	tipping fees related to demolition of city owned buildings by city departments - estimate covers cost of disposal of both buildings
10	104010	42601		SOLID WASTE FUN	PROFESSIONAL SERVICES	168,000.00	-	45,000.00	213,000.00	fees to remove asbestos from city owned buildings prior to demolition
10	104010	42601	00313	SOLID WASTE FUN	CLEAN UP EFFORTS	250,000.00	-	250,000.00	500,000.00	to increase budget to estimated costs of fence for State Land leased property
<b>10 Total</b>								<b>350,000.00</b>		
17	174017	42501		OLDER AMERICAN	BUILDING AND GROUNDS	6,373.00	-	7,825.00	14,198.00	emergency rewiring of senior center outdoor building lighting
<b>17 Total</b>								<b>7,825.00</b>		
19	194019	43011		CEMETERY FUND	LAND IMPROVEMENTS	115,000.00	47,221.36	100,000.00	262,221.36	budget for proposed fence project on the east side of Prairie Haven Memorial Park
<b>19 Total</b>								<b>100,000.00</b>		

BAR #1 Details

28	284028	42204		FIRE PROTECTION	UNIFORMS	-	-	60,000.00	60,000.00	For the purchase of new fire dept uniforms - Pants, EMS Shorts, Class B Shirts and Pullovers
28	284028	42353		FIRE PROTECTION	TRAINING	12,500.00	-	25,000.00	37,500.00	Budget for projected grant award from the Fire Protection Board for the purpose of supplementing recruitment and retention programs - offsetting revenue addition
28	284028	42601		FIRE PROTECTION	PROFESSIONAL SERVICES	47,700.00	-	15,000.00	62,700.00	additional funding for cost of physicals for HFD
28	284028	43006	00327	FIRE PROTECTION	EQUIP OVER - SCBA EQUIP GRNT	-	-	143,835.00	143,835.00	Budget for projected grant award from the Fire Protection Board for Raven CFS Eagle Air Breathing Air Compressor System and eleven (11) SCOTT SCBA Air packs - offsetting revenue addition
<b>28 Total</b>								<b>243,835.00</b>		
37	374037	44901	00326	COMMUNITY DEV.	CDBG - MIDWEST INFRASTRUCTURE	-	-	1,250,000.00	1,250,000.00	Expense budget for CDBG infrastructure project on Midwest - application to commission on August 2nd - \$750,000 offsetting revenue
<b>37 Total</b>								<b>1,250,000.00</b>		
53	534053	47341		2005 WASTEWATER	BONDS PAID	1,687,514.16	-	(108,223.83)	1,579,290.33	Debt service paid at original amount instead of refinanced amount for FY22
53	534053	47342		2005 WASTEWATER	INTEREST PAID	86,299.70	345,198.79	258,899.09	690,397.58	Debt service paid at original amount instead of refinanced amount for FY22
<b>53 Total</b>								<b>150,675.26</b>		
74	744074	42222		INSURANCE	Insurance - General Liability	1,147,669.00	-	450,000.00	1,597,669.00	increase to cover the additional cost of the October insurance renewal
<b>74 Total</b>								<b>450,000.00</b>		
<b>Grand Total</b>								<b>3,357,212.26</b>		

BAR #1 Details

Expense (Reclass)										
Fund	Org	Obj	Proj	Dept Description	Description	FY22 Prelim Budget	Final Budget	BAR #1 Request	Total Budget	Comments
1	010220	42501		FIRE/AMBULANCE	BUILDING AND GROUNDS	64,000.00	-	9,000.00	73,000.00	transfer to cover cost of repair to post damaged in accident
1	010220	43013		FIRE/AMBULANCE	BUILDING IMPROVEMENTS	85,000.00	61,538.91	(9,000.00)	137,538.91	transfer to cover cost of repair to post damaged in accident
1	010220	42601		FIRE/AMBULANCE	PROFESSIONAL SERVICES	111,000.00	-	(43,890.00)	67,110.00	reclass original budget for physcals to PPF for cost of physcals for HFD
28	284028	42601		FIRE PROTECTION	PROFESSIONAL SERVICES	47,700.00	-	43,890.00	91,590.00	reclass original budget for physcals to PPF for cost of physcals for HFD
1	010422	42302		CODE ENFORCEME	TRAVEL, MEALS AND SCHOOLS	5,820.00	-	4,415.00	10,235.00	transfer to cover cost of additional training and certification for Building Inspector
1	010410	42601		ENGINEERING	PROFESSIONAL SERVICES	25,000.00	-	(4,415.00)	20,585.00	transfer to cover cost of additional training and certification for Building Inspector
22	224022	44901	00322	INTERGOVERNME	AMERICAN RESCUE PLAN EXPENSE	-	4,835,515.50	(689,670.00)	4,145,845.50	reclass of ARP money for Premium Pay
22	224022	41101	00322	INTERGOVERNME	PREMIUM PAY - ARP	-	-	689,670.00	689,670.00	reclass of ARP money for Premium Pay
1	010423	42246		STREETS/HIGHWA	MODIFIED ASPHALT MATERIAL	30,000.00	-	(10,000.00)	20,000.00	reclass to cover cost of traffic control items
1	010423	42512		STREETS/HIGHWA	BARRICADES AND SIGNS	-	-	10,000.00	10,000.00	reclass to cover cost of traffic control items
1	010421	42384		BUILDING MAINTEN	DA OFFICE - EXPENDITURES	45,000.00	-	(25,000.00)	20,000.00	reclass to buildings and grounds (\$20k) and repair - electrical (\$5k) - 75% of those budgets encumbered/ expended year to date
1	010421	42501		BUILDING MAINTEN	BUILDING AND GROUNDS	40,000.00	-	20,000.00	60,000.00	reclass to buildings and grounds (\$20k) and repair - electrical (\$5k) - 75% of those budgets encumbered/ expended year to date
1	010421	42538		BUILDING MAINTEN	REPAIR-ELECTRICAL	15,000.00	-	5,000.00	20,000.00	reclass to buildings and grounds (\$20k) and repair - electrical (\$5k) - 75% of those budgets encumbered/ expended year to date
<b>Grand Total</b>								-		

BAR #1 Details

Expense (Change to Salaries)										
Fund	Org	Obj	Proj	Dept Description	Description	FY22 Prelim Budget	Final Budget	BAR #1 Request	Total Budget	Comments
1	010110	41101		CITY MANAGERS C	SALARIES	526,793.15	-	(46,325.00)	480,468.15	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
1	010110	41111		CITY MANAGERS C	FICA	37,778.80	-	(3,544.00)	34,234.80	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
1	010110	41112		CITY MANAGERS C	PERA	71,925.42	-	(6,393.00)	65,532.42	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
1	010208	41101		PD COMMUNITY S	SALARIES	691,276.42	-	46,325.00	737,601.42	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
1	010208	41111		PD COMMUNITY S	FICA	61,489.32	-	3,544.00	65,033.32	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
1	010208	41112		PD COMMUNITY S	PERA	94,534.72	-	6,393.00	100,927.72	Change of Location from 0110 to 0208 and Title from Tourism Coordinator to Community Services Admin
								-		
1	010110	41101		CITY MANAGERS C	SALARIES	526,793.15	-	(24,164.00)	502,629.15	reduction due to split of risk manager/Executive. Assistant role to Executive Assistant only
1	010110	41111		CITY MANAGERS C	FICA	37,778.80	-	(1,849.00)	35,929.80	reduction due to split of risk manager/Executive. Assistant role to Executive Assistant only
1	010110	41112		CITY MANAGERS C	PERA	71,925.42	-	(3,334.00)	68,591.42	reduction due to split of risk manager/Executive. Assistant role to Executive Assistant only
								(29,347.00)		
1	010110	41101		CITY MANAGERS C	SALARIES	526,793.15	-	(73,300.00)	453,493.15	Change of Location from 0110 to 00170 for Risk Manager position
1	010110	41111		CITY MANAGERS C	FICA	37,778.80	-	(5,608.00)	32,170.80	Change of Location from 0110 to 00170 for Risk Manager position
1	010110	41112		CITY MANAGERS C	PERA	71,925.42	-	(10,116.00)	61,809.42	Change of Location from 0110 to 00170 for Risk Manager position
1	010170	41101		PERSONNEL	SALARIES	406,447.67	-	73,300.00	479,747.67	Change of Location from 0110 to 00170 for Risk Manager position
1	010170	41111		PERSONNEL	FICA	32,332.57	-	5,608.00	37,940.57	Change of Location from 0110 to 00170 for Risk Manager position
1	010170	41112		PERSONNEL	PERA	55,154.96	-	10,116.00	65,270.96	Change of Location from 0110 to 00170 for Risk Manager position
								-		

BAR #1 Details

1	010206	41101	POLICE DETENTION SALARIES - NON CERTIFIED		835,201.63	-	(29,750.00)	805,451.63	reclass of a detention shift supervisor position to an animal control officer
1	010206	41111	POLICE DETENTION FICA		74,848.42	-	(2,276.00)	72,572.42	reclass of a detention shift supervisor position to an animal control officer
1	010206	41112	POLICE DETENTION PERA		224,360.53	-	(4,106.00)	220,254.53	reclass of a detention shift supervisor position to an animal control officer
1	010208	41101	PD COMMUNITY S SALARIES		691,276.42	-	23,155.00	714,431.42	reclass of a detention shift supervisor position to an animal control officer
1	010208	41111	PD COMMUNITY S FICA		61,489.32	-	1,771.00	63,260.32	reclass of a detention shift supervisor position to an animal control officer
1	010208	41112	PD COMMUNITY S PERA		94,534.72	-	3,195.00	97,729.72	reclass of a detention shift supervisor position to an animal control officer
							(8,011.00)		
1	010208	41101	PD COMMUNITY S SALARIES		691,276.42	-	27,490.00	718,766.42	reclass of veterinary assistant and animal adoption center attendant positions from PAT7 and LT07 to PAT6 and LT05 respectively
1	010208	41111	PD COMMUNITY S FICA		61,489.32	-	2,103.00	63,592.32	reclass of veterinary assistant and animal adoption center attendant positions from PAT7 and LT07 to PAT6 and LT05 respectively
1	010208	41112	PD COMMUNITY S PERA		94,534.72	-	3,794.00	98,328.72	reclass of veterinary assistant and animal adoption center attendant positions from PAT7 and LT07 to PAT6 and LT05 respectively
							33,387.00		
1	010310	41101	LIBRARY SALARIES		613,785.98	-	(4,594.00)	609,191.98	reclass two existing library positions into one assistant library director position
1	010310	41111	LIBRARY FICA		48,394.24	-	(351.00)	48,043.24	reclass two existing library positions into one assistant library director position
1	010310	41112	LIBRARY PERA		83,403.77	-	(634.00)	82,769.77	reclass two existing library positions into one assistant library director position
							(5,579.00)		
1	010204	41101	POLICE SUPPORT SALARIES - CERTIFIED		1,541,455.14	-	(53,798.00)	1,487,657.14	reclass an active lieutenant from 0204 to 0202
1	010204	41111	POLICE SUPPORT FICA		130,614.47	-	(4,116.00)	126,498.47	reclass an active lieutenant from 0204 to 0202
1	010204	41112	POLICE SUPPORT PERA		375,270.38	-	(7,424.00)	367,846.38	reclass an active lieutenant from 0204 to 0202
1	010202	41101	POLICE PATROL SALARIES - CERTIFIED		4,283,646.85	-	53,798.00	4,337,444.85	reclass an active lieutenant from 0204 to 0202
1	010202	41111	POLICE PATROL FICA		371,087.17	-	4,116.00	375,203.17	reclass an active lieutenant from 0204 to 0202
1	010202	41112	POLICE PATROL PERA		1,128,876.35	-	7,424.00	1,136,300.35	reclass an active lieutenant from 0204 to 0202

BAR #1 Details

1	010203	41101	POLICE CRIMINAL   SALARIES - CERTIFIED	1,602,021.50	-	(20,160.00)	1,581,861.50	reclass police investigative aid to ipra coordinator position
1	010203	41111	POLICE CRIMINAL   FICA	141,771.50	-	(1,542.00)	140,229.50	reclass police investigative aid to ipra coordinator position
1	010203	41112	POLICE CRIMINAL   PERA	395,165.46	-	(2,782.00)	392,383.46	reclass police investigative aid to ipra coordinator position
1	010204	41101	POLICE SUPPORT   SALARIES - CERTIFIED	1,541,455.14	-	20,160.00	1,561,615.14	reclass police investigative aid to ipra coordinator position
1	010204	41111	POLICE SUPPORT   FICA	130,614.47	-	1,542.00	132,156.47	reclass police investigative aid to ipra coordinator position
1	010204	41112	POLICE SUPPORT   PERA	375,270.38	-	2,782.00	378,052.38	reclass police investigative aid to ipra coordinator position
						-		
<b>01 Total</b>						<b>(9,550.00)</b>		
16	164016	41101	HEALTH WELLNESS SALARIES	2,319,712.94	-	(6,638.00)	2,313,074.94	reclass facility maint. Coordinator position to a lower pay classification and removing supervisory expectations
16	164016	41111	HEALTH WELLNESS FICA	184,225.21	-	(508.00)	183,717.21	reclass facility maint. Coordinator position to a lower pay classification and removing supervisory expectations
16	164016	41112	HEALTH WELLNESS PERA	314,321.10	-	(916.00)	313,405.10	reclass facility maint. Coordinator position to a lower pay classification and removing supervisory expectations
						(8,062.00)		
<b>16 Total</b>						<b>(8,062.00)</b>		
<b>Grand Total</b>						<b>(17,612.00)</b>		

BAR #1 Details

Revenue										
Fund	Org	Obj	Proj	Dept Description	Description	FY22 Prelim Budget	Final Budget	BAR #1 Request	Total Budget	Comments
1	019999	30109			GROSS RECEIPTS 1.25%	(21,165,965.00)	-	305,000.00	(20,860,965.00)	reclass budget for gross receipts comp tax & telecom - per dfa reporting requirement
1	019999	30109	00329		GRT SETTLEMENT WITH TRD	-	-	(2,688,633.00)	(2,688,633.00)	to budget for expected cash received in grt settlement with TRD
1	019999	30118			GROSS RECEIPTS - TELECOM	-	-	(5,000.00)	(5,000.00)	reclass budget for gross receipts telecom - per dfa reporting requirement
1	019999	30119			GROSS RECEIPTS - COMP TAX	-	-	(300,000.00)	(300,000.00)	reclass budget for gross receipts comp tax - per dfa reporting requirement
1	019999	30631	00328		FIREHOUSE SUBS FOUNDATION GRANT	-	-	(50,000.00)	(50,000.00)	estimated grant award from quarterly application for Firehouse Subs Foundation Grant - offsetting expense
<b>1 Total</b>								<b>(2,738,633.00)</b>		
28	289999	30707	00327		FY22 FIRE PROT GRNT - SCBA EQU	-	-	(143,835.00)	(143,835.00)	Budget for projected grant award from the fire protection board for Raven CFS Eagle Air Breathing Air Compressor System and eleven (11) SCOTT SCBA Air packs - offsetting expense addition
28	289999	30730			FED/ST FUNDING 28	-	-	(25,000.00)	(25,000.00)	Budget for projected grant award from the Fire Protection Board for the purpose of supplementing recruitment and retention programs - offsetting expense addition
<b>28 Total</b>								<b>(168,835.00)</b>		
37	379999	30702	00326		CDBG - MIDWEST INFRASTRUCTURE	-	-	(750,000.00)	(750,000.00)	Revenue for CDBG project - pending approval (application approved August 2nd)
<b>37 Total</b>								<b>(750,000.00)</b>		
83	839999	30752			STATE GRANT REVENUE	(36,000.00)	17,575.44	(2,500.00)	(20,924.56)	FY21 Grant receivable received on 08/04/21 - not accounted for in FY22 budget
<b>83 Total</b>								<b>(2,500.00)</b>		
<b>Grand Total</b>								<b>(3,659,968.00)</b>		
Transfers										
Fund	Org	Obj	Proj	Dept Description	Description	FY22 Prelim Budget	Final Budget	BAR #1 Request	Total Budget	Comments
1	019999	30803			Transfer to 17	567,560.79	407,287.06	7,825.00	982,672.85	
17	179999	30830			Transfer from 1	(567,560.79)	(407,287.06)	(7,825.00)	(982,672.85)	
1	019999	30805			Transfer to 19	413,526.64	102,805.86	100,000.00	616,332.50	
19	199999	30832			Transfer from 1	(413,526.64)	(102,805.86)	(100,000.00)	(616,332.50)	
1	019999	30895			Transfer to 74	-	-	2,688,633.00	2,688,633.00	
74	749999	30851			Transfer from 1	-	-	(2,688,633.00)	(2,688,633.00)	
48	489999	30860			Transfer to 37	-	-	463,807.00	463,807.00	
37	379999	30899			Transfer from 48	-	-	(463,807.00)	(463,807.00)	
								-		



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

**SUBJECT: Municipal Officer Election Resolution of the City of Hobbs, New Mexico**

DEPT. OF ORIGIN: City Clerk's Office  
DATE SUBMITTED: October 5, 2021  
SUBMITTED BY: Jan Fletcher, City Clerk

**Summary:**

A regular municipal election will be held on **Tuesday, March 1, 2022**, and persons shall be elected to fill the following elective offices:

- ★ One Commissioner from District 1 for a two-year term (to fill an unexpired term)
- ★ One Commissioner from District 4 for a four-year term
- ★ One Commissioner from District 5 for a four-year term
- ★ One Commissioner from District 6 for a four-year term
- ★ One Municipal Judge, elected at large, for a four-year term

Important dates in the resolution are noted as follows:

- ✓ January 4, 2022 - Candidate Filing Day in the Office of the Municipal Clerk at City Hall
- ✓ January 11, 2022 - Write-In Candidate Filing Day
- ✓ February 1, 2022 - First Day for Absentee and Early Voting – City Hall
- ✓ February 1, 2022 - Voter Registration Closes by Mail - Lea County Clerk @ 5:00 p.m.
- ✓ February 12, 2022 – First Day for Alternate Early Voting – Lea County Office Complex
- ✓ February 25, 2022 - Last Day for Issuance of Absentee Ballots
- ✓ February 26, 2022 - Last Day for All Early Voting
- ✓ March 1, 2022 - Election Day

All of the precincts have been consolidated and five (5) Voting Convenience Centers (VCC) have been secured for the election as follows:

- ▶ Hobbs City Hall Annex, 1<sup>st</sup> Floor, 200 East Broadway
- ▶ Teen Center, 620 West Alto
- ▶ Hobbs Municipal Schools Training Center, 2110 East Sanger
- ▶ Lea County Event Center, 5101 Lovington Highway
- ▶ Lea County Office Complex, 1019 East Bender Blvd.
  
- ▶ Absentee and Early Voting- Municipal Clerk's Office, 200 East Broadway
- ▶ Alternate Early Voting Site - Lea County Office Complex, 1019 East Bender

**Fiscal Impact:**

Reviewed By: \_\_\_\_\_

*Deborah Corral*  
Finance Department

The total operating costs for the election are currently budgeted at \$42,272.30 for poll workers, precinct supplies, printed material, Ballot-on-Demand Computer System and publication of legal notices.

**Attachments:**

Election Resolution

**Legal Review:**

Approved As To Form: \_\_\_\_\_

*Nancy Bowen*  
City Attorney

**Recommendation:**

Approval of the resolution.

Approved For Submittal By: \_\_\_\_\_

*[Signature]*  
Department Director  
*[Signature]*  
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

RESOLUTION NO. 7121

**A RESOLUTION CALLING FOR A MUNICIPAL OFFICER ELECTION  
TO BE HELD ON MARCH 1, 2022, AND NOTIFYING THE LEA COUNTY CLERK  
AND SECRETARY OF STATE OF THE POSITIONS TO BE FILLED**

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

1. Pursuant to NMSA 1978, Sections 1-22-3.1 and 1-22-4, a Municipal Officer Election will be held in the City of Hobbs, New Mexico, on Tuesday, March 1, 2022.
2. The following local governing body positions and judicial position shall be included in the Secretary of State's Proclamation to fill elective offices:
  - A. **ONE – City Commissioner, District 1, for a two-year term (to fill an unexpired term)**
  - B. **ONE – City Commissioner, District 4, for a four-year term**
  - C. **ONE – City Commissioner, District 5, for a four-year term**
  - D. **ONE – City Commissioner, District 6, for a four-year term**
  - E. **ONE – Municipal Judge, at large, for a four-year term**
3. Declarations of Candidacy for the Municipal Officer Election shall be filed on Tuesday, January 4, 2022, between 9:00 a.m. and 5:00 p.m. at the Municipal Clerk's Office at City Hall, 200 East Broadway, Hobbs, New Mexico.
4. Declarations of Intent to be a Write-In Candidate for the Municipal Officer Election shall be filed on Tuesday, January 11, 2022, between 9:00 a.m. and 5:00 p.m. at the Municipal Clerk's Office at City Hall, 200 East Broadway, Hobbs, New Mexico.
5. All precincts or portions thereof within the municipal boundaries of the City of Hobbs are hereby consolidated into one precinct for the conduct of the Municipal Officer Election.
6. The following locations are designated as polling places for the purpose of establishing Voter Convenience Centers on election day from 7:00 a.m. to 7:00 p.m. for the conduct of the Municipal Officer Election:
  - Hobbs City Hall Annex, 200 East Broadway
  - Teen Center, 620 West Alto
  - Hobbs Municipal Schools Training Center, 2110 East Sanger
  - Lea County Event Center, 5101 Lovington Hwy.
  - Lea County Office Complex, 1019 East Bender Blvd.

Absentee and Early Voting:           Municipal Clerk's Office  
200 East Broadway

Alternate Early Voting:               Lea County Office Complex  
1019 East Bender Blvd.

7. Absentee and Early Voting will be conducted at the Municipal Clerk's Office beginning on Tuesday, February 1, 2022, and ending on Friday, February 25, 2022, during regular business days and hours of operation between 8:00 a.m. and 5:00 p.m. Early Voting will also be conducted at the Municipal Clerk's Office on Saturday, February 26, 2022, from 10:00 a.m. to 6:00 p.m.
8. Alternate Early Voting will be conducted at the Lea County Office Complex, 1019 East Bender, Hobbs, New Mexico, beginning on Saturday, February 12, 2022, and ending on Saturday, February 26, 2022, which will be open on Tuesday through Saturday from 10:00 a.m. to 6:00 p.m.
9. The Municipal Clerk shall conduct the Municipal Officer Election for the City of Hobbs utilizing the appropriate statutes and Election Code.
10. This Resolution shall serve as notice to the Lea County Clerk and Secretary of State pursuant to NMSA 1978, Section 1-22-4(A).

**PASSED, ADOPTED AND APPROVED** this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

**SUBJECT: Resolution Appointing a Redistricting Committee**

DEPT. OF ORIGIN: Mayor's Office  
DATE SUBMITTED: October 5, 2021  
SUBMITTED BY: Mayor Sam Cobb

**Summary:**

Section 1.08.010 of the Hobbs Municipal Code requires that a committee of no less than seven (7) persons be appointed to review and adjust the City's six (6) Commission districts after receipt of the official Year 2020 Federal Census data.

**Fiscal Impact:**

Reviewed By: Debrah Corral  
Finance Department

None

**Attachments:**

- 1. Resolution Appointing a Redistricting Committee
- 2. Section 1.08.010 of the Hobbs Municipal Code

**Legal Review:**

Approved As To Form: Valeri Schwan  
City Attorney

**Recommendation:**

Approval of the resolution.

Approved For Submittal By:

Jan [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. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 7122

A RESOLUTION AUTHORIZING THE APPOINTMENT OF A  
REDISTRICTING COMMITTEE TO  
REVIEW THE CITY OF HOBBS COMMISSION DISTRICTS

WHEREAS, Section 1.08.010 of the Hobbs Municipal Code requires that a committee of no less than seven (7) persons be appointed to review and adjust the City's six (6) Commission districts after receipt of the official Year 2020 Federal Census data; and

WHEREAS, NMSA 1978, § 1-3-13D(2) provides that each local public body subject to redistricting and whose governing body members are not elected at the regular local election shall create or redraw districts for the local public body in the same calendar year in which the State receives the Federal Census data.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the following individuals are appointed to serve on a seven (7) member committee for the purpose of redistricting the City of Hobbs:

1. David Pyeatt
2. Brad Reimers
3. B. J. Choice
4. Oscar Gonzalez
5. JoAnn Penick
6. Pat Duran
7. Guy Kesner

Said Committee shall review and adjust the districts of the City of Hobbs to insure that ethnicity/language minority groups, compactness, contiguity, substantial equality in population, community interests, and other criteria set out in the Voting Rights Act are maintained in each single member district.

PASSED, APPROVED AND ADOPTED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

1.08.010 - City districts.

The City shall be divided into six (6) districts having boundaries as follows:

- A. District 1. District 1 consists of those portions of voting precincts numbered 24, 25, 29, 32, 33 and a portion of Precinct 28 lying within the City limits and being more particularly described as follows:

Beginning at the intersection of Sanger Street and Turner Street, thence north along the centerline of Turner Street to Bender Boulevard; thence east along the centerline of Bender Boulevard to Grimes Street; thence north along the centerline of Grimes Street to Cochiti Avenue; thence east along the centerline of Cochiti Avenue to Rojo Drive; thence south along the centerline of Rojo Drive to Copper Avenue; thence east along the centerline of Copper Avenue to Fowler Street; thence north along the centerline of Fowler Street to Navajo Drive; thence east along the centerline of Navajo Drive to Dal Paso Street; thence south along the centerline of Dal Paso Street to Sanger Street; thence west along the centerline of Sanger Street to Turner Street; being the point of beginning.

- B. District 2. District 2 consists of those portions of voting precincts numbered 41, 42, 43, 44 lying within the City limits and being more particularly described as follows:

Beginning at the intersection of Sanger Street and Dal Paso Street, thence north along the centerline of Dal Paso Street to Navajo Drive; thence east along the centerline of Navajo Drive to the west section line of Section 24, Township 18 South, Range 38 East; thence north along the west section line of Section 24, Township 18 South, Range 38 East to north City limits of Hobbs.

Also, beginning at the intersection of Sanger Street and Dal Paso Street, thence east along the centerline of Sanger Street to Jefferson Street; thence south along the centerline of Jefferson Street to Scharbauer Street; thence east along the centerline of Scharbauer Street to Stadium Drive; thence north along the centerline of Stadium Drive to Sanger Street; thence east along the centerline of Sanger Street to the east City limits of Hobbs.

- C. District 3. District 3 consists of all of those portions of voting precincts numbered 52, 53, and a portion of 35 and 51 lying within the City limits and being more particularly described as follows:

Beginning at the intersection of Sanger Street and Dal Paso Street, thence west along the centerline of Sanger Street to Selman Street; thence south along the centerline of Selman Street to Snyder Street; thence west along the centerline of Snyder Street to Houston Street; thence south along the centerline of Houston Street to Broadway Street; thence east along the centerline of Broadway Street to Dal Paso Street; thence south along the centerline of Dal Paso Street to Texas Street; thence west along the centerline of Texas Street to Houston Street; thence south along the centerline of Houston Street to the south City limits of Hobbs.

Also, beginning at the intersection of Dal Paso Street and Sanger Street, thence east along the centerline of Sanger Street to Jefferson Street; thence south along the centerline of Jefferson Street to Scharbauer Street; thence east along the centerline of Scharbauer Street to Stadium Drive; thence north along the centerline of Stadium Drive to Sanger Street; thence east along the centerline of Sanger Street to the east City limits of Hobbs.

- D. District 4. District 4 consists of those portions of voting precincts numbered 36, 54, 55, 62, and a portion 35 and 51, lying within the City limits and being more particularly described as follows: Beginning at the intersection of Sanger Street and Turner Street, thence south along the centerline of Turner Street to Marland Street; thence west along the centerline of Marland Street to west City limits of Hobbs.

Also, beginning at the intersection of Sanger Street and Turner Street, thence east along the centerline of Sanger Street to Selman Street; thence south along the centerline of Selman Street to Snyder Street; thence west along the centerline of Snyder Street to Houston Street; thence south along the centerline of Houston Street to Broadway Street; thence east along the centerline of Broadway Street to Dal Paso Street; thence south along the centerline of Dal Paso Street to Texas Street; thence west along the centerline of Texas Street to Houston Street; thence south along the centerline of Houston Street to the south City limits of Hobbs.

- E. District 5. District 5 consists of those portions of voting precincts numbered 20, 22, 23, 27, 30, and a portion of 28 lying within the City limits and being more particularly described as follows: Beginning at the intersection of Bender Boulevard and Grimes Streets, thence west along the centerline of Bender Boulevard to Lovington Hwy(Turner Street); thence continue north along the centerline of Lovington Hwy to West County Road; thence southwest along the centerline of West County Road to the west City limits of Hobbs.

Also, beginning at the intersection of Bender Boulevard and Grimes Street, thence north along the centerline of Grimes Street to Cochiti Avenue; thence east along the centerline of Cochiti Avenue to Rojo Drive; thence south along the centerline of Rojo Drive to the centerline of Copper Avenue; thence east along the centerline of Copper Avenue to the centerline of Fowler Street; thence north along the centerline of Fowler Street to the centerline of Navajo Drive; thence east along the centerline of Navajo Drive to the west section line of Section 24, Township 18 South, Range 38 East; thence north along the west section line of Section 24, Township 18 South, Range 38 East to north City limits of Hobbs.

- F. District 6. District 6 consists of those portions of voting precincts numbered 31, 34, 61, a portion of 35 lying within the City limits and being more particularly described as follows: Beginning at the intersection of Sanger Street and Turner Street, thence south along the centerline of Turner Street to Marland Street; thence west along the centerline of Marland to the west City limits of Hobbs.

Also, beginning at the intersection of Sanger Street and Turner Street, thence north along the centerline of Turner Street to the intersection of Bender Boulevard and Lovington Hwy(Turner Street); thence continue north along the centerline of Lovington Hwy to West County Road; thence southwest along the centerline of West County Road to the west City limits of Hobbs.

All as set forth on the map of the City on file in the office of the City Clerk. Within one (1) year after publication of each United States Census, the City Commission shall review the districting of the City and shall either reaffirm by ordinance that the City is divided into six (6) districts that meet the requirements stated below or, in the event that population shifts have made such reaffirmation impossible, the Commission shall appoint a committee of no less than seven (7) persons to review and adjust the districting in order to insure that ethnicity/language minority groups, compactness, contiguity, substantial equality in population, community interests, and other criteria set out in the Voting Rights Act and court decisions are maintained in each single member district, and written recommendations shall be made to the Commission within sixty (60) days of the appointment of said committee. Any adjustment in district lines shall be approved by City ordinance; provided, however, that this review shall not occur more than once every ten (10) years in keeping with the current census practice even if the census should be taken more frequently in the future.

(Ord. 889, 2001: prior code § 1-6)

(Ord. No. 1046, 6-20-2011)

### **1-3-13. Adjusting precinct boundaries; time lines for legislative and local public body redistricting; release of nominating petitions.**

A. Prior to commencement of the federal decennial census, the secretary of state shall review all county precinct maps submitted pursuant to Section 1-3-12 NMSA 1978 for compliance with the provisions of the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978. Those county precinct maps determined not to be in compliance with the precinct boundary criteria set forth in Subsection A of Section 1-3-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected and returned to the appropriate county clerk with a written statement setting forth those instances in which the map does not comply. The county clerk and the board of county commissioners shall make the required adjustments within thirty days after receiving notice of noncompliance.

B. Following receipt of the results of a federal decennial census, the secretary of state shall again follow the procedures outlined in Subsection A of this section to allow the counties to make any necessary adjustments. For any county that does not make the required adjustments within thirty days after receiving notice of noncompliance following receipt of the results of a federal decennial census, the secretary of state shall send a second notice of noncompliance, and no later than ninety days following receipt of the results of the federal decennial census, if any precinct boundary adjustments are necessary to meet the legal requirements of redistricting, pursuant to Sections 1-3-1 and 1-3-12 NMSA 1978, the secretary of state shall adjust the boundaries of the precincts only to the extent necessary to achieve compliance with the requirements of those sections and notify the county of those boundary adjustments.

C. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for redistricting.

D. Following completion of the procedures outlined in Subsection B of this section and in the same calendar year in which the state receives the results of a federal decennial census:

(1) the legislature shall redistrict federal congressional districts, each house of the legislature and any other state districts requiring redistricting; and

(2) each local public body subject to districting and whose governing body members are not elected at the regular local election shall create or redraw districts for the local public body.

E. In the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting and whose governing body members are elected at the regular local election shall create or redraw districts for the local public body.

F. A local public body shall establish districts in which the number of persons in each district, as shown in the most recent federal decennial census, is as nearly equal in population as practical, but within five percent of the mean. A local public body subject to districting shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest. Each local public body subject to districting shall create or redraw districts pursuant to the time lines of this section.

G. During years in which districts are redrawn pursuant to the provisions of this section, nominating petitions shall not be made available for relevant offices until completion of the procedures specified in Subsection D or E of this section, as applicable.

H. As used in this section:

(1) "local public body subject to districting" means any political subdivision of the state with elected governing body members who:

(a) must reside in designated areas of the political subdivision to qualify for election; or

(b) are elected by a geographically defined subset of voters within the boundaries of the political subdivision; and

(2) "mean" means the total number of persons residing within a political subdivision of the state divided by the number of districts from which governing body members are elected.

**History:** Laws 1983, ch. 223, § 4; 1984 (1st S.S.), ch. 3, § 5; 1991, ch. 40, § 1; 1991, ch. 237, § 1; 1991 (1st S.S.), ch. 6, § 8; 1997, ch. 85, § 2; 2009, ch. 222, § 3; 2019, ch. 212, § 42; 2021, ch. 79, § 12.



**CITY OF HOBBS**  
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

**SUBJECT: Resolution Authorizing a Memorandum of Agreement with the New Mexico Department of Transportation for Public Transportation for Federal FY 21-22**

DEPT. OF ORIGIN: City Clerk's Office  
DATE SUBMITTED: October 8, 2021  
SUBMITTED BY: Jan Fletcher, City Clerk

**Summary:**

The attached Memorandum of Agreement is for continued operation of Public Transportation Services for Hobbs Express for the Federal FY 21-22 beginning October 1, 2021, through September 30, 2022.

This is a formulary grant whereby the costs of the program are shared as follows:

FY 22 Budget Award			
	Total	Federal	City
<b>Admin</b> (80/20) Section 5311	<b>\$92,280.72</b>	<b>\$73,824.58</b>	<b>\$18,456.14</b>
<b>Oper</b> (50/50) Section 5311	<b>\$102,865.20</b>	<b>\$51,432.60</b>	<b>\$51,432.60</b>
<b>Oper</b> 100% CARES/ARP	<b>\$765,246.00</b>	<b>\$765,246.00</b>	<b>\$0.00</b>
<i>Subtotal</i>	<i>\$960,391.92</i>	<i>\$890,503.18</i>	<i>\$69,888.74</i>
<b>Capital</b> (80/20) Section 5311	<b>\$141,432.00</b>	<b>\$113,145.60</b>	<b>\$28,286.40</b>
<b>TOTALS</b>	<b>\$1,101,823.92</b>	<b>\$1,003,648.78</b>	<b>\$98,175.14</b>

The overall total Federal grant award is \$881,472.72. Under normal circumstances, the City's local match for FFY 20-21 would have been \$382,623.00. Due to CARES Act Funding, this amount has been reduced to \$98,175.14.

**Fiscal Impact:**

Reviewed By:   
Finance Department

The City's FY 20-21 Budget approved by DFA includes \$1,420,059.05 for personnel, operating and capital expenditures. The total grant revenue and fares for FY 21-22 are projected at \$1,385,703.68 which includes carryover revenue due to the fiscal year timing differences.

**Attachments:**

Resolution Authorizing the Mayor to Execute a Memorandum of Agreement with NMDOT

**Legal Review:**

Approved As To Form:

  
City Attorney

**Recommendation:**

Motion to approve the 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: \_\_\_\_\_  
Denied \_\_\_\_\_  
File No. \_\_\_\_\_

CITY OF HOBBS

RESOLUTION NO. 7123

**A RESOLUTION AUTHORIZING A MEMORANDUM OF AGREEMENT  
WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT)  
FOR FEDERAL FY 21-22 FOR PUBLIC TRANSPORTATION SERVICES**

WHEREAS, the State of New Mexico, under 49 U.S.C. Section 5311, authorizes Federal assistance to local communities for public transportation in rural and non-urbanized areas; and

WHEREAS, the City of Hobbs applied for financial assistance for administrative, operating and capital funding for public transportation services, which was approved by the NMDOT and the Federal Transit Administration (FTA).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the Mayor be, and he hereby is, authorized and directed to take all necessary and appropriate action to effectuate this resolution and specifically to execute, on behalf of the City of Hobbs, a Memorandum of Agreement with the New Mexico Department of Transportation. A copy of the Memorandum of Agreement is attached hereto and incorporated herein by reference.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, CITY CLERK

FISCAL YEAR 2022 (FY 22)

MEMORANDUM OF AGREEMENT

BETWEEN

THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

AND

CITY OF HOBBS

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**This Agreement** is between the **STATE OF NEW MEXICO**, acting through its **DEPARTMENT OF TRANSPORTATION**, Transit and Rail Division (Department), and the **CITY OF HOBBS** (Subrecipient). This Agreement is effective as of the date of the last party to sign it on the signature page below.

**RECITALS**

**Whereas**, 49 U.S.C. Section 5307 provides federal assistance for public transportation in small urbanized areas by way of a formula grant program which may be administered by the state;

**Whereas**, 49 U.S.C. Section 5310 provides federal assistance for public transportation to meet the special needs of seniors and individuals with disabilities by way of a formula grant program administered by each state;

**Whereas**, 49 U.S.C. Section 5311 provides federal assistance for public transportation in rural areas by way of a formula grant program administered by each state;

**Whereas**, 49 U.S.C. Section 5339 provides federal assistance for buses and bus-related equipment and facilities by way of a formula grant program administered by each state;

**Whereas**, the State of New Mexico participates in the 49 U.S.C. Section 5307, 49 U.S.C. Section 5310, 49 U.S.C. Section 5311, and U.S.C. Section 5339 Programs, collectively referred to herein as the Program;

**Whereas**, the Governor of the State of New Mexico designated the Department to administer the Program funds; and

**Whereas**, the Subrecipient applied for financial assistance for public transportation services, which was approved by the Department and the Federal Transit Administration (FTA).

**Now, therefore**, pursuant to Section 67-3-69 NMSA 1978, the parties agree as follows:

**1. Scope of Program.**

- A. **Operations Profile.** The Subrecipient shall provide transportation services to the public within its service area as specified in the Operations Profile, which is incorporated by reference and is on file with the Department and the Subrecipient.
- B. **Use of Capital Equipment.** The Subrecipient agrees that any capital equipment, purchased under this Agreement, shall be used to provide public transportation service within the area described in the Operations Profile. If the equipment is not used in this manner or withdrawn from service, the Subrecipient shall notify the Department in writing, five (5) business days of such event, and shall return the Program equipment in accordance with *Section 15. Use of Program Equipment*.
- C. **Use of Program Funds.** The services described in the Operations Profile shall remain intact throughout the term of this Agreement. The Subrecipient must notify and seek approval from the Department if there will be an elimination or a reduction of services greater than twenty percent (20%). Notice must be in writing via

email five (5) business days prior to the reduction or elimination services. Failure to provide notice shall give the Department cause for termination, as described in *Section 7. Termination for Cause*.

- D. **Fare Schedule.** The fare schedule, which must be approved by the Subrecipient’s governing body, shall be stated in the approved Operations Profile. The Department must also approve all fare schedules in writing.
- E. **Advertising.** The Subrecipient shall conduct an advertising program to increase ridership on all trips. Acceptable advertising includes but is not limited to: fliers and handbills, signs and posters, radio announcements, press releases and articles in local and organization newspapers, and bulletins, and newsletters. In addition, the name of the service together with the words “Public Transportation” shall be prominently displayed on all vehicle(s) and be readable at a distance of no less than thirty (30) feet. Painted or affixed signing with a decal is acceptable. Magnetic signs are not acceptable. The name shall indicate that the service is a transportation system open to the public. The Subrecipient must have a telephone number established and operative during hours of transportation services so that the public can access information. All methods of advertising and the signs on the vehicles shall include the telephone number.
- F. **Personnel.** The Subrecipient shall maintain and update organizational contacts in the Electronic Grants Management Performance System (BlackCat).

**2. Cost of Program.**

The Department shall provide partial funding to the Subrecipient to cover expenses of the Program as described in the approved Operations Profile in an amount described below:

**Subaward FY 22**

City of Hobbs	Total	Federal	Local
Administration (80/20) Section 5311	\$ 92,280.72	\$ 73,824.58	\$ 18,456.14
Operating (50/50) Section 5311	\$ 102,865.20	\$ 51,432.60	\$ 51,432.60
Operating (100) CARES	\$ 765,246.00	\$ 765,246.00	\$ -
Capital to Vendor (80/20) Section 5339	\$ 141,432.00	\$ 113,145.60	\$ 28,286.40
<b>Total Administration, Operating and Capital</b>	<b>\$ 1,101,823.92</b>	<b>\$ 1,003,648.78</b>	<b>\$ 98,175.14</b>

Vehicle purchase funds that are not obligated by contract by August 31, 2022, may revert to the Department.

This program is funded with grants provided by the FTA Section 5307 Urbanized Area Formula Program, Catalog of Federal Domestic Assistance number 20.507; FTA Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program, Catalog of Federal Domestic Assistance number 20.513; FTA Section 5311 Formula Grants for Rural Areas, Catalog of Federal Domestic Assistance number 20.509; and FTA Section 5339(a) Buses and Bus Facilities Formula Program, Catalog of Federal Domestic Assistance number 20.526. (**Attachment A.**) The Department’s share of Program expenses shall be obtained from the federal government. State funds will not be earmarked or disbursed to fund the Program. The Department shall not be responsible for any other costs incurred by the Subrecipient. The Subrecipient shall take all actions necessary to fund its share of the Program.

**3. Method of Payment.**

The Department shall either reimburse the Subrecipient or pay the vendor on behalf of the Subrecipient for the Department’s share of the Program costs upon receipt of invoices, with sufficient supporting documentation as determined and approved by the Department, indicating that expenses have been paid and/or money is owed.

Subrecipients that receive administration and/or operating assistance are to submit Budget Summary Reports on a monthly basis, to be received by the Department by the 25th day of the following month. These invoices shall be submitted electronically to the Department utilizing BlackCat. All expenses must be actual and listed on the invoice as charged. Accurate service data shall be submitted with each monthly invoice.

Invoices shall be submitted to the Department utilizing BlackCat. All expenses must be actual and listed on the invoice as charged. Rounding up or down, other than the total, is not permitted. Only those expenses or percentage thereof, properly documented and deemed eligible, shall be reimbursed. The Department may withhold payment of invoices that are incorrect and/or incomplete.

**4. Eligible Costs.**

- A. Eligible Costs are those costs attributable to and allowed under the Program and the provisions of 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Awards*.
- B. Costs incurred by the Subrecipient prior to the effective date of this Agreement or after termination are not eligible for reimbursement.
- C. Within sixty (60) days after completion of this Agreement, the Subrecipient shall submit a final invoice to the Department for Administration and Operating expenses and a financial statement showing the total expense of the Program.
- D. Match shall be provided from eligible matching sources.

**5. State General Appropriation Funds Not Obligated.**

Nothing in this Agreement shall be construed as obligating state general appropriation funds for payment of any debt or liability arising under this Agreement. The parties expressly acknowledge that all payments made under this Agreement are from federal funds appropriated for these purposes.

**6. Term.**

This Agreement becomes effective upon the signature of all parties or on October 1, 2021, whichever is later. The effective date is the date the last party signed the Agreement on the signature page below. All eligible costs incurred under this agreement from October 1, 2021 to September 30, 2022 may be reimbursed.

**7. Termination for Cause.**

The Department has the option to terminate this Agreement if the Subrecipient fails to comply with any provision. A written notice of termination shall be given at least thirty (30) days prior to the intended date of termination and shall identify all of the Subrecipients breaches on which the termination is based.

The Department may provide the Subrecipient a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the Subrecipient has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the Subrecipient has not begun and proceeded in good faith to correct the breach, the Department may declare the Subrecipient in default and terminate the Agreement. The Department shall retain any and all other remedies available to it under the law. Upon termination of this Agreement, the Subrecipient shall return the Program equipment as specified in *Section 1. Scope of the Program*.

**8. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice from the Department to the Subrecipient. The Department's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

**9. Termination Management, Allowable Costs.**

In the event of termination, neither party may nullify obligations already incurred for performance or failure to perform. The Subrecipient shall be paid for all the allowable costs incurred prior to the date of termination, subject

to audit verification by the Department or its duly authorized representative. The Subrecipient shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this Agreement.

#### **10. Breach and Dispute Resolution.**

Disputes which cannot be resolved informally by the parties shall be decided in writing by a representative of the Department's Transit and Rail Division. The Subrecipient has ten (10) days from receipt of the decision to file a written appeal with the Transit and Rail Division. Upon appeal, the Subrecipient will be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Transit and Rail Division on appeal shall be binding.

#### **11. Procurement Requirements.**

The Subrecipient shall purchase Program equipment pursuant to procedures established by the United States Department of Transportation (U.S. DOT), the FTA, applicable New Mexico State Law, and the standards set forth in: Third Party Contracting Guidance, FTA Circular 4220.1F; and the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

The Subrecipient agrees to comply with 49 U.S.C. Section 5323(j)(1) as amended by Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), Fixing America's Surface Transportation Act (FAST Act).

Prior to awarding a bid award or execution of a contract for services or capital equipment in excess of \$10,000, the Subrecipient shall seek concurrence in writing from the Department.

#### **12. Rolling Stock.**

In acquiring rolling stock, the Subrecipient agrees that the parties are bound by the following provisions:

- A. **Method of Acquisition.** In compliance with 49 U.S.C. Section 5325(f), the Recipient agrees that any third party contract award it makes for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.
- B. **Multi-year Options.** In accordance with 49 U.S.C. Section 5325(e)(1), a Recipient procuring rolling stock financed with Federal assistance under 49 U.S.C. Chapter 53 may not enter into a multiyear contract with options, exceeding five (5) years after the date of the original contract, to purchase additional rolling stock and replacement parts.
- C. **Buy America.** The Recipient agrees to comply with the requirements of 49 U.S.C. Section 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments to those regulations that may be promulgated.
- D. **Pre-Award and Post-Delivery Audits.** The Recipient agrees to comply with the requirements of 49 U.S.C. Section 5323(m) and FTA regulations, "Pre Award and Post Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any amendments to those regulations that may be promulgated.
- E. **Bus Testing.** To the extent applicable, the Recipient agrees to comply with the requirements of 49 U.S.C. Section 5318(e) and FTA regulations, "Bus Testing," 49 C.F.R. Part 665, and any amendments to those regulations that may be promulgated.

#### **13. Insurance.**

The Subrecipient shall maintain liability, comprehensive, collision, and uninsured motorist insurance adequate to protect the Program equipment, and satisfactory to the Department. The Department shall be named as an additional insured and a loss payee on Subrecipient's policy for each vehicle on which the Department has a lien. A certificate of insurance must be provided to the Department and it shall state that coverage provided under the

policy is primary over any other valid insurance. The Subrecipient shall provide the Department documentation of subsequent renewals and shall keep on file a copy of the insurance policy, which shall be accessible to the Department.

The Subrecipient shall require contractors and subcontractors hired to perform the services under this Agreement to have a commercial general liability insurance policy. The Department shall be named as an additional insured on the contractor's and subcontractor's policy and a certificate of insurance must be provided to the Department and it shall state that coverage provided under the policy is primary over any other valid insurance.

The Subrecipient shall require contractors and subcontractors hired to perform services under this Agreement to indemnify, defend and hold harmless the State of New Mexico, the Department, its officers, agents and employees from and against all suits, actions or claims of any character brought because of any injury, including death or damages arising out of contractors' or subcontractors' construction or maintenance activities pursuant to this Agreement, as memorialized herein and subject to any additional permit that may be required of the contractor or subcontractor to perform said activities.

#### **14. New Mexico Tort Claims Act.**

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

#### **15. Use of Program Equipment.**

- A. A Program Vehicle Inventory must be completed for each vehicle used in the program and entered into BlackCat within thirty (30) days of delivery. Post Delivery Inspection forms shall be completed before the vehicle is placed into service. The forms shall be uploaded to the corresponding vehicle inventory in BlackCat. Vehicle Inventory shall be reported and updated within BlackCat on a quarterly schedule, and as changes to the vehicle inventory occur.
- B. The Subrecipient shall maintain a current written fleet maintenance plan that includes procedures for preventive and defect maintenance, warranty tracking and claims recovery, and recall notification and follow-up. Major defect maintenance, warranty tracking and claims recovery, and recall notifications shall be reported in BlackCat as they are received and updated as repairs are completed.
- C. The Subrecipient shall follow the equipment manufacturer's minimum standards and recommended preventive maintenance schedules. The Subrecipient shall maintain the equipment in a clean, safe, and mechanically sound condition. The Department or its authorized representative has the right to conduct periodic inspections during normal business hours for the purpose of confirming property maintenance pursuant to this clause.
- D. The Subrecipient shall keep Vehicle Inspection Records before and/or after the use of each transit vehicle.
- E. Each vehicle must contain a fire extinguisher, first aid kit (including a blood borne pathogens/biohazard kit), fluorescent triangles and/or safety flares, reflective vests for drivers, flashlights, and web cutters/seat belt cutters, while the vehicle is in operation.
- F. Program Facilities Inventory must be completed for each facility used in the Program. The Program Facility Inventory shall be reported and updated within BlackCat on an annual schedule, and, as changes to the facility inventory occur.

- G. The Subrecipient shall maintain a current written facility maintenance plan that includes procedures for preventive and defect maintenance, warranty tracking and claims recovery, and recall notification and follow-up.
- H. The Program equipment shall be used to provide public transportation service within the described service area and in the manner described in *Section 1. Scope of Program*.
- I. Failure to use the equipment as described in *Section 1. Scope of Program* shall be considered a material breach of contract subject to the provisions of *Section 7. Termination for Cause*.
- J. The Subrecipient shall notify the Department immediately of vehicular/facilities accidents, thefts, or vandalism involving Program equipment. All supporting documentation relating to the incident, including police reports, damage assessments, insurance claims, shall be reported and uploaded in BlackCat to the corresponding inventory record. Failure to notify the Department shall be considered a material breach of contract subject to the provisions of *Section 7. Termination for Cause*.
- K. All program equipment that is damaged in an accident, by vandalism, or weather is to be repaired or replaced depending on the physical and monetary extent of the damage and according to its scheduled final disposition.
- L. If the Subrecipient wants to remove any Program equipment from service or dispose of such equipment either as a result of planned withdrawal, casualty loss, or transfer, the Subrecipient shall submit a completed disposition or transfer request in BlackCat including all relevant and required supporting documentation. Subrecipient may also contact the Department to obtain specific disposition instructions.
- M. The Department may require that Program equipment purchased under FTA programs, on which liens are held, be returned to the Department. Such Program equipment shall be returned in good working condition within ten (10) business days or as stipulated by the Department. If the Subrecipient fails to return the equipment, the Department, as the recorded lien holder, shall have the right to immediately repossess the vehicle(s) by whatever means available to it under New Mexico law.
- N. Upon termination of the Agreement under *Section 7. Termination for Cause*, the Subrecipient shall not be eligible for reimbursement of any costs associated with the vehicle(s) purchase or be entitled to damages arising from Program operations, except that the Subrecipient shall be reimbursed for its pro-rata share of the Program equipment's depreciated value as determined by the Straight Line Depreciation method.
- O. The Subrecipient agrees that no modifications will be made to Program vehicle(s) with liens held by the Department without prior written approval of the Department. If unapproved modifications are made, the Subrecipient is responsible for the cost of restoring the vehicle(s) to its original condition.

#### **16. Charter Bus Requirements.**

The Subrecipient agrees to comply with 49 U.S.C. Section 5323(d) and 49 C.F.R. Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 C.F.R. Part 604.9. Any charter service provided under one of the exceptions must be "incidental." For example, it must not interfere with or detract from the provision of mass transportation.

#### **17. School Bus Requirements.**

Pursuant to 49 U.S.C. Section 5323(f) and 49 C.F.R. Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating

exclusive school bus service under an allowable exemption, recipients and sub recipients may not use federally funded equipment, vehicles, or facilities.

**18. Certificate of Title for Vehicles.**

Any title to capital equipment the Subrecipient purchases will reflect in a lien in favor of the Department. The liens will remain in effect according to the following schedule:

Category	Typical Characteristics		Minimum Life (either years or miles)	
	Approx. GVW	Average Cost	Years	Miles
Heavy-Duty Large Bus	33,000 to 40,000lbs	\$325,000 to over \$600,000	15	625,000
Medium-Duty and Purpose-Built Bus	16,000 to 26,000lbs	\$75,000 to \$175,000	10	285,000
Light-Duty Mid-Sized Bus	10,000 to 16,000lbs	\$50,000 to \$65,000	8	240,000
Light-Duty Small Bus, Cutaway, and Modified Van	6,000 to 14,000	\$30,000 to \$40,000	7	175,000

The Subrecipient shall pay all costs associated with obtaining, securing, and maintaining titles and liens including the payment of all applicable taxes and fees.

**19. Duration of Lien.**

The Subrecipient shall not pledge or collateralize any vehicles purchased under this Agreement without written authorization from the Department. This restriction is in effect from the date a title certificate is issued to when the Department releases the lien pursuant to *Section 18. Certificate of Title for Vehicles*. For specifics on disposition of vehicles after title lien is released, please refer to the Vehicle Title Release and Disposition sections of the *New Mexico State Management Plan* for the Administration of Federal Transit Grants.

**20. Reporting Requirements.**

- A. **Monthly Budget Summary Reporting.** The Subrecipient shall submit a monthly invoice/report using BlackCat to include financial expenditures and service data, as described in *Section 3. Method of Payment*. This monthly invoice shall be submitted to the Department by the 25<sup>th</sup> of the following month.
- B. **Vehicle/Facility Updates.** The Program Vehicle/Facilities Inventory shall be reported and updated within the BlackCat as changes to the vehicle/facilities inventory occur.
- C. **Quarterly Section 5310 Ridership Reporting.** The Program Ridership Data shall be reported and updated within BlackCat quarterly and as changes to the vehicle inventory occur. Quarterly Ridership Reports are due thirty (30) days after the quarter ends. Reports are due January 30, April 30, July 30, and October 30 respectively.
- D. **Drug and Alcohol Quarterly Testing Report.** The Subrecipient will submit a quarterly Testing Report in BlackCat for each quarter of the calendar year. Reports are due January 10, April 10, July 10, and October 10 respectively.
- E. **Semi-annual Disadvantaged Business Enterprise (DBE) Reporting.** The Subrecipient will submit to the Department a semi-annual DBE Report due May 15 (for the period October 1 to March 31) and due November 15 (for the period April 1 to September 30).

- F. **National Transit Database (NTD) Rural Report.** The Subrecipient will submit to the Department an annual NTD report, as required by 49 U.S.C. Section 5335, due December 15. New and updated regulations require transit agencies reporting to the NTD to include condition information on assets reported to the database.
- G. **Drug and Alcohol Management Information System (MIS) Data.** The Subrecipient will submit drug and alcohol testing data for the previous calendar year using the Management Information System (MIS) Data Collection Form to the Department before March 1 of each year.
- H. **Drug and Alcohol Compliance Review/Report.** The Subrecipient will participate in an annual Drug and Alcohol Compliance Review by the Department. Once a final report has been issued, the Subrecipient will implement corrective actions, including supportive documentation, for all deficiencies cited in the final report and respond to all recommendations within ninety (90) days of the report's issuance.
- I. **Technical Assistance and Compliance Review/Report.** The Subrecipient will participate in a Technical Assistance and Compliance Review by the Department. Once a final report has been issued, the Subrecipient will implement corrective actions, including supportive documentation, for all deficiencies cited in the final report and respond to all recommendations in the final report within ninety (90) days of the report's issuance.
- J. **Transit Asset Management (TAM) Reporting.** The Subrecipient will participate in a group TAM Plan sponsored by The Department (49 U.S.C. 625). All TAM plan participants must sign a TAM Plan Approval Statement. The group plan is implemented over a four-year time horizon, beginning October 1, 2019. TAM reporting requires participants to maintain updated asset/facility inventories and condition assessments in BlackCat.

The Department may withhold payment of monthly invoices if reports are not submitted in a timely manner, are incorrect and/or incomplete. The Subrecipient's failure to submit reports in a timely manner on the dates specified shall be a material breach of this Agreement and shall be subject to termination as provided in *Section 7. Termination for Cause.*

**21. Retention of Records.**

The Subrecipient shall maintain all books, documents, papers, accounting records, reports and other evidence pertaining to costs incurred in the Program for three (3) years after the date of termination or expiration of this Agreement.

**22. Access to Records.**

The Subrecipient shall grant authorized representatives of the Department, the state and the federal government access to books, documents, papers, reports, and records of the Subrecipient or its contractors or subcontractors, which are directly pertinent to this Agreement, for the purpose of making audits, examination excerpts, and transcriptions. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Subrecipient shall reimburse the Department for any expenditure for which it received payment or reimbursement, as applicable, which is disallowed by an audit exception by the Department, the state or federal government.

**23. Audit.**

Pursuant to New Mexico administrative code 2.2.2.8(D), all governmental agencies are required to have their financial affairs thoroughly examined and audited each year by the Office of the State Auditor or independent auditors approved by the Office of the State Auditor. The list of approved auditors can be found [here](#).

The Subrecipient shall ensure that an annual audit of the Program based on the Subrecipient's fiscal year shall be conducted pursuant to 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Awards*. The Subrecipient agrees to provide the Department with a copy of the audit report concerning any portion of the Agreement period within the earlier of 30 calendar days after receipt of the auditor's report or

nine (9) months after the end of the audit period. Audit costs are an eligible administrative expense. Should the Subrecipient fail to produce the annual audit, the Department may, at its option, commission such an audit payable out of Program Funds.

**24. Audit Exceptions.**

If federal or state audit exceptions are made, the Subrecipient shall reimburse all costs incurred by the State and the Department associated with defending against the exceptions, which includes but is not limited to costs of performing a new audit or a follow-up audit, court costs, attorneys' fees, travel costs, penalty assessments.

Immediately upon notification from the Department, the Subrecipient shall reimburse the amount of the audit exception and any other related costs directly to the Department. In the notification, the Department may inform the Subrecipient of the Department's election to withhold an amount equal to the payment owed under this Section from any future distribution owed to Subrecipient under this Agreement.

**25. Third Party Beneficiaries.**

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

**26. Contracting and Assignment.**

The Subrecipient shall not contract or permit to have subcontracted any portion of this Agreement without prior written approval of the Department. No such contracting or subcontracting shall relieve the Subrecipient from its obligations and liabilities under this Agreement, nor shall any contracting or subcontracting obligate payment from the Department.

Except to a successor in kind, the Subrecipient shall not assign or transfer any interest in this Agreement or assign any claim for money due or to become due under this Agreement without the prior written approval of the Department.

Should contract(s), subcontract(s) or an assignment be authorized by the Department, the contractor(s), subcontractor(s) and assignor(s) shall be subject to all provisions of this Agreement. It shall be the Subrecipient's responsibility to duly inform the contractor(s), subcontractor(s) and assignor(s) by means of a contract or other legally binding document stipulating responsibility to this Agreement.

**27. Training.**

The Subrecipient shall ensure that all drivers described in the Operations Profile are trained in the following programs: first aid, cardiopulmonary resuscitation (CPR), blood borne pathogens, START, defensive driving, crisis management, and passenger safety, sensitivity and wheelchair securement. All new drivers must be trained and certified in the above listed areas within six (6) months of their date of hire. For the first aid, blood borne pathogens, defensive driving, crisis management, and passenger safety, sensitivity and wheelchair securement training, the drivers must be recertified every three (3) years. For the cardiopulmonary resuscitation (CPR) training, the drivers must be recertified every two (2) years. All full time, part time, substitute/fill-in, or volunteer vehicle operators shall have in their possession valid certifications (driver's license) while operating a public transportation vehicle.

Should the Subrecipient fail to satisfy the terms and conditions as outlined, the Subrecipient may be found to be in breach of contract and subject to the provisions of *Section 7. Termination for Cause.*

**28. No Federal Government Obligation to Third Parties.**

- A. The Department and Subrecipient acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the federal government, the federal government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Department, Subrecipient, or any other party (whether or not a party to the Agreement or any contract or subcontract) pertaining to any matter resulting from the Agreement.
- B. The Subrecipient agrees to include the above clause in each contract or subcontract financed in whole or in part with federal assistance provided by FTA. It further agrees that the clause shall not be modified, except to identify the contractor or subcontractor who will be subject to its provisions.

**29. Drug and Alcohol Testing.**

- A. The Subrecipient will implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655, produce documentation necessary to establish its compliance, permit authorized representatives of the U.S. DOT or the Department to inspect the facilities and records associated with the drug and alcohol testing program, and review the testing process.
- B. The Subrecipient will submit for review and approval, a copy of its Policy Statement developed to implement its drug and alcohol testing program.
- C. The Subrecipient agrees to participate in the Department's consortium.
- D. The Subrecipient agrees to develop a drug and alcohol program standard operating procedures desk manual.
- E. The Subrecipient will participate in Department-provided training opportunities.
- F. The Subrecipient will submit drug and alcohol testing data for the previous calendar year using the Management Information System (MIS) Data Collection Form to the Department before March 1 of each year.
- G. The Subrecipient will participate in an annual Drug and Alcohol Compliance Review by the Department. Once a final report has been issued, the Subrecipient will implement corrective actions, including supportive documentation, for all deficiencies cited in the final report and respond to all recommendations within ninety (90) days of the report's issuance.

**30. Labor Warranty.**

The Subrecipient agrees that it will comply with the terms and conditions of the Special 49 U.S.C. Section 5333(B) Warranty for Application to the Small Urban and Rural Program. The Subrecipient will assume all legal and financial responsibility relative to compliance with the terms and conditions of the Warranty.

**31. Transit Employee Protection Guidelines.**

The Subrecipient agrees to protect transit employees pursuant to Section 5333(b) of Title 49 U.S. Code. The Subrecipient shall provide for the preservation of rights and benefits of employees under existing collective bargaining agreements, continuation of collective bargaining rights, and protection of individual employees against a worsening of their positions in relation to their employment, assurances of employment to employees of acquired transit systems, priority of reemployment, and paid training or retraining programs.

### 32. Civil Rights Laws and Regulations Compliance.

The Subrecipient shall comply with all federal, state and local laws and ordinances applicable to the work called for under this Agreement.

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, disability, or other protected class. The Subrecipient shall comply with applicable Federal implementing regulations and such other implementing requirements FTA may issue. The Nondiscrimination Assurance is attached as **Assurance 3**.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Agreement:
  1. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the Subrecipient agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Part 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. Section 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The Subrecipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including gender identity and sexual orientation). Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the awarded contractor shall comply with any implementing requirements FTA may issue.
  2. **Age.** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 623 and Federal transit law at 49 U.S.C. Section 5332, the Subrecipient agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Subrecipient shall comply with any implementing requirements FTA may issue.
  3. **Disabilities.** In accordance with Section 102 of the Americans with Disabilities Act, 42 U.S.C. Section 12112, the Subrecipient agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the awarded contractor shall comply with any implementing requirements FTA may issue.
- C. The Subrecipient shall include these requirements in each contract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- D. The Subrecipient also agrees to ensure that these requirements are included in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**33. DBE Policy.**

- A. This Agreement is subject to the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Department's proposed overall goal for FTA participation for the 2021 fiscal year is 1.59%, through race-neutral means.
- B. The Subrecipient shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the performance of the Agreement. The Subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the administration of the Program. Failure by the Subrecipient to carry out these requirements is a material breach of the Agreement, which may result in the termination or other such remedy as the Department deems appropriate. Each contract the Subrecipient signs with a contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The Subrecipient agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of Contracts and subcontracts financed in whole or in part with Federal funds. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, sex, or other protected class in the award and performance of U.S. DOT assisted contracts. The Subrecipient will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- D. The Subrecipient is required to pay its contractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the awarded contractor's receipt of payment for that work from the Department.
- E. The Subrecipient must promptly notify the Department, whenever a DBE contractor is terminated or fails to complete its work and must make good faith efforts to engage another DBE contractor to perform at least the same amount of work. The Subrecipient may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Department.

A subrecipient of FTA funds must meet applicable DBE requirements when funds are used in whole or in part to finance procurements of and contracts for applicable products and services. A subrecipient with contracting opportunities must sign and submit a *Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients*, which is attached as **Certification 1**.

**34. ADA Access.**

The Subrecipient shall comply with 49 U.S.C. Section 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Subrecipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, with 29 U.S.C. Section 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Sections 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, 42 U.S.C. Sections 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities.

**35. Program Fraud and False or Fraudulent Statements or Related Acts.**

- A. The Subrecipient acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. Sections 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this program. The Subrecipient certifies or affirms the truthfulness and accuracy of any statement it makes pertaining to the resultant Agreement or the FTA assisted program for

which this work is being performed. The Subrecipient further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Subrecipient to the extent the federal government deems appropriate.

- B. The Subrecipient also acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification to the federal government under a contract connected with a program that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 U.S.C. Section 5307, the federal government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the Subrecipient, to the extent the federal government deems appropriate.
- C. The Subrecipient certifies to abide by these clauses and include the clauses in each subcontract financed in whole or in part with Federal Transit Administration funds. The Subrecipient further agrees that these clauses shall not be modified, except to identify the contractor or subcontractor subject to its provisions.
- D. All claims for compensation reimbursement and payment of any amounts due pursuant to this Agreement are governed by the Fraud Against Taxpayers Act, NMSA 1978, Sections 44-9-1 through 44-9-14.

### **36. Lobbying.**

A subrecipient receiving \$100,000 or more of 49 U.S.C. Section 5311 funds shall file the Lobbying Certification required by 49 C.F.R. Part 20, "New Restrictions on Lobbying." The Lobbying Certification is attached as **Certification 2**. The Subrecipient must certify that it has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. Section 1352.

If the Subrecipient hires a third-party contractor, the contractor must provide the Lobbying Certification to the Subrecipient. Each tier below the contractor shall also provide a Lobbying Certification. Such disclosures are forwarded from tier to tier up to the Subrecipient.

### **37. Officials Not to Benefit.**

Neither any member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom. The provisions of this clause shall be extended to all public employees, officers, or tribal council members.

### **38. Clean Water and Air Requirements.**

A. The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, 33U.S.C. Sections 1251 *et seq.*, and the Clean Air Act, 42 U.S.C. Sections 7401 *et seq.* The Subrecipient agrees to report each violation to the Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate United States Environmental Protection Agency Regional Office.

B. The Subrecipient agrees to include these requirements in each contract or subcontract exceeding \$100,000.00 and financed in whole or in part with federal assistance provided by the FTA.

### **39. Energy Conservation**

The Subrecipient agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

#### **40. Debarment and Suspension.**

Executive Order No. 12549, "Debarment and Suspension of Participants in Federal Programs," February 18, 1986, 31 U.S.C. Section 6101 note, as amended by Executive Order No. 12689, "Debarment and Suspension," August 16, 1989 31 U.S.C. Section 6101 note, as implemented by 2 C.F.R. Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200 prohibits FTA subrecipients from contracting for goods and services from organizations that have been suspended or debarred from receiving federally-assisted contracts. Subrecipients shall include the certification and instruction language contained at 2 C.F.R. Part 1200 in all Invitations for Bids and Requests for Proposals (for inclusion by contractors and subcontractors in their bids or proposals) for all contracts expected to equal or exceed \$25,000.00, regardless of the type of contract to be awarded.

The Subrecipient is required to verify that none of the Subrecipient's principals or affiliates are excluded or disqualified as defined, as defined by 2 C.F.R. Part 1200. By signing and submitting this Agreement, the Subrecipient certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Department. If it is later determined that the bidder/Subrecipient or proposer/Subrecipient knowingly rendered an erroneous certification, in addition to remedies available to the Department, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder/Subrecipient or proposer/Subrecipient agrees to comply with the requirements of 2 C.F.R. Part 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder/Subrecipient or proposer/Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **41. Notification Related to Fraud, Waste, Abuse, or Other Legal Matters**

If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient must promptly notify the Department so that it can notify the Federal Government. The Subrecipient must include a similar notification requirement in its third-party agreements and must require each third-party participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

#### **42. Central Contractor Registration Requirements.**

Prior to payment of invoices and receipt of vehicles and equipment, the Subrecipient must register and maintain current registration in the Central Contractor Registration website, <http://www.sam.gov>. Registration requires having a Dun and Bradstreet Data Universal Number (DUNS), see <http://www.dnb.com>. The Department will not provide vehicles, or make payments, until the Subrecipient demonstrates that it is registered with the System for Award Management (SAM) website.

#### **43. Federal Grant Reporting Requirements.**

Under the Federal Funding Accountability and Transparency Act, the Department is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on [www.USAspending.gov](http://www.USAspending.gov).

The type of information the Department is required to report includes:

- Name of Subrecipient receiving the award,
- Amount of Award,

- Funding Agency,
- NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants,
- Program source,
- Award title descriptive of the purpose of the funding action,
- Location of the Subrecipient, which includes the Congressional District,
- Place of performance of the program or activity, which includes the Congressional District,
- Unique identifier—DUNS—of the Subrecipient and its parent organization, if one exists, and
- Total compensation and names of the top five executives of the Subrecipient. This information is required, if the Subrecipient in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The Department will extract as much information as possible from the Subrecipient's grant application and standard reports. However, the Subrecipient will be required to provide additional information, which includes the total compensation and names of the Subrecipient's top five executives, if applicable. As specified earlier in Section 42, "Central Contractor Registration Requirements," of this Agreement, the Subrecipient shall register with the SAM and DUNS websites and provide that information to the Department.

#### **44. Severability.**

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

#### **45. Scope of Agreement.**

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

#### **46. Applicable Law and Venue; Federal Changes.**

The Subrecipient shall comply with all federal, state and local laws, ordinances, rules, warranties, assurances, and regulations applicable to the performance of this Agreement. This includes all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current year's Master Agreement between the Department and the FTA. The Subrecipient shall make as part of this Agreement between the Department and the Subrecipient the assurances and warranties which were signed as part of the grant award. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

#### **47. Incorporation of FTA Terms.**

Provisions of this Agreement include, in part, certain Standard Terms and Conditions required by the U.S. DOT. All contractual provisions required by the U.S. DOT, as set forth in FTA Circulars 4220.1F, and 9040.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any Department request, which would cause the Department to be in violation of FTA terms and conditions, as referenced in the current Federal Transit Administration Master Agreement shall prevail and be the instrument governing the receipt of Federal assistance from the Federal Transit Administration. The Master Agreement can be viewed on the web at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>.

**48. Amendment.**

The terms of this Agreement may be altered, modified or amended by an instrument in writing executed by the parties. Specifically excluded from this requirement are revisions to transportation services and fare schedules identified in the Operations Profile. *Section I. Scope of Program, Paragraphs C and E*, details how such changes are to be approved and documented.

**The remainder of this page is intentionally left blank.**

In witness whereof, each party is signing this Agreement on the date stated below that party's signature. This Agreement becomes effective on the date the last party signed the Agreement.

**New Mexico Department of Transportation**

**CITY OF HOBBS**

*Justin Reese*

Justin Reese (Sep 28, 2021 14:58 MDT)

Michael Sandoval, NMDOT Cabinet Secretary or Designate

Signature

Name/Title (please print)

Sep 28, 2021

Date

Date

Approved as to Form and Legal Sufficiency by the Department's Office of General Counsel.

*John Howell*

NMDOT Assistant General Counsel

Sep 28, 2021

Date

# ATTACHMENT A

**§200.331 Requirements for pass-through entities.**

**All pass-through entities must:**

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

ATTACHMENT A-1

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	Hobbs, City of
(ii) Subrecipient's unique entity identifier (DUNS);	079339222
(iii) Federal Award Identification Number (FAIN);	NM-2020-004-00
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	7/3/2019
(v) Subaward Period of Performance Start and End Date;	10-01-2021 thru 09-30-2022
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Administrative \$73,824.58 Operating \$51,432.60
(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;	Administrative \$73,824.58 Operating \$51,432.60
(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Administrative \$73,824.58 Operating \$51,432.60
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	FY19 5311 Rural Transit Appropriation for FY22 Program Funding Award
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Federal Transit Administration, New Mexico Department of Transportation David Harris - 505 -699-4350, DavidC.Harris@state.nm.us P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	20.509
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

ATTACHMENT A-2

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	Hobbs, City of
(ii) Subrecipient's unique entity identifier (DUNS);	079339222
(iii) Federal Award Identification Number (FAIN);	NM-2020-005-00
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	7/2/2020
(v) Subaward Period of Performance Start and End Date;	10-01-2021 thru 09-30-2022
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Administrative \$0.00 Operating \$765,246.00
(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;	Administrative \$0.00 Operating \$765,246.00
(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Administrative \$0.00 Operating \$765,246.00
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	FY20 Rural CARES Act Funding for FY22 Program Funding Award
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Federal Transit Administration, New Mexico Department of Transportation David Harris - 505 -699-4350, DavidC.Harris@state.nm.us P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	20.509
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

ATTACHMENT A-3

§200.331 Requirements for pass-through entities.

All pass-through entities must:

Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	Hobbs, City of
(ii) Subrecipient's unique entity identifier (DUNS);	079339222
(iii) Federal Award Identification Number (FAIN);	NM-2019-022
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	7/16/2018
(v) Subaward Period of Performance Start and End Date;	10-01-2021 thru 09-30-2022
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;	Capital \$113,145.60
(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;	Capital \$113,145.60
(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;	Capital \$113,145.60
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	FY18 5339(a) Buses and Bus Facilities Formula Appropriation for FY22 Program Funding Award
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	Federal Transit Administration, New Mexico Department of Transportation David Harris - 505 -699-4350, DavidC.Harris@state.nm.us P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	20.526
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

**NEW MEXICO DEPARTMENT OF TRANSPORTATION  
TRANSIT AND RAIL DIVISION**

**DISADVANTAGED BUSINESS ENTERPRISE  
RACE-NEUTRAL IMPLEMENTATION AGREEMENT  
FOR  
FEDERAL TRANSIT ADMINISTRATION SUBRECIPIENTS**

**INTRODUCTION AND INSTRUCTIONS:**

The New Mexico Department of Transportation (NMDOT) Transit and Rail Division, through the NMDOT Office of Equal Opportunity Programs (OEOP), must ensure that Subrecipient of Federal Transit Administration (FTA) funds meet applicable DBE requirements when funds are used in whole or in part to finance procurement and contracts of products and service(s). To that end, Subrecipient with contracting opportunities must submit a *Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients* (Agreement).

Please read the entire Agreement before completing, and do not change or add to the wording of the Agreement. The Agreement is incorporated into and becomes a material part of your contract with NMDOT, and Subrecipients are responsible for complying with the requirements contained therein.

# DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

## **DISADVANTAGED BUSINESS ENTERPRISE RACE-NEUTRAL IMPLEMENTATION AGREEMENT for CITY OF HOBBS; hereinafter referred to as “Subrecipient.”**

### **I. Definition of Terms**

The terms used in this agreement have the meanings defined in 49 CFR Part 26.5.

### **II. OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)**

The Subrecipient intends to receive federal financial assistance from the U.S. Department of Transportation (USDOT) through the New Mexico Department of Transportation (NMDOT), and as a condition of receiving this assistance, the Subrecipient will sign the New Mexico Department of Transportation’s Disadvantaged Business Enterprise Race Neutral Implementation Agreement (hereinafter referred to as Agreement).

The Subrecipient must implement a policy to ensure that DBEs, as defined in 49 CFR Part 26 (also referred to as the DBE Program), have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

To ensure nondiscrimination in the award and administration of DOT-assisted procurement and contracts of products and services contracts.

To create a level playing field on which DBE’s can compete fairly for DOT-assisted procurement and contracts of products and services contracts.

To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.

To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.

To help remove barriers to the participation of DBEs in DOT-assisted procurement and contracts of products and services contracts.

To assist the development of firms that can compete successfully in the market place outside the DBE Program.

### **III. Nondiscrimination (§26.7)**

Subrecipient will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. Subrecipient will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

### **IV. Race-Neutral Means of Meeting the Annual DBE Goal (§26.51)**

Subrecipient will assist NMDOT to achieve its Overall Statewide DBE Goal by race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

## DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has been historically low;
8. Ensuring distribution of the New Mexico DBE directory, through print and electronic means, to the widest feasible universe of potential contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Subrecipient will encourage utilization of DBE contractors whenever possible on its USDOT-assisted contracts. New Mexico Certified DBE firms and the fields of work in which they participate are listed in the electronic web-based DBE Directory located at <https://nmdot.dbesystem.com>

### **V. Quotas (§26.43)**

Subrecipient will not use quotas or set-asides in any way in the administration of the DBE Program.

### **VI. DBE Liaison Officer (§26.25)**

## DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

Subrecipient must designate a DBE Liaison Officer (DBELO). The DBELO is responsible for implementing the DBE Program as it pertains to the Subrecipient and ensures that the Subrecipient is fully and properly advised concerning DBE Program matters.

### **VII. Federal Financial Assistance Agreement Assurance (§26.13)**

The Subrecipient will sign the following assurance, applicable to and to be included in all USDOT-assisted procurements and contracts for products and services:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

### **VIII. Required Contract Clauses (§§26.13, 26.29)**

Subrecipient assures that the following clauses will be included in each USDOT-assisted prime contract:

#### A. Contract Assurance

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted procurement and contracts of products and services contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

#### B. Prompt Payment

##### Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor not later than 10 days of receipt of each progress payment. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the NMDOT's prior written approval. Any violation of this Section shall subject the violating contractor or subcontractor to penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

##### Prompt Payment of Retainage

## DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

Subrecipient shall include either (1), (2), or (3) of the following provisions in their USDOT-assisted contracts to ensure prompt and full payment of retainage (withheld funds) to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

### **IX. Bidders List (§26.11)**

The Subrecipient will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its USDOT-assisted procurement and contracts for products and services. The bidders list will include the name, address and telephone number of each quoting firm and whether the quoter is a New Mexico certified DBE. Subrecipient will include language in its procurement documents that requires each bidding Contractor, at the time that bids are submitted, to list the quotes received for the project as detailed above.

### **X. Reporting**

DISADVANTAGE BUSINESS ENTERPRISE CERTIFICATION 1

Subrecipient will report bidders list and related DBE information to the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs upon request.

Subrecipient will complete and submit annually to the NMDOT Office of Equal Opportunity Programs the NMDOT Annual Profile Registration Form. This Form will be mailed to Subrecipient.

Subrecipient will compile and provide such other information related to its procurements and the DBE Program as deemed necessary by the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs.

**XI. Incorporation of Agreement**

This Agreement is incorporated into Subrecipient's financial assistance agreement with NMDOT by reference and made a part of that agreement.

Date:
Signature of Subrecipient Official
Phone Number:
Printed Name of Subrecipient Official

**NEW MEXICO DEPARTMENT OF TRANSPORTATION  
TRANSIT AND RAIL DIVISION**

**NONDISCRIMINATION ASSURANCE AGREEMENT  
FOR  
FEDERAL TRANSIT ADMINISTRATION SUBRECIPIENTS**

**INTRODUCTION AND INSTRUCTIONS:**

Please read the entire Agreement before completing, and do not change or add to the wording of the Agreement. The Agreement is incorporated into and becomes a material part of your contract with NMDOT, and Subrecipients are responsible for complying with the requirements contained therein.

On behalf of this Agreement, the **CITY OF HOBBS**; hereinafter referred to as "**Subrecipient**" assures that:

1. Subrecipient will comply with the following laws, regulations, and requirements so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in, any U.S. DOT or FTA assisted program or activity (particularly in the level and quality of transportation services and transportation-related benefits) based on race, color, national origin, religion, sex, disability, or age including:

- a. Federal transit laws, specifically 49 U.S.C. § 5332 (prohibiting discrimination based on race, color, religion, national origin, sex (including gender identity), disability, age, employment, or business opportunity),
- b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d,
- c. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (prohibiting discrimination based on race, color, religion, sex, (including gender identity and sexual orientation) or national origin,
- d. Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- e. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq.,f. U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
- g. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, et seq.,
- h. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq.,
- i. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
- j. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
- k. Any other applicable federal statutes that may be signed into law, federal regulations that may be issued, or federal requirements that may be imposed.

2. Subrecipient will comply with federal guidance implementing federal nondiscrimination laws, regulations, or requirements, except as FTA determines otherwise in writing.

3. As required by 49 CFR § 21.7:

a. Subrecipient will comply with 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 in the manner that:

- (1) Subrecipient implements its Award,
- (2) Subrecipient undertakes property acquisitions, and
- (3) Subrecipient operates all parts of its facilities, as well as its facilities operated in connection with its Award.

b. This assurance applies to its Award and to all parts of its facilities, as well as its facilities used to implement its Award.

c. Subrecipient will promptly take the necessary actions to carry out this assurance, including the following:

- (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA Headquarters Office of Civil Rights, and
- (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request.

d. If Subrecipient transfers U.S. DOT or FTA assisted real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:

- (1) While the property is used for the purpose that the federal assistance is extended, or
- (2) While the property is used for another purpose involving the provision of similar services or benefits.

e. The United States has a right to seek judicial enforcement of any matter arising under:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, or
- (3) This assurance.

f. Subrecipient will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. § 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, and
- (3) Federal transit law, 49 U.S.C. § 5332.

g. Subrecipient will comply with applicable federal guidance issued to implement federal nondiscrimination requirements, except as FTA determines otherwise in writing.

h. Subrecipient will extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each Third Party Participant, including any:

- (1) Subrecipient,
- (2) Transferee,
- (3) Third Party Contractor or Subcontractor at any tier,
- (4) Successor in Interest,
- (5) Lessee, or
- (6) Other Participant in its Award, except FTA and the Applicant (and later, the Recipient).

i. Subrecipient will include adequate provisions to extend the requirements of 49 U.S.C. § 5332, 42 U.S.C. § 2000d, and 49 CFR part 21 to each third party agreement, including each:

- (1) Subagreement at any tier,
- (2) Property transfer agreement,
- (3) Third party contract or subcontract at any tier,

- (4) Lease, or
  - (5) Participation agreement.
- j. The assurances you have made on your behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
- (1) Federal assistance is provided for its Award,
  - (2) Subrecipient property acquired or improved with federal assistance is used for a purpose for which the federal assistance is extended, or for a purpose involving similar services or benefits,
  - (3) Subrecipient retains ownership or possession of its property acquired or improved with federal assistance provided for its Award,
  - (4) Subrecipient transfers property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits, or
  - (5) FTA may otherwise determine in writing.
4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR § 27.9, and consistent with 49 U.S.C. § 5332, you assure that:
- a. Subrecipient will comply with the following prohibitions against discrimination based on disability listed below in subsection 4.b of this Category 01.D Assurance, of which compliance is a condition of approval or extension of any FTA assistance awarded to:
    - (1) Construct any facility,
    - (2) Obtain any rolling stock or other equipment,
    - (3) Undertake studies,
    - (4) Conduct research, or
    - (5) Participate in any benefit or obtain any benefit from any FTA administered program.
  - b. In any program or activity receiving or benefiting from federal assistance that U.S. DOT administers, no qualified individual with a disability will, because of his or her disability be:
    - (1) Excluded from participation,
    - (2) Denied benefits, or
    - (3) Otherwise subjected to discrimination.

AFFIRMATION OF APPLICANT

Name of Applicant: \_\_\_\_\_

Printed Name of Authorized Representative: \_\_\_\_\_

Relationship of Authorized Representative: \_\_\_\_\_

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Signing Official: \_\_\_\_\_

**LOBBYING CERTIFICATION**

*An Applicant that submits or intends to submit an application to FTA for Federal assistance exceeding \$100,000 is required to provide the following certification. FTA may not award Federal assistance exceeding \$100,000 until the Applicant provides this certification.*

- A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to FTA for Federal assistance exceeding \$100,000:
  - (1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and
  - (2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352; and
  - (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, and contracts under grants, loans, and cooperative agreements).
  
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

**AFFIRMATION OF APPLICANT**

Name of Applicant: \_\_\_\_\_

Printed Name of Authorized Representative: \_\_\_\_\_

Relationship of Authorized Representative: \_\_\_\_\_

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Signing Official: \_\_\_\_\_

# 5311 FY 22 MOA - CITY OF HOBBS

Final Audit Report

2021-09-28

Created:	2021-09-27
By:	Deborah Bach (deborah.bach@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAbkZ1Aq_6dtruZvi7wcYv_WHPK53N3TDS

## "5311 FY 22 MOA - CITY OF HOBBS" History

-  Document created by Deborah Bach (deborah.bach@state.nm.us)  
2021-09-27 - 9:30:36 PM GMT - IP address: 73.98.2.198
-  Document emailed to John Newell (johnp.newell@state.nm.us) for signature  
2021-09-27 - 9:31:49 PM GMT
-  Document e-signed by John Newell (johnp.newell@state.nm.us)  
Signature Date: 2021-09-28 - 8:54:21 PM GMT - Time Source: server- IP address: 174.28.80.19
-  Document emailed to Justin Reese (Justin.Reese@state.nm.us) for signature  
2021-09-28 - 8:54:23 PM GMT
-  Email viewed by Justin Reese (Justin.Reese@state.nm.us)  
2021-09-28 - 8:58:00 PM GMT - IP address: 104.47.64.254
-  Document e-signed by Justin Reese (Justin.Reese@state.nm.us)  
Signature Date: 2021-09-28 - 8:58:34 PM GMT - Time Source: server- IP address: 75.161.255.105
-  Agreement completed.  
2021-09-28 - 8:58:34 PM GMT



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

SUBJECT: A RESOLUTION AUTHORIZING A CONTRIBUTION OF \$25,000.00 TO THE EDDY-LEA ENERGY ALLIANCE, LLC.

DEPT. OF ORIGIN: Mayor's Office
DATE SUBMITTED: October 6, 2021
SUBMITTED BY: Sam D. Cobb, Mayor

Summary: The City of Hobbs, Lea County, Eddy County and the City of Carlsbad are members of the Eddy-Lea Energy Alliance (ELEA). ELEA owns property on the Eddy/Lea County line that has been characterized by the federal government as a possible temporary storage for nuclear material. The project has potential for significant economic development for the parties.

The Joint Powers Agreement between the governmental entities states that contributions from funds of the parties may be made to defray the costs of ELEA. Each member has been requested to contribute \$25,000.00 for these costs for fiscal year 2021-22. The Resolution will authorize payment of the City's share of the development costs. Currently, the City of Carlsbad serves as the fiscal agent for ELEA and payments under the Joint Powers Agreement will be made to ELEA via the City of Carlsbad.

Fiscal Impact:

Reviewed By: [Signature]
Finance Department

The amount has been budgeted in the 2021-2022 fiscal year for Commission's Budget for Professional Services 010100-42601.

Attachments:

Resolution; Invoice; Resolution Re City of Carlsbad as Fiscal Agent for ELEA

Legal Review:

Approved As To Form: [Signature]
City Attorney

Recommendation:

The Commission should consider the Resolution.

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. 7124

A RESOLUTION AUTHORIZING A CONTRIBUTION OF \$25,000.00 FOR  
FY 2021-2022 TO THE EDDY-LEA ENERGY ALLIANCE, LLC.

WHEREAS, the City of Hobbs, Lea County, Eddy County and the City of Carlsbad are members of the Eddy-Lea Energy Alliance, LLC (ELEA) which owns property on the Lea/Eddy County line. The property has been characterized by the federal government as a possible location for storage of nuclear material and the project has significant economic development potential for the members; and

WHEREAS, Article IV of the Joint Powers Agreement between the governmental entities requires that contributions from the funds of the parties may be made to defray the costs of ELEA and any such contributions shall be equally shared by the members; and

WHEREAS, each member should contribute the sum of \$25,000.00; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the governing body of the City of Hobbs, New Mexico, that the Mayor be and hereby is authorized to contribute the City's share of the costs (\$25,000.00) to ELEA for FY 2021-2022.

PASSED, ADOPTED AND APPROVED this 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
SAM D. COBB, Mayor

ATTEST:

\_\_\_\_\_  
JAN FLETCHER, City Clerk

**EDDY-LEA ENERGY ALLIANCE  
REGULAR MEETING FOR THE BOARD OF DIRECTORS  
WEDNESDAY, DECEMBER 9, 2020, AT 9:00 A.M.  
VIRTUAL MEETING HELD BY VIDEO CONFERENCE  
HOSTED BY CITY OF HOBBS, NM AT  
HOBBS COMMISSION CHAMBERS, 200 E. BROADWAY,  
HOBBS, NM 88240  
AVAILABLE VIA LIVESTREAM AT: [www.hobbsnm.org](http://www.hobbsnm.org)**

NOTE: Written public comments are welcome. Due to the current COVID-19 State of Emergency and the Orders of the New Mexico Department of Health, public comments should be submitted in writing to Ms. Denise Madrid Boyea at [dmboyea@cityofcarlsbadnm.com](mailto:dmboyea@cityofcarlsbadnm.com) by 4:30 PM MST December 8, 2020. Comments will be read at the meeting. Please limit comments to three (3) minutes.

**AGENDA**

1. Call to order.....Chair
2. Roll call to establish quorum.....Ms. Crockett
3. Consider approving Minutes for 9/9/2020.....Action
4. Directors or staff comments.....Discussion
5. Financial Report---Mr. Volpato.....Discussion
6. Consider approving Accounts Payable—Mr. Volpato.....Action
7. Review of FY20 Audit—Mr. Scott Northam, CPA.....Action
8. Consider approving letter from City of Carlsbad to become fiscal agent for ELEA—Mr. Heaton.....Action
9. Public Comment Limited to 3 minutes (read by chairman)  
Sent to Denise Boyea [dmboyea@cityofcarlsbadnm.com](mailto:dmboyea@cityofcarlsbadnm.com) by 5:00 PM Tuesday  
December 8, 2020.
10. Adjournment.....Action

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 hearing or meeting, please contact the Hobbs City Clerk's Office at (575) 397-9200 at least seventy two (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 Hobbs City Clerk's Office if a summary or other type of accessible format is needed

Eddy-Lea Energy Alliance  
Regular Meeting of the Board of Directors  
Wednesday, December 9, 2020, 9:00 a.m.  
Hobbs Commission Chambers – 200 E. Broadway, Hobbs, NM 88240  
Virtual Meeting Held by Video Conference

**Board members present:**

John Heaton (Member-City of Carlsbad)  
Sam Cobb (Member-City of Hobbs) by phone  
Susan Crockett (Member-Eddy County)

**Board members absent:**

Jason Shirley (Member-City of Carlsbad)  
Jack Volpato (Member-Eddy County)  
Finn Smith (Member-City of Hobbs)  
Jonathan Sena (Member- Lea County)  
Mike Gallagher. (Member-Lea County)

**Administrative staff present:**

Wendy Austin – (Deputy City Administrator, Carlsbad)  
Denise Madrid Boyea (General Counsel/City of Carlsbad Deputy City Attorney)  
John Waters (Carlsbad Department of Development)  
Alan Davis – (Eddy County Manager)  
Missi Currier – (Economic Development Corp of Lea County)

**Also Present:**

Scott Northam – CPA/Auditor

**The meeting was called to order by Sam Cobb.**

**Roll call was taken and a quorum was established.**

**Approval of the Minutes from September 9, 2020:**

John Heaton moved to approve the minutes from the September 9, 2020 meeting. The motion was seconded by Susan Crockett. The vote: Susan Crockett for Eddy County, yes; John Heaton for City of Carlsbad, yes; Sam Cobb for City of Hobbs, yes.

**Director/Staff comments:**

John Heaton briefly discussed the NRC program scheduled for 1/6/2021 and 1/7/2021 and encourages all to attend; discussed activities of consultants in Santa Fe.

**Financial Report:**

Sam Cobb presented a discussion of the Financial Report.

**Approval of Accounts Payable:**

Sam Cobb requested approval. John Heaton moved to approve Accounts Payable. The motion was seconded by Susan Crockett. The vote: Susan Crockett for Eddy County, yes; John Heaton for City of Carlsbad, yes; Sam Cobb for City of Hobbs, yes.

**Review of FY20 Audit**

Scott Northam discussed the FY2020 Audit report. Mr. Northam stated this is his third year providing the audit and the audit must go out for bids for 2021. Mr. Northam stated he can provide audits for a total of six years.

**Consider Approving Letter from City of Carlsbad**

Discussed letter from City of Carlsbad to become fiscal agent of ELEA effective 1/1/2021. Motion made by John Heaton to accept the letter. Motion was seconded by Susan Crockett. The vote: Susan Crockett for Eddy County, yes; John Heaton for City of Carlsbad, yes; Sam Cobb for City of Hobbs, yes.

**Public Comments:**

None.

**Adjournment:**

John Heaton moved to adjourn. The motion was seconded by Susan Crockett. The vote: Susan Crockett for Eddy County, yes; John Heaton for City of Carlsbad, yes; Sam Cobb for City of Hobbs, yes.



Post Office Box 1569  
Carlsbad, NM 88221-1569  
(575) 887-1191  
1-800-658-2713  
www.cityofcarlsbadnm.com

**DALE JANWAY**  
MAYOR

**JOHN N. LOWE**  
CITY ADMINISTRATOR

**INVOICE**

September 10, 2021

City of Hobbs  
200 E Broadway St.  
Hobbs, NM 88240

**RE: ELEA Member Contribution**

This is an invoice for the ELEA Member Contribution for FY22.

**TOTAL AMOUNT DUE                      \$25,000.00**

Please remit payment to:

City of Carlsbad  
P.O. Box 1569  
Carlsbad, NM 88221-1569  
Finance Department

Sincerely,

Melissa Salcido  
Finance Director

**COUNCILORS**

**Ward 1**  
LISA A. ANAYA FLORES  
EDDIE T. RODRIGUEZ

**Ward 2**  
J J CHAVEZ  
LEO B. ESTRADA

**Ward 3**  
JASON G. SHIRLEY  
JUDI WATERS

**Ward 4**  
WESLEY A. CARTER  
MARK WALTERSCHEID



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

SUBJECT: CONSIDERATION TO APPROVE A DEVELOPMENT AGREEMENT WITH ALJO, LLC CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY HOUSING.

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: October 11, 2021
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: ALJO, LLC has requested a Development Agreement concerning the development of single-family housing units located within the municipal boundaries. The developer proposes to produce market rate single-family units and is requesting infrastructure incentives of \$100,000.00.

Fiscal Impact:

Reviewed By: [Signature] Finance Department

If approved funds to be encumbered in fund 010100-44901-00170 (single family housing) having a balance of \$1,195,521.00.

Attachments: Resolution and Development Agreement.

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Commission considers approval / denial of the attached Development 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. 7125

**A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH ALJO, LLC CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY.**

WHEREAS, the City of Hobbs is proposing to enter into a Development Agreement with ALJO, LLC 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 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
Sam D. Cobb, Mayor

ATTEST:

\_\_\_\_\_  
Jan Fletcher, City Clerk

## MARKET RATE SINGLE FAMILY DEVELOPMENT AGREEMENT

**THIS AGREEMENT** is entered into on this 18<sup>th</sup> day of October 2021 by and between the City Of Hobbs, New Mexico, a municipal corporation (hereinafter "City"); and ALJO, LLC, 3311 N. Grimes Street, Hobbs, NM 88240, (hereinafter "Developer") for the purpose of delivering Housing Developer Services to be provided to the City.

### RECITALS:

\*\* The City requires to contract with a Market Rate Single Family 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 Market Rate Single Family Housing, to be produced within 365 days of ratification of this agreement, within the Municipal Boundaries.

\*\* Any outstanding Development Agreements between the Developer and the City of Hobbs concerning the production of Market Rate Single Family 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 Market Rate Single Family Housing. 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.

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 Rate Single Family 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.

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, providing compliance with:

- a. Incentive not to exceed per square footage basis:
  - i. \$5.00 per sq. ft. north of Sanger
  - ii. \$10.00 per sq. ft. south of Sanger
  - iii. Calculation based on living area only
- b. Incentive not to exceed per unit basis:
  - i. \$5,000.00 per single family unit
  - ii. \$2,500.00 per multi-family unit

- c. Incentive not to exceed fair share per linear foot of infrastructure basis:
  - i. \$90.00 per lineal front footage of complete public infrastructure, and further broken down as follows:
    - 1. **Water** (\$12.50 / lf):
      - a. Twelve dollars fifty cents (\$12.50) 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** (\$17.50 / lf):
      - a. Seventeen dollars fifty cents (\$17.50) 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** (\$45/ lf):
      - a. Forty five dollars (\$45) 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. Fifteen (\$15) 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 supporting 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 market rate single family housing unit. 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, 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 development of market rate single family housing 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.

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 365 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 be 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 ALJO, LLC, 3311 N. Grimes Street, Hobbs, NM 88240 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

\_\_\_\_\_  
Efren Cortez, City Attorney



CITY OF HOBBS
COMMISSION STAFF SUMMARY FORM

MEETING DATE: October 18, 2021

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

DEPT. OF ORIGIN: Planning Division
DATE SUBMITTED: October 11, 2021
SUBMITTED BY: Kevin Robinson - Planning Department

Summary: Black Gold Estates has requested a Development Agreement concerning the development of single-family housing units located within the municipal boundaries. The developer proposes to produce market rate single-family units and is requesting infrastructure incentives of \$100,000.00.

Fiscal Impact:

Reviewed By: [Signature] Finance Department

If approved funds to be encumbered in fund 010100-44901-00170 (single family housing) having a balance of \$1,195,521.00.

Attachments: Resolution and Development Agreement.

Legal Review:

Approved As To Form: [Signature] City Attorney

Recommendation:

Commission considers approval / denial of the attached Development 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. 7126

**A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH BLACK GOLD ESTATES CONCERNING THE DEVELOPMENT OF MARKET RATE SINGLE-FAMILY.**

WHEREAS, the City of Hobbs is proposing to enter into a Development Agreement with Black Gold Estates 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 18<sup>th</sup> day of October, 2021.

\_\_\_\_\_  
Sam D. Cobb, Mayor

ATTEST:

\_\_\_\_\_  
Jan Fletcher, City Clerk

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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

\_\_\_\_\_  
Efren Cortez, City Attorney