Alamogordo City Commission

NOTICE OF MEETING

Regular Meeting Agenda

September 24, 2019 - 6:30 PM
City Hall, City Commission Chambers
1376 E. Ninth St.

Richard Boss .... Mayor
Jason Baldwin .... Mayor Pro-Tem, District 1
Nadia Sikes ....District 2
Susan Payne ....District 3
Josh Rardin ....District 4
Al Hernandez .... District 5
Dusty Wright .... District 6

Brian Cesar .... Interim City Manager
Petria Bengoechea ....City Attorney
Rachel Hughs ....City Clerk

MISSION STATEMENT as Adopted by the City Commission on March 24, 1995.
The City of Alamogordo is a Municipal Corporation that exists solely for the purpose of providing the best possible services to our customers, the citizens of Alamogordo. We are committed to providing these services with honesty, integrity, compassion, fairness, and a commitment to excellence.

We are committed to the long-term financial stability and responsible growth of the City and all decisions will be driven by our commitment to provide the best services possible in a financially sound and responsible manner given the economic realities facing the City.

In accordance with Section 10-15-1.D, NMSA 1978 (2010 Cumulative Supplement), this agenda has been posted on the bulletin board located in the east/west lobby of the City Hall and in the glass case located outside a the north entrance of the City Hall, distributed to the appropriate news media, and posted on the City website: http://ci.alamogordo.nm.us within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Alamogordo website: http://ci.alamogordo.nm.us

The Mayor and City Commission request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Commission Chambers to respond to or to conduct a phone conversation. The Alamogordo Commission Chambers is wheelchair accessible. Other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Clerk's Office at 575-439-4205.

CALL TO ORDER & ROLL CALL

Announce the presence of a Quorum.

INVOCATION & PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PRESENTATIONS

1. Presentation follow up from the White Sands Balloon Festival. *(G.B. Oliver, Chamber of Commerce President)*

2. Alamogordo Senior Volunteer Programs Advisory Council presentation. *(Sue Hopkins, Acting President of Senior Advisory Council)*

PUBLIC COMMENT

Residents must sign up with the City Clerk to address the City Commission. Comments are limited to 3 Minutes, and there will be a maximum of 21 Minutes allowed for Public Comment.

CITY MANAGER'S REPORT

REMARKS AND INQUIRIES BY THE CITY COMMISSION

CONSENT AGENDA (Roll Call Vote Required for an Ordinance or Resolution)

All matters listed under the Consent Agenda are considered to be routine by the City Commission and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

3. Approve the minutes for the September 10, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

4. Consider, and act upon, final publication of Ordinance 1599 to amend certain sections of Chapter 2 relating to Campaign Disclosure. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

5. Consider, and act upon, a leak abatement request for 2820 Carmel Dr. in the amount of $2,818.00. *(Mark Threadgill, CustomerService Manager)*

6. Consider, and act upon, Resolution 2019-39 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of September 24, 2019. *(Evelyn Huff, Budget Analyst)* **(Roll Call Vote Required)**

7. Consider, and act upon, acceptance of grant award of trees from Apache Corporation. *(Debbie Osborne, Grant Coordinator*)

8. Consider, and act upon, grant application to the New Mexico Library Foundation. *(Sharon Rowe, Library Manager*)

9. Consider, and act upon, grant application to Petco Foundation. *(Dwain Martinez, Animal Control Manager*, *and Debbie Osborne, Grant Coordinator)*

10. Consider, and act upon, Resolution No. 2019-40 approving the submission of an application in the amount of $3,340,000 and a $334,000 City match for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for the parallel pipeline project. *(Larry Garner, Public Works Manager/Debbie Osborne, Grant Coordinator*) **(Roll Call Vote Required)**

11. Consider, and act upon, Resolution No. 2019-41 approving the submission of an application in the amount of $1,200,000 with a $120,000 City match for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for the rehabilitation of the Lower Heights Water Storage Tank. *(Larry Garner, Public Works Manager and Debbie Osborne, Grant Coordinator)* **(Roll Call Vote Required)**

ITEMS REMOVED FROM CONSENT AGENDA

NEW BUSINESS

12. Consider, and act upon, first publication of Ordinance 1600 for refunding of the City's outstanding 2009 loan agreement. *(Chris Muirhead and John Archuleta)* **(Roll Call Vote Required)**

13. Consider, and act upon, award of Public Works Bid No. 2019-005 to Stone Electric & Power, LLC related to the Replace Emergency Generator at Alamogordo Police Department project in an amount not to exceed $77,554.80, including NMGRT. *(Bob Johnson, Engineering Manager)*

14. Consider, and act upon, an MOU Agreement with Alliance for Regional Military Support to hire a consulting group Cypress International for $10,000 a year for 3 years for a total of $30,000. *(Ed Brabson and Tom Thomas)*

15. Consider, and act upon, approval of changes to City of Alamogordo Leak Abatement Policy. *(Mark Threadgill, Customer Service Manager)*

16. Consider, and act upon, first publication of Ordinance 1601 Adopting a Municipal Gross Receipts Tax and Repealing Ordinance 1594 titled "An Ordinance Implementing Hold Harmless Tax". *(Stephanie Hernandez, Finance Director)* **(Roll Call Vote Required)**

17. Appointments to Boards and Committees. *(Richard Boss, Mayor)*

EXECUTIVE SESSION (Roll Call Vote Required)

18. Recess into Executive Closed Session in compliance with 10-15-1(h)(2), NMSA (as amended) to discuss Limited Personnel Matters (City Manager). **(Roll Call Vote Required)**

RECONVENE INTO OPEN SESSION

ADJOURNMENT

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/16/2019 **Report No:** 1.

Submitted By:

Subject: Presentation follow up from the White Sands Balloon Festival. *(G.B. Oliver, Chamber of Commerce President)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Information only.

Background: During the last Commission meeting, Mr. Oliver request to be placed on this agenda to give an overview from the White Sands Balloon Festival that occurred on September 7, 2019.

RECEIVED
SEP 16 2019
CITY CLERK

City of Alamogordo City Commission Meeting
AGENDA REQUEST FORM

Today's Date: 9/16/19

Request Date of Meeting: 9/24/19

Name: Alamogordo Chamber of Commerce

Address: 1301 North W Sands
Alamogordo NM **ZIP** 88310

Phone Number: 575-437-6120

E-Mail Address: mtd@alamogordo.com

Item requested will be for: (Please check one)

[X] Information only [ ] Action Item

Brief description of topic to be discussed:
Please attach one original of any documents pertaining to the topic - We do not allow handouts at the meeting

presentation/follow up in regards to the White Sands Balloon music festival. GB Oliver will be presenting.

Signature: Michelle Hoel

Please return to: Rachel Hughs, CMC, City Clerk
City of Alamogordo
1376 E. 9th Street
Alamogordo, NM 88310

Phone: (575) 439-4272 **Fax:** (575) 439-4396 **E-mail:** rhughs@ci.alamogordo.nm.us

2019 WHITE SANDS BALLOON & MUSIC FESTIVAL

Recap Video

Presented by the Alamogordo Chamber of Commerce to the Alamogordo City Commission

The Alamogordo Chamber of Commerce in Partnership with the White Sands Balloon Invitational Committee and the City of Alamogordo held a two day festival.

The video presented will feature:

- Footage of The National Anthem
- The Mass Balloon Ascension the Morning of September 7th.
- Footage of the Music Festival,
- Footage of the 5k Fun Run/Walk
- Pictures of families, the bands and vendors,
- & pictures of the Balloon Launch from White Sands on September 8th.

The video ends with credits to 2019 WSBMF partners, contributing photographers and videographers.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/19/2019 **Report No:** 2.

Submitted By: Neil McFarland

Subject: Alamogordo Senior Volunteer Programs Advisory Council presentation. *(Sue Hopkins, Acting President of Senior Advisory Council)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Presentation only.

Background: Update on Senior Volunteer Program Advisory Council activities from January 2019 to June 2019.

Senior Volunteer Programs Advisory Council

By Susan Hopkins,

Acting Chairman of the Board

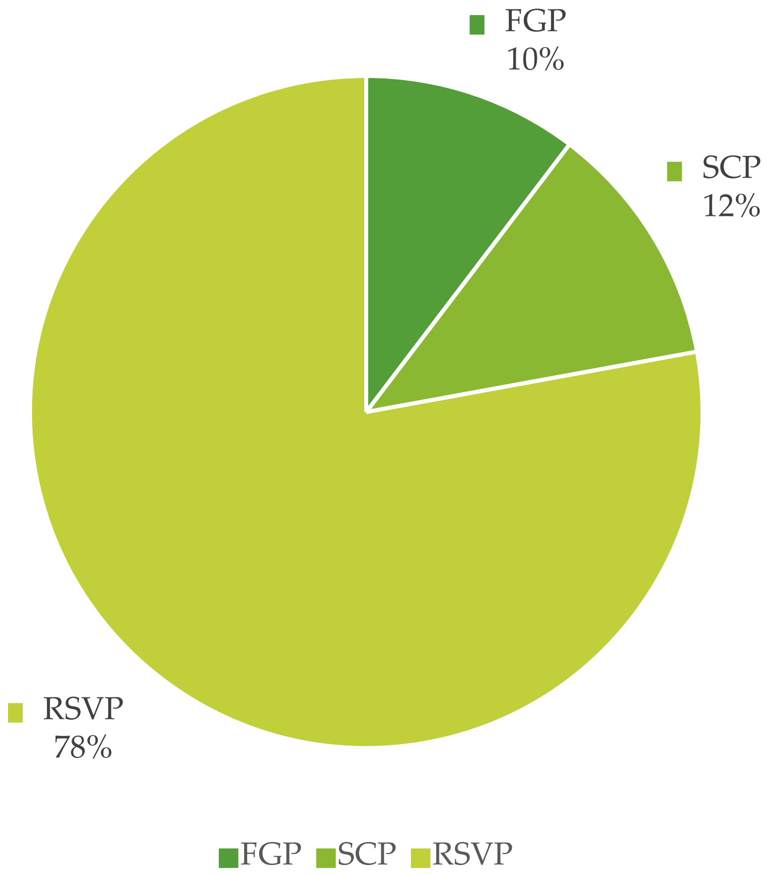
Agenda

- Purpose
- SVP Program Hours
- FGP
- SCP
- RSVP
- Annual Projects
- Projected Annual Projects
- SVP Advisory Council Board
- Conclusion

Purpose

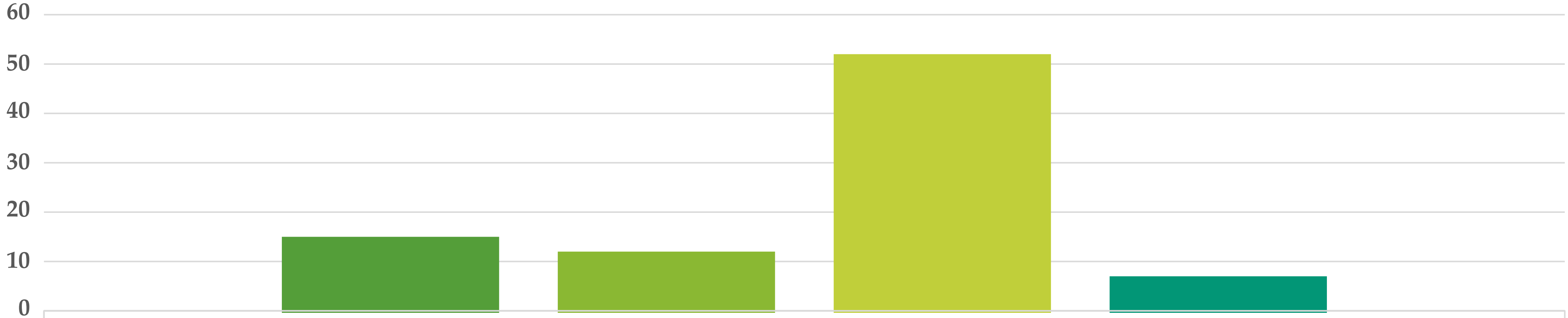
- To serve in an Advisory capacity to the sponsor, the City of Alamogordo and to assist the Senior Volunteer Program's Staff in planning and support
- To assist in assessing community needs
- Support the development of a service ethic in the community
- Advise on volunteer recruitment strategies
- Link the project with other community service resources
- Advise on programming for impact and assess project accomplishments and impact
- Assist in developing non-federal resources, Suggest ways the project can gain increased visibility and recognition in the community
- Advise on how trends in the community are affecting seniors.

Senior Volunteer Programs-Hours



Foster Grandparent Program (FGP)

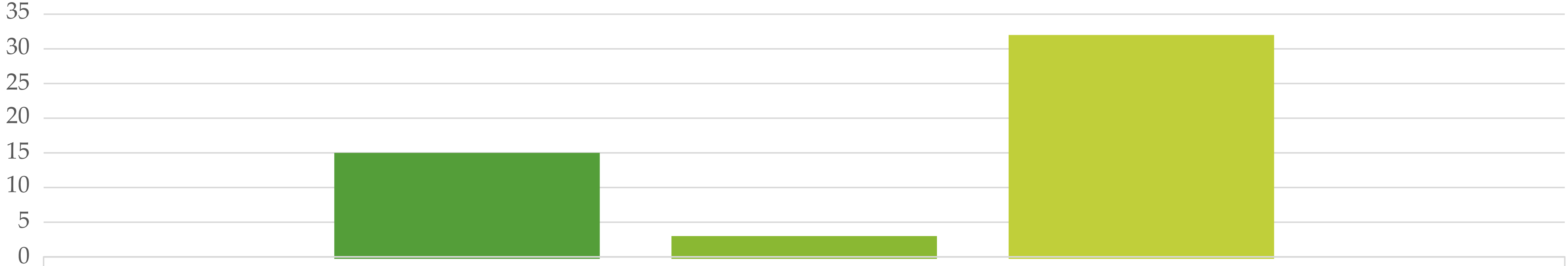
Foster Grandparents are role models, mentors and friends to children with exceptional needs. The program provides a way for volunteers age 55 and over to stay active by serving children and youth in our community.



	FGP
Volunteers	15
Work Sites	12
Students	52
Tutoring	7

Senior Companion Program (SCP)

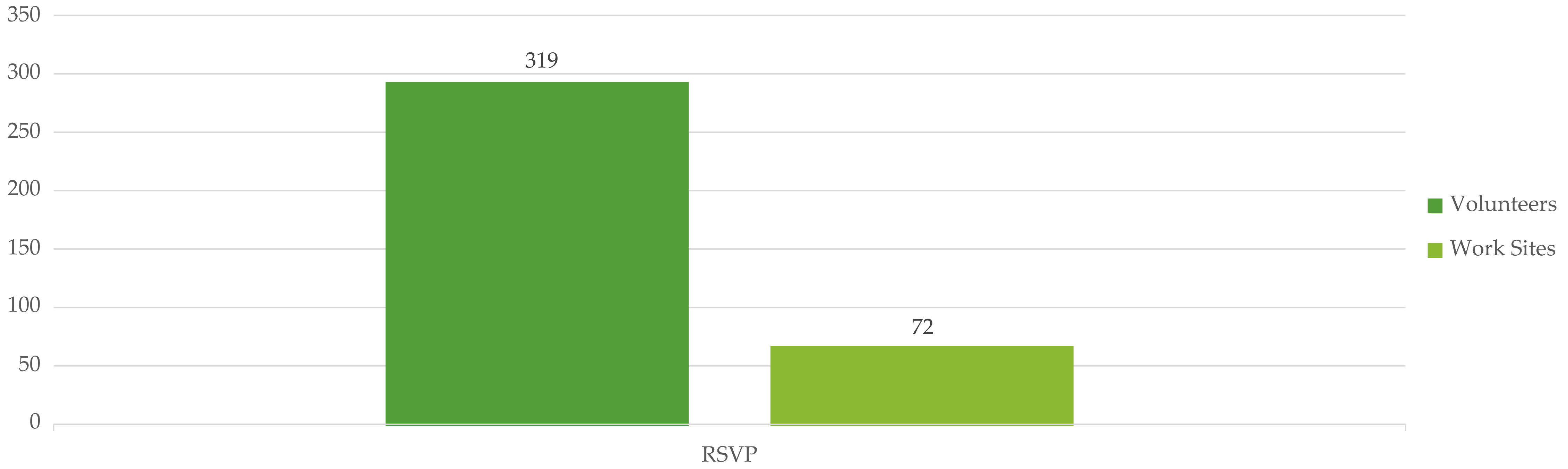
Senior Companions are volunteers age 55 and over who make a difference by providing assistance and friendship to adults who have difficulty with daily living tasks such as shopping or paying bills. We help these adults remain independent and in their homes instead of having to move to more costly institutional care. Senior Companions give families or caregivers much needed time off from their duties, run errands and most importantly, provide friendship and companionship to their clients.



	SCP
Volunteers	15
Work Sites	3
Clients	32

Retired & Senior Volunteer Program (RSVP)

RSVP is one of the largest volunteer networks in the nation for people 55 and over. You can use the skills and talents you've learned over the years, or develop new ones while serving in a variety of volunteer activities within our community. We had 319 volunteers donate 51,914 hours at 72 worksites in Otero County between January 1 and June 30, 2019



Annual Projects

- Hot Chocolate Social – January 30, 2019
- National Mayor’s Day of Service Recognition – April 4, 2019
- Volunteer Recognition Banquet – May 3, 2019
- Hot Dogs & Root Beer Float Social - July 31, 2019
- Spaghetti Dinner Fundraiser - October 11, 2019

Projected Annual Projects

- Holiday Raffle Fundraiser – Holiday Season, 2019
- State Conference on Aging - August 11-14, 2019
- Hot Chocolate and Cookie Social – January, 2020
- Mayor’s National Day of Service Recognition – April, 2020
- Volunteer Recognition Banquet – May, 2020

SVP Advisory Council Board

- Council consists of no less than 9 and no more than 11 Board positions
  - 10 Positions Currently Occupied
  - 1 Position Currently Open
- Marketing and Recruiting for open Board positions
  - Alamo Senior Center Announcements, RSVP bulletin board,
  - Alamo Senior Center Newsletter
  - City Profile
- Meetings held monthly – at ASC
  - 3rd Wednesday of each month - 1:15pm

Conclusion

- The SVP Advisory Council is a community-based project. As such, there must be a real sense of local ownership and a spirit of partnership among the community, and its partner organizations. The SVP Senior Advisory Council is a core group of individuals that provide broad representation geographically throughout Otero County, FGP/SCP/RSVP volunteers, and other interested community members. These individuals demonstrate their dedication to volunteerism as well as being a strong resource for the community.
- This Advisory Council provides support, direction and active participation with Senior Volunteer Programs.




AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** **Report No:** 3.

Submitted By: Rachel Hughs

Subject: Approve the minutes for the September 10, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve the minutes.

Background: This is required by the Open Meetings Act.

CITY OF ALAMOGORDO, NEW MEXICO
CITY COMMISSION REGULAR MEETING MINUTES
6:30 P.M., COMMISSION CHAMBERS
September 10, 2019

RICHARD BOSS, MAYOR
AL HERNANDEZ, COMMISSIONER
NADIA SIKES, COMMISSIONER
JOSH RARDIN, COMMISSIONER
SUSAN PAYNE, COMMISSIONER
JASON BALDWIN, MAYOR PRO-TEM
DUSTY WRIGHT, COMMISSIONER
BRIAN CESAR, INTERIM CITY MANAGER
PETRIA BENGOECHEA, CITY ATTORNEY
RACHEL HUGHS, CITY CLERK

CALL TO ORDER / ROLL CALL / INVOCATION / PLEDGE OF ALLEGIANCE

Mayor Boss called the meeting to order at 6:31 p.m. Roll Call was taken by the City Clerk. City Clerk Hughs announced there was a quorum present. Invocation was given by Pastor Forney and the Pledge of Allegiance was led by Commissioner Rardin.

APPROVAL OF AGENDA

Commissioner Hernandez moved to approve the agenda.
Commissioner Rardin seconded the motion. Motion carried with a vote of 7-0-0.

PRESENTATIONS

1. Presentation of Mayor's Committee on Aging. *(Barbara Telles, MCoA Vice Chairperson)*

Ms. Telles showed a PowerPoint Presentation. She spoke on the purpose of the Committee, the membership, their meeting time and place, the Alamo Senior Center services and activities, and the Senior Center Fitness Center. She also talked about their planning of a 25-year Celebration. **(See Blue Book for PowerPoint)**

PUBLIC COMMENT

Gene Downer commented on the following:
He spoke on getting more money for tourism and the steps that could be taken to enhance the tourism. He suggested Mayor-Pro Tem Baldwin work with Cloudcroft in cooperative advertising. He said he supports the Commissioners approving the request for the property transfer.

G.B. Oliver commented on the following:
He said he would like to be on the agenda in the next two weeks to give an update on the Balloon and Music Fest. He thanked City staff for helping with the event. He said the unofficial count was 21,093 people that attended the event, and between 55-60 percent were from out of town. He also said that only one person was asked to leave the venue.

CITY MANAGER'S REPORT

Interim City Manager Cesar made the following remarks:
1. He thanked all the employees for helping with the Balloon Fest.
2. He said he, Public Works Director Garner, Water Operations Manager Nunnelley and Mayor Boss will be out of the office on Thursday to travel to Albuquerque to meet with the State Engineer to go over a proposed Water Trust Board. He said there were multiple applications for the parallel pipeline, the design and right of way acquisition and for one of the reservoirs. He said they will discuss a proposed loan agreement with NMFA to see if this is something they can do and then to reach out to them for other funding sources that may be available through the State, the Feds or the Governor's Office.

REMARKS AND INQUIRIES BY THE CITY COMMISSION

Mayor Boss made the following comments:
He gave a report on the Municipal League Conference. He reported on the New Mexico Internet Sales Tax, House Bill 479 and a gross receipts tax error.

Commissioner Sikes said they had the opportunity to meet the vendors and attended seminars at the Municipal League Conference. She said the Conference is always productive.

Commissioner Payne stated that there is a Workforce Solutions Board, and Boards for different regions. She said they need to look at funding opportunities for employers for training programs. Commissioner Sikes said the Cabinet Secretary for Workforce Solutions would like to come and present to the Commission what they heard at the Municipal League Conference. She briefly talked about some of the opportunities that are available. Commissioner Payne said she believes that some of the employers, had they known about it, would take advantage of it. She also said not everyone wants to go to college and get a degree, but what an opportunity to get that on the job training and have the State assist with that. Mayor Boss said he does not think they've had the utilization they expected, so they are really trying to push it now. It is a real opportunity.

Commissioner Rardin made the following comments:
He asked if that program the Commissioners were talking about is called JTIP. They answered no and said JTIP is a different program. He asked if staff could get a little more detail on the discrepancy the Mayor spoke of. He asked for what the discrepancy was and how long it has been going on. Interim City Manager Cesar stated the Finance Director Hernandez can look into it. He said in 2009-2010 the Commission saw the activity going on in Alamogordo, but the Gross receipts tax was just going wild. He said they had a suspicion then, but they had no way to prove it.

Mayor Boss said they don't have to prove it to them, they know what happened. He said maybe just now they decided to do the payback or just hadn't figured out how to fix it yet. Commissioner Rardin said they need to keep a close eye on that and get as much information as they can. Commissioner Payne said one of the new persons from Tax and Rev is the attorney. She said this person sounded like he wanted to right some wrong.

Commissioner Hernandez made the following comments:
He thanked Chief LeClair and Code Enforcement for helping with squatters. He said several years ago he brought up an ordinance restricting the use of steel, metal sided buildings, he said Interim City Manager Cesar has taken over this and does not want it dropped. He said the traffic lights on various areas are erratic, he wanted to make sure everyone knew that they are working on those. Mayor Boss added there has been some complaints on some of the street identification signs.

Commissioner Hernandez said the towing ordinance needs to be picked back up, he does not want anyone to get hurt.

Commissioner Payne made the following comments:
She said City Staff was out cleaning after the rainstorm, and just wanted to say that she appreciates that. She gave a shout out to Zia Trans for getting a bus stop at the Domestic Violence shelter. Commissioner Sikes stated it was a safety issue. To a lot of people, it may just sound like a bus stop, but it is a big deal.

Commissioner Sikes made the following comments:
She said the banners coming into the City look festive and they serve as reminder of things they can enjoy. She said the Balloon Fest was incredible. She spoke on the Keep Alamogordo Beautiful, she said Special Events and Keep Alamogordo Beautiful Manager Sides got a grant for getting signs. She showed pictures of two yards, she asked Mayor Pro-Tem Baldwin to give an award to Pam and Colin Irving and Commissioner Wright an award to Alexander Wilson for their beautiful yards.

CONSENT AGENDA

2. Approve the minutes for the August 27, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

3. Approve the statements related to the Executive Closed Session held on August 27, 2019. *(Rachel Hughs, City Clerk)*

4. Consider, and act upon, final publication of Ordinance 1598, an amendment to the City Charter for submitting Candidate Disclosure Statements. *(Rachel Hughs, City Clerk)* (Roll Call Vote Required)

5. Approve the award of RFP 2019-003 Uniform and Linen Rental and Laundry Services for the City of Alamogordo to Unifirst Corporation. *(Barbara Pyeatt, Chief Procurement Officer)*

City Clerk Hughs asked to remove Item # 2 and Commissioner Hernandez removed Item #4 from the Consent Calendar.

Commissioner Hernandez moved to approve item 3 and 5 of the consent calendar.
Mayor Pro-Tem Baldwin seconded the motion.
Motion carried with a vote of 7-0-0.

ITEMS REMOVED FROM CONSENT AGENDA

2. Approve the minutes for the August 27, 2019 Regular meeting. *(Rachel Hughs, City Clerk)*

City Clerk Hughs said she pulled this item to make a correction to the minutes. Commissioner Payne was present at the meeting.

Commissioner Hernandez moved to approve as amended.
Mayor Pro-Tem Baldwin seconded the motion.
Motion carried with a vote of 7-0-0.

4. Consider, and act upon, final publication of Ordinance 1598, an amendment to the City Charter for submitting Candidate Disclosure Statements. *(Rachel Hughs, City Clerk)* (Roll Call Vote Required)

Commissioner Hernandez said he pulled this item because he does not support it.

Mayor Pro-Tem Baldwin moved to approve.
Commissioner Rardin seconded the motion.
Roll call vote was taken.
Motion carried with a vote of 4-3-0. Commissioner Hernandez, Commissioner Payne, and Mayor Boss voted nay.

PUBLICHEARINGS

6. Consider, and act upon, Application No. 1135085, a Beer and Wine Liquor License at 930 S. White Sands Blvd, to Y'alls Steakhouse. *(Rachel Hughs, City Clerk)*

City Clerk Hughs announced that Ms. Rankin was in the audience if the Commission had any questions.

Commissioner Hernandez moved to approve.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 7-0-0.

NEW BUSINESS

7. Consider, and act upon, paving of McDonald Road, 8 Street 10th Street. *(Janice Akers)*

Ms. Akers stated that there are 2 blocks of McDonald Road that belong to the City that does not get paved. She asked the Commission to reconsider re-paving completely.

Commissioner Rardin said he drives this road daily and there are more potholes than there is road. He thought they should contact Otero County to see what they would charge the City. He said the County chipped-sealed their portion of the street. Mayor Boss said there are a lot of streets that are in worst shape or have a lot more travel on them. Commissioner Rardin said chip-sealing is a less expensive option.

Commissioner Wright asked if they did a swap with the County for an old brush truck. He then asked if this could be worked in with that swap. Public Works Director Garner said he has been in contact with Otero County and they have been looking at chip sealing several different roads. Those prices have already been given to the Commission. He also said the County is interested in three of the City's vehicles and he is trying to work off a trade for knocking off some of the price. He said the holdup at this particular time is that the County has to have their roads done that they budgeted for, and that should be completed with the next two months. At that time, they will start moving forward to start taking care of some of these other roads and McDonald Road is on the top of that list.

Commissioner Rardin said in the past they worked a deal with the County where the City paid for all the material and the County did the labor. Public Works Director Garner said they are doing something similar to that. Commissioner Rardin said that road is bad, but it does not warrant the City to spend an enormous amount of money to repair it.

Interim City Manager Cesar said staff has direction from previous Commission to maintain roads that the City acquires at the level in which they received it. He said this road was a chipped sealed road and if they go in and pulverize and pave, they cannot just go in and lay the asphalt, they would have to do the ADA improvements, etc. Commissioner Rardin asked if they chip seal then they will not have to do all that. Interim City Manager Cesar answered yes, they can just stay at that level. Commissioner Rardin said that is all it needs. He asked if they can check into what it will cost and maybe do some trading or swapping with the County.

Public Work Director Garner said Commissioner Wright was right, they did do a trade and it is similar to what he is working on now. He will bring that agreement to the Commission before they move forward. Mayor Pro-Tem Baldwin asked if they can get a report on this in three months, when it is taken care of.

No action taken.

8. Consider, and act upon, awarding solid waste services to Southwest Disposal *(Larry Garner, Public Works Director)*.

Public Works Director Garner said they went out to bid for this and had one response. He said they are looking to start moving forward to negotiations to solidify that contract.

Commissioner Hernandez said he has had several issues over the years with Southwest Disposal, mostly the drivers. He said the drivers will get out of their trucks and write on the cans what can or cannot be put in the containers, but when a can is damaged, they do nothing about it. He said he has often had to call the City after a windstorm to go pick up some of the cans. He said if they hit a fence, they'll keep driving. Occasionally they will have their guys go and fix it, if it is blatant. He said if the City can get them to help them with those items, the service would be much improved.

Public Works Director Garner announced that the Southwest Disposal Representative is in the audience.

Commissioner Hernandez said his biggest concern the cans breaking or the tops coming off. He asked how hard it is for the drivers to report that since they are right there.

Mayor Pro-Tem Baldwin moved to approve.
Commissioner Rardin seconded the motion.
Motion carried with a vote of 7-0-0.

9. Consider, and act upon, Change Order No. 2, Public Works Bid No. 2017-010, EN1701, to General Hydronics Utilities, LLC, related to Street Maintenance Program FY 2017, in an amount not to exceed $242,569.71, excludes NMGRT. *(Edward Balderrama, Project Manager)*

Project Manager Balderrama explained the change order is to adjust the quantity for over/under runs. He said the project is complete and this is happening now because they are complete. He explained where and why there were over/under runs. He said the quantity over run is 4.35 percent change on the original contract amount.

Mayor Boss asked him if this is nothing unusual on this size of a contract. Project Manager Balderrama answered it is a little bit larger than what he is used to. He said the contract was completed well ahead of time.

Commissioner Hernandez said he saw this coming for the curb and gutter on Michigan. He said this was the worst road in Alamogordo. He said there has never been double striping on Texas and Michigan, and his concern is that they have paid the money to have it done and are they going to keep it up. He said that is a big cost for low traveled roads. Project Manager Balderrama said it is mainly for traffic calming. He said it is something that the City has to make sure they are diligent on as far as maintaining whatever they feel.

Interim City Manager Cesar said a number of years ago they built into the budget, a recurring line item for stripping or for the pavement markings. He said they have $50,000 a year in the street maintenance budget to keep up with the stripping, the reflective markers and crosswalks. He said it is up to the Public Works Director and the Manager of Streets on whether they have City staff go in and do the stripping, put down crosswalks or contract a portion of that out. He said they have the funding available to maintain not only what they have but what has been added.

Commissioner Hernandez asked if it was necessary to spend that money or could they have spent that money in a different way. He asked since Texas and Michigan have never been stripped, could they have better spent that money, and can they better spend that money in the future.

Project Manager Balderrama stated the dips that were in the street are gone and it gives the appearance that it is faster. He said the double striping won't control the speeding, but it would make it easier for the police department.

Commissioner Hernandez said Maryland is the highest traffic area and the speed limit is 25. He said he is guessing that there have not been 25 tickets in the last 25 years for speeding on that street. He said if they are going to spend the money, then they need to spend it wisely.

Commissioner Hernandez moved to approve.
Mayor Pro-Tem Baldwin seconded the motion.
Motion carried with a vote of 6-0-1. Commissioner Wright rescued himself from voting.

10. Appointments to Boards and Committees. ***(Richard Boss, Mayor)***

Mayor Boss read the openings and appointed Chuck Keller to the Senior Volunteer Programs Advisory Council and Mark Praught to the White Sands Beautification Committee. No one was opposed.

CLOSED SESSION

11. Recess into Executive Closed Session in compliance with 10-15-1(h)(8), NMSA (as amended) to discuss Real Property land swap proposed by Michael Shyne and a street closure plan proposed by the Otero County Commission, and Limited Personnel Matters (City Manager). (Roll Call Vote Required)

Roll Call vote was taken to recess into Executive Closed Session at 7:44 p.m.
Motion carried with a vote of 7-0-0

RECONVENE INTO OPEN SESSION

Commissioner Rardin moved to reconvene into open session at 9:05 p.m.
Commissioner Wright seconded the motion.
Motion carried with a vote of 7-0-0

Mayor Boss stated there was no action taken in Executive Closed Session obviously, and there will be none.

Commissioner Rardin moved to adjourn at 9:05 p.m.
Commissioner Payne seconded the motion.
Motion carried with a vote of 7-0-0.

ADJOURNMENT

Mayor Richard Boss

ATTEST:

City Clerk Rachel Hughs

(Prepared by Eric Barraza, Deputy Clerk)
Approved at the Regular Meeting held on September 24, 2019.

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/18/2019 **Report No:** 4.

Submitted By: Rachel Hughs

Subject: Consider, and act upon, final publication of Ordinance 1599 to amend certain sections of Chapter 2 relating to Campaign Disclosure. *(Rachel Hughs, City Clerk)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approve ordinance for final publication.

Background: During the August 27, 2019 regular meeting, Commission approved first publication of ordinance 1599 to amend only the filing days for Campaign Disclosure Reports regarding Ordinance 1466. Ordinance 1599 with the new amendments is attached.

The article number in the Code of Ordinances of section #2 for Municipal Election Campaign Disclosure has been changed to 2-17, in the meeting of August 27, 2019 the article read 2-16. This article was renumbered by the editor to prevent duplication of article numbers. Pease see the attached "Editor's Note" of the Code of Ordinances highlighted in yellow.

Information from Agenda report for August 27, 2019.
Discussion on Municipal Election Campaign Disclosure Ordinance 1466 was brought before the Commission at the last meeting of August 13, 2019. Commission advised they would like to add language to penalties for failing to report expenditures and contributions in the manner and within the time required, in addition to the proposed changes to amend the ordinance.

City Clerk Hughs also proposes the county clerk not be required to send notification by **certified mail** to the candidates of the filing deadline in section 2-16-080, the change would be to **notify each candidate of the filing deadline**.

Information from Agenda report for August 13, 2019.
Interim City Manager Cesar and City Clerk Hughs suggest the Campaign Disclosure reports be submitted to the Otero County Clerk and change the filing days. The County Clerk is willing to have the Campaign Disclosure reports submitted to her office.

Current filing days of Ordinance 1466:

2-17-100. - Time for filing.
All candidates and special purpose political committees and general purpose political committees shall file reports of expenditures and contributions for the following reporting periods:
(1) Twelve (12) days prior to an election;
(2) Not later than thirty (30) days after an election;
(3) Six (6) months after an election, if any contributions in the possession of the candidate or special purpose political committee remain unexpended or if any debt remains unpaid; and
(4) Every twelve (12) months after an election, so long as any debt remains unpaid by the candidate or special purpose political committee.

Proposed filing days:
(1) Twelve (12) days prior to an election;
(2) Not later than forty-five (45) days after an election the final report shall be filed

Attached is the portion of the March 25, 2014 minutes from the first time ordinance 1466 came before the Commission, the final was under consent agenda and was approved with a motion 7-0 on April 22, 2014.

ORDINANCE NO. 1599

AMENDING CERTAIN SECTIONS OF CHAPTER 2 OF THE ALAMOGORDO CODE OF ORDINANCES RELATING TO CAMPAIGN DISCLOSURE

BE IT ORDAINED by the City Commission of the City of Alamogordo New Mexico that the following sections of Chapter 2 of the *Code of Ordinances* be amended to read as follows:

2-17-100 Time for filing.
All candidates and special purpose political committees and general purpose political committees shall file reports of expenditures and contributions for the following reporting periods:

A. Twelve days prior to an election;

B. Not later than ~~30~~ 45 days after an election the final report shall be filed;

~~C. Six months after an election, if any contributions in the possession of the candidate or special purpose political committee remain unexpended or if any debt remains unpaid; and~~

~~D. Every 12 months after an election, so long as any debt remains unpaid by the candidate or special purpose political committee.~~

2-17-150 Campaign Funds.
Campaign funds shall be used and distributed as follows:

A. All contributions received shall be under the custody of the campaign treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled with, the personal funds of an individual, group or political committee. Contributions shall be used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall not be used for any other purpose, including:

1. The candidate's personal living expenses or compensation to the candidate;
2. A contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;
3. An expenditure supporting the election of another candidate or the passage or defeat of a ballot proposition; or
4. Any gift or transfer for which compensating value is not received, other than a donation or distribution permitted by this subsection at the conclusion of an election.

B. Any campaign contributions remaining unspent and any tangible assets with an estimated resale value greater than two hundred dollars ($200.00) that were purchased with such contributions and remain in the possession of the campaign at the conclusion of an election shall be distributed for the following purposes:

1. Expenditures of the campaign;
2. Donations to the city's general fund or, in the case of tangible assets, to the city for its use or disposition in accordance with the city's procurement code. Proceeds from such disposition shall be deposited in the city's general fund;
3. Donations to charities; or
4. Disbursements to return unused funds to the contributors.

C. All unspent campaign contributions shall be distributed within ~~six (6) months~~ 45 (forty-five) days following a municipal election, for any of the purposes listed in this subsection 2-17-150. All candidates and political committees shall file reports listing the date, amount and recipient of each post-election expenditure, donation or disbursement made from campaign funds pursuant to this subsection 2-17-150. Such report shall be part of the final campaign finance statement that is required by subsection 2-17-130.

EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.

PASSED, APPROVED AND ADOPTED this _______ day of ______________ 2019.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: ______________________________
Richard A. Boss, Mayor

ATTEST:

____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

____
Petria Bengoechea, City Attorney

ARTICLE 2-17. - MUNICIPAL ELECTION CAMPAIGN DISCLOSURE ORDINANCE[10]

Footnotes:

--- (**10**) ---

Editor's note— Ord. No. 1466, § 1, adopted April 22, 2014, amended the Code by adding a new art. 2-16. In order to prevent duplication of article numbers, the article has been renumbered as 2-17 at the discretion of the editor.

2-17-010. - Title.

This section may be cited as the "Campaign Disclosure Code."

(Ord. No. 1466, § 1, 4-22-14)

2-17-020. - Purpose and intent.

It is the public policy of the city that:

(1) Public confidence in municipal government is essential and must be promoted by all possible means;

(2) Political campaign contributions and expenditures be fully disclosed to the public and that secrecy in the sources and application of such contributions be avoided; and

(3) The public's right to know how political campaigns are financed far outweighs any right that the contributions remain secret and private.

(Ord. No. 1466, § 1, 4-22-14)

2-17-030. - Definitions.

Unless otherwise defined in this section or the contrary is stated or clearly appears from the context, the definitions of the New Mexico "Campaign Reporting Act," sections 1-19-25 through 1-19-36 NMSA 1978, as amended, shall govern the interpretation of this chapter.

Candidate means an individual seeking election to the position of mayor, commissioner or municipal judge at a regular or special election of the city.

Charity means an organization that is exempted from federal taxation by Title 26 United States Code, section 501(c)(3).

Contribution means a gift, subscription, loan, advance or deposit of any money or other thing of value which is made for the primary purpose of supporting or opposing a candidate for elective office, but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

Election means any general or special municipal election in the city.

Expenditure means a payment, transfer, or distribution, or obligation or promise to pay, transfer or distribute any money or other thing of value for the purpose of influencing the outcome of an election of a candidate, but does not include the candidate's or his immediate family's personal expenses.

General purpose political committee means a political committee other than a special purpose political committee.

Political committee means every two (2) or more persons who are selected, appointed, chosen or associated for the purpose of, wholly or in part, supporting or opposing a candidate at any election, and includes political committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group which raises, collects, expends or contributes money or any other thing of value for the purpose of supporting or opposing a candidate in a municipal election.

Reporting individual means every candidate, every treasurer of every special purpose political committee or treasurer of every general purpose political committee whose purpose is to aid the candidate in the campaign for municipal office.

Special purpose political committee means a political committee making contributions to support or oppose one (1) candidate, such contributions being limited to one (1) special or one (1) general election.

(Ord. No. 1466, § 1, 4-22-14)

2-17-040. - Applicability of article.

This article also applies to any contributions, expenditures, persons, or committees whose purpose is to encourage adoption or defeat of any municipal question submitted to the voters of the city.

(Ord. No. 1466, § 1, 4-22-14)

2-17-050. - Family contributions.

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half (½) to each parent or the total amount to a single custodial parent).

(Ord. No. 1466, § 1, 4-22-14)

2-17-060. - Return of contributions.

A contribution shall not be considered to be received if it is not negotiated, deposited or utilized, and, in addition, if it is returned to the donor within fourteen (14) calendar days of receipt.

(Ord. No. 1466, § 1, 4-22-14)

2-17-070. - Required.

Each candidate and each treasurer of each special purpose political committee and general purpose political committee shall file with the city clerk a report of expenditures and contributions on forms prescribed by the city clerk. When the reporting individual is a candidate, the report shall include the expenditures and contributions of those political committees authorized by the candidate to expend and receive funds on behalf of his candidacy, and when the candidate files a report for the political committee, the treasurer thereof need not file a report of expenditures and contributions for the period of time covered in the candidate's report.

(Ord. No. 1466, § 1, 4-22-14)

2-17-080. - Forms furnished by city.

The city clerk shall furnish upon request to political committees or candidates the form for the reporting of expenditures and contributions. The clerk shall give each candidate, or a designated representative, the prescribed reporting forms at the time of filing the nominating petition. Ten (10) days before any report of expenditures and contributions is required to be filed by this division, the city clerk shall notify each candidate by certified mail of the deadline for filing the report.

(Ord. No. 1466, § 1, 4-22-14)

2-17-090. - Contents.

Under this division, each reporting individual shall file a report containing the following information:

(1) A report of expenditures and contributions, itemizing each item of expenditure and contribution, including:

a. The name and address of the person to whom an expenditure was made or from whom a contribution was received;

b. The amount of the expenditure or contribution, or value thereof;

c. A description of the in-kind services or goods received; and

d. The date of the expenditure or contribution.

(2) The report of expenditures and contributions shall be subscribed and sworn to by the candidate or treasurer of the political committee, as the case may be.

(Ord. No. 1466, § 1, 4-22-14)

2-17-100. - Time for filing.

All candidates and special purpose political committees and general purpose political committees shall file reports of expenditures and contributions for the following reporting periods:

(1) Twelve (12) days prior to an election;

(2) Not later than thirty (30) days after an election;

(3) Six (6) months after an election, if any contributions in the possession of the candidate or special purpose political committee remain unexpended or if any debt remains unpaid; and

(4) Every twelve (12) months after an election, so long as any debt remains unpaid by the candidate or special purpose political committee.

(Ord. No. 1466, § 1, 4-22-14)

2-17-110. - Late filing penalty; failure to file report.

(a) If any candidate or treasurer of a political committee files a report of expenditures and contributions after any deadline imposed by the campaign procedures, such person shall be liable and shall pay to the city clerk at the time of late filing the sum of ten dollars ($10.00) per day for each regular working day after the time required by this division for the filing of reports of expenditures and contributions. An incomplete report will be considered as no report; a late filing penalty will apply to the completed report if it is not filed within the prescribed time limits. All sums collected for such penalty shall be deposited in the general fund of the city. If sent by certified mail or registered mail, the report shall be deemed filed on the date three (3) days following the date of the postmark.

(b) Any candidate who fails or refuses to file a report of expenditures and contributions in the manner and within the time required by this division shall not be issued a certificate of election until such candidate files the report of expenditures and contributions.

(Ord. No. 1466, § 1, 4-22-14)

2-17-120. - Political committee treasurer.

(a) It is unlawful for the members of any political committee or candidate to make any expenditure or solicit or accept any contribution for the purpose of supporting or opposing a candidate, unless:

(1) A treasurer has been appointed and is constantly maintained; however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate may appoint a successor, provided that nothing in this subsection prohibits a candidate from appointing himself treasurer;

(2) All disbursements of money and receipts of contributions shall be recorded by and through such treasurer; and

(3) Such treasurer, upon disbursing or receiving money or other things of value, shall immediately enter and thereafter keep in a proper book, to be preserved by him, a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursal or receipt, to whom disbursed or from whom received and the object and purpose for which it has been disbursed or received.

(b) Anonymous contributions in an amount not to exceed twenty-five dollars ($25.00) from one (1) individual or organization may be accepted, but such contributions shall be reported as to date and amount.

(Ord. No. 1466, § 1, 4-22-14)

2-17-130. - Election financial records.

(a) Candidates for elective office or treasurers for political committees shall keep financial records for a period of six (6) months following the date of election, in order that the records will be available if a complaint is filed or inquiry is made. Such financial records shall include cancelled checks, invoices, receipts, bank statements, bills of sale, statements of account, and all other financial records pertinent to the campaign.

(b) In preparing and maintaining financial records such as ledgers and journals and recording contributions and expenditures on the disclosure statement of campaign financing, the candidates or treasurers of political committees shall:

(1) Record in-kind contributions as both contributions and expenditures with a description of such in-kind services or goods received;

(2) Record campaign loans as contributions, with subsequent repayment of loans credited against contributions; and

(3) Record returned contributions as credits against contributors.

(c) The services of a person who is performing the duties of treasurer pursuant to the campaign disclosure code shall not be considered a campaign contribution as defined in this section.

(d) The gross receipts of a fundraising activity on behalf of a candidate for elective office are considered to be campaign contributions, and all expenditures associated with such a fundraising activity are considered to be campaign expenditures. As used in this interpretation, the term "gross receipts" includes all monies and donations of any kind which are received as part of the fundraising activity.

(e) The city clerk, upon being advised of the formation and existence of a special political committee, as defined in this article, shall furnish by mail to the chairman, moderator, or head, however designated, of such committee, and also the fundraising member thereof, however designated, if known, a copy of the campaign disclosure code and campaign practices, and shall call attention to the requirements for reporting contributions and expenditures by the political committee as provided for in this section. Within ten (10) days from receipt of the notification from the city, the political committee shall prepare and file with the office of the city clerk a statement, signed by the head of the committee or by the finance chairman thereof, setting forth the following:

(1) The exact name of the committee;

(2) Its official address and phone number, if available;

(3) Its membership and officials thereof; and

(4) Acknowledgment of receipt of a copy of the campaign disclosure code and of the requirements regarding filing of reports.

(Ord. No. 1466, § 1, 4-22-14)

2-17-140. - Committee statement.

It is recognized that an affirmative duty rests on the officials of such political committee to be aware of the provisions of the campaign disclosure code, and, accordingly, such officials are enjoined to prepare and file the required statements without a request from the office of the city clerk. The city is excused from notifying the candidates or committees.

(Ord. No. 1466, § 1, 4-22-14)

2-17-150. - Campaign funds.

Campaign funds shall be used and distributed as follows:

(1) All contributions received shall be under the custody of the campaign treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled with, the personal funds of an individual, group or political committee. Contributions shall be used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall not be used for any other purpose, including:

a. The candidate's personal living expenses or compensation to the candidate;

b. A contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;

c. An expenditure supporting the election of another candidate or the passage or defeat of a ballot proposition; or

d. Any gift or transfer for which compensating value is not received, other than a donation or distribution permitted by this subsection at the conclusion of an election.

(2) Any campaign contributions remaining unspent and any tangible assets with an estimated resale value greater than two hundred dollars ($200.00) that were purchased with such

contributions and remain in the possession of the campaign at the conclusion of an election shall be distributed for the following purposes:

a. Expenditures of the campaign;

b. Donations to the city's general fund or, in the case of tangible assets, to the city for its use or disposition in accordance with the city's procurement code. Proceeds from such disposition shall be deposited in the city's general fund;

c. Donations to charities; or

d. Disbursements to return unused funds to the contributors.

(3) All unspent campaign contributions shall be distributed within six (6) months following a municipal election, for any of the purposes listed in this section 2-17-150. All candidates and political committees shall file reports listing the date, amount and recipient of each post-election expenditure, donation or disbursement made from campaign funds pursuant to this section 2-17-150. Such report shall be part of the final campaign finance statement that is required by section 2-17-130.

(Ord. No. 1466, § 1, 4-22-14)

2-17-160. - Campaign treasurer; deputy campaign treasurer; duties.

A campaign treasurer, deputy campaign treasurer or political committee may invest funds deposited in the campaign account in an account of indebtedness of a financial institution up to the amount of federal deposit insurance; United States bonds or certificates of indebtedness or those of a federal agency; and/or bonds or warrants of the state or any municipal corporation of the state. All interest, dividends, and/or other income derived from the investment and the principal when repaid shall be deposited in the campaign account.

(Ord. No. 1466, § 1, 4-22-14)

ORDINANCE NO. 1466

AMENDMENT TO ADD ARTICLE 2-16 TO CHAPTER 2 OF THE ALAMOGORDO CODE OF ORDINANCES RELATING TO CAMPAIGN DISCLOSURE

BE IT ORDAINED by the City Commission of the City of Alamogordo as follows:

SECTION ONE. Chapter 2 of the Alamogordo Code of Ordinances is hereby amended to create the following new section 2-16:

2-16 MUNICIPAL ELECTION CAMPAIGN DISCLOSURE ORDINANCE.

2-16-010 Title.
This section may be cited as the "Campaign Disclosure Code."

2-16-020 Purpose and Intent.
It is the public policy of the City of Alamogordo:

A. That public confidence in municipal government is essential and must be promoted by all possible means;

B. That political campaign contributions and expenditures be fully disclosed to the public and that secrecy in the sources and application of such contributions be avoided; and

C. That the public's right to know how political campaigns are financed far outweighs any right that the contributions remain secret and private.

2-16-030 Definitions.
Unless otherwise defined in this section or the contrary is stated or clearly appears from the context, the definitions of the New Mexico "Campaign Reporting Act", Sections 1-19-25 through 1-19-36 NMSA 1978, as amended, shall govern the interpretation of this Chapter.

Candidate means an individual seeking election to the position of mayor, commissioner or municipal judge at a regular or special election of the city.

Charity means an organization that is exempted from federal taxation by Title 26 United States Code, section 501(c)(3).

Contribution means a gift, subscription, loan, advance or deposit of any money or other thing of value which is made for the primary purpose of supporting or opposing a candidate for elective office, but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

Election means any general or special municipal election in the city.

Expenditure means a payment, transfer, or distribution, or obligation or promise to pay, transfer or distribute any money or other thing of value for the purpose of influencing the outcome of an election of a candidate, but does not include the candidate's or his immediate family's personal expenses.

General purpose political committee means a political committee other than a special purpose political committee.

Political committee means every two or more persons who are selected, appointed, chosen or associated for the purpose of, wholly or in part, supporting or opposing a candidate at any election, and includes political committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group which raises, collects, expends or contributes money or any other thing of value for the purpose of supporting or opposing a candidate in a municipal election.

Reporting individual means every candidate, every treasurer of every special purpose political committee or treasurer of every general purpose political committee whose purpose is to aid the candidate in the campaign for municipal office.

Special purpose political committee means a political committee making contributions to support or oppose one candidate, such contributions being limited to one special or one general election.

2-16-040 Applicability of article.

This article also applies to any contributions, expenditures, persons, or committees whose purpose is to encourage adoption or defeat of any municipal question submitted to the voters of the city.

2-16-050 Family contributions.

A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

B. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

2-16-060 Return of contributions.
A contribution shall not be considered to be received if it is not negotiated, deposited or utilized, and, in addition, if it is returned to the donor within fourteen (14) calendar days of receipt.

2-16-070 Required.
Each candidate and each treasurer of each special purpose political committee and general purpose political committee shall file with the city clerk a report of expenditures and contributions on forms prescribed by the city clerk. When the reporting individual is a candidate, the report shall include the expenditures and contributions of those political committees authorized by the candidate to expend and receive funds on behalf of his candidacy, and when the candidate files a report for the political committee, the treasurer thereof need not file a report of expenditures and contributions for the period of time covered in the candidate's report.

2-16-080 Forms furnished by city.
The city clerk shall furnish upon request to political committees or candidates the form for the reporting of expenditures and contributions. The clerk shall give each candidate, or a designated representative, the prescribed reporting forms at the time of filing the nominating petition. Ten days before any report of expenditures and contributions is required to be filed by this division, the city clerk shall notify each candidate by certified mail of the deadline for filing the report.

2-16-090 Contents.
Under this division, each reporting individual shall file a report containing the following information:

A. A report of expenditures and contributions, itemizing each item of expenditure and contribution, including:

1. The name and address of the person to whom an expenditure was made or from whom a contribution was received;
2. The amount of the expenditure or contribution, or value thereof;
3. A description of the in-kind services or goods received; and
4. The date of the expenditure or contribution.

B. The report of expenditures and contributions shall be subscribed and sworn to by the candidate or treasurer of the political committee, as the case may be.

2-16-100 Time for filing.
All candidates and special purpose political committees and general purpose political committees shall file reports of expenditures and contributions for the following reporting periods:

A. Twelve days prior to an election;

B. Not later than 30 days after an election;

C. Six months after an election, if any contributions in the possession of the candidate or special purpose political committee remain unexpended or if any debt remains unpaid; and

D. Every 12 months after an election, so long as any debt remains unpaid by the candidate or special purpose political committee.

2-16-110 Late filing penalty; failure to file report.

A. If any candidate or treasurer of a political committee files a report of expenditures and contributions after any deadline imposed by the campaign procedures, such person shall be liable and shall pay to the city clerk at the time of late filing the sum of $10.00 per day for each regular working day after the time required by this division for the filing of reports of expenditures and contributions. An incomplete report will be considered as no report; a late filing penalty will apply to the completed report if it is not filed within the prescribed time limits. All sums collected for such penalty shall be deposited in the general fund of the city. If sent by certified mail or registered mail, the report shall be deemed filed on the date three days following the date of the postmark.

B. Any candidate who fails or refuses to file a report of expenditures and contributions in the manner and within the time required by this division shall not be issued a certificate of election until such candidate files the report of expenditures and contributions.

2-16-120 Political committee treasurer.

A. It is unlawful for the members of any political committee or candidate to make any expenditure or solicit or accept any contribution for the purpose of supporting or opposing a candidate, unless:

1. A treasurer has been appointed and is constantly maintained; however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate may appoint a successor, provided that nothing in this subsection prohibits a candidate from appointing himself treasurer;
2. All disbursements of money and receipts of contributions shall be recorded by and through such treasurer; and
3. Such treasurer, upon disbursing or receiving money or other things of value, shall immediately enter and thereafter keep in a proper book, to be preserved by him, a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursal or receipt, to whom disbursed or from whom received and the object and purpose for which it has been disbursed or received.

B. Anonymous contributions in an amount not to exceed $25.00 from one individual or organization may be accepted, but such contributions shall be reported as to date and amount.

2-16-130 Election financial records.

A. Candidates for elective office or treasurers for political committees shall keep financial records for a period of six months following the date of election, in order that the records will be available if a complaint is filed or inquiry is made. Such financial records shall include cancelled checks, invoices, receipts, bank statements, bills of sale, statements of account, and all other financial records pertinent to the campaign.

B. In preparing and maintaining financial records such as ledgers and journals and recording contributions and expenditures on the disclosure statement of campaign financing, the candidates or treasurers of political committees shall:

1. Record in-kind contributions as both contributions and expenditures with a description of such in-kind services or goods received;
2. Record campaign loans as contributions, with subsequent repayment of loans credited against contributions; and
3. Record returned contributions as credits against contributors.

C. The services of a person who is performing the duties of treasurer pursuant to the Campaign Disclosure Code shall not be considered a campaign contribution as defined in this section.

D. The gross receipts of a fundraising activity on behalf of a candidate for elective office are considered to be campaign contributions, and all expenditures associated with such a fundraising activity are considered to be campaign expenditures. As used in this interpretation, the term "gross receipts" includes all monies and donations of any kind which are received as part of the fundraising activity.

E. The city clerk, upon being advised of the formation and existence of a special political committee, as defined in this article, shall furnish by mail to the chairman, moderator, or head, however designated, of such committee, and also the fundraising member thereof, however designated, if known, a copy of the Campaign Disclosure Code and campaign practices, and shall call attention to the requirements for reporting contributions and expenditures by the political committee as provided for in this section. Within ten days from receipt of the notification from the city, the political committee shall prepare and file with the office of the city clerk a statement, signed by the head of the committee or by the finance chairman thereof, setting forth the following:

1. The exact name of the committee;
2. Its official address and phone number, if available;
3. Its membership and officials thereof; and
4. Acknowledgment of receipt of a copy of the Campaign Disclosure Code and of the requirements regarding filing of reports.

2-16-140 Committee Statement.
It is recognized that an affirmative duty rests on the officials of such political committee to be aware of the provisions of the Campaign Disclosure Code, and, accordingly, such officials are enjoined to prepare and file the required statements without a request from the office of the city clerk. The city is excused from notifying the candidates or committees.

2-16-150 Campaign Funds.
Campaign funds shall be used and distributed as follows:

A. All contributions received shall be under the custody of the campaign treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled with, the personal funds of an individual, group or political committee. Contributions shall be used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall not be used for any other purpose, including:

1. The candidate's personal living expenses or compensation to the candidate;
2. A contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;
3. An expenditure supporting the election of another candidate or the passage or defeat of a ballot proposition; or
4. Any gift or transfer for which compensating value is not received, other than a donation or distribution permitted by this subsection at the conclusion of an election.

B. Any campaign contributions remaining unspent and any tangible assets with an estimated resale value greater than two hundred dollars ($200.00) that were purchased with such contributions and remain in the possession of the campaign at the conclusion of an election shall be distributed for the following purposes:

1. Expenditures of the campaign;
2. Donations to the city's general fund or, in the case of tangible assets, to the city for its use or disposition in accordance with the city's procurement code. Proceeds from such disposition shall be deposited in the city's general fund;
3. Donations to charities; or
4. Disbursements to return unused funds to the contributors.

C. All unspent campaign contributions shall be distributed within six (6) months following a municipal election, for any of the purposes listed in this subsection 2-16-150. All candidates and political committees shall file reports listing the date, amount and recipient of each post-election expenditure, donation or disbursement made from campaign funds pursuant to this subsection 2-16-150. Such report shall be part of the final campaign finance statement that is required by subsection 2-16-130.

2-16-160 Campaign Treasurer; Deputy Campaign Treasurer; Duties.
A campaign treasurer, deputy campaign treasurer or political committee may invest funds deposited in the campaign account in an account of indebtedness of a financial institution up to the amount of federal deposit insurance; United States bonds or certificates of indebtedness or those of a federal agency; and/or bonds or warrants of the state or any municipal corporation of the state. All interest, dividends, and/or other income derived from the investment and the principal when repaid shall be deposited in the campaign account.

SECTION TWO. EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.

PASSED, APPROVED AND ADOPTED this 22nd day of April, 2014.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: ______________________________
Susie Galea, Mayor

CITY OF ALAMOGORDO SEAL NEW MEXICO

ATTEST:

____
Reneé L. Cantin, City Clerk

APPROVED AS TO FORM:

____
Stephen P. Thies, City Attorney

First publication approval: 03/25/2014
First publication: 03/30/2014
Final publication approval: 04/22/2014
Final publication: 04/27/2014
Effective date: 05/02/2014

AGENDA REPORT

CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 5.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, a leak abatement request for 2820 Carmel Dr. in the amount of $2,818.00. *(Mark Threadgill, CustomerService Manager)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of Leak Abatement.

Background: Customer is requesting a leak abatement in the amount of $2.818.00. The customer meets all requirements for the leak abatement. However, the amount exceeds the $2,500 threshold staff is permitted to approve.

CITY OF ALAMOGORDO
UTILITY BILLING DEPARTMENT
RESIDENTIAL LEAK ADJUSTMENT WORKSHEET

DATE: August 14, 2019

Customer ID	Location ID	Cycle/Route	Meter Size
96335	6700	02/20	75

Customer Name:
Perrine, David

Billing Date: 8/13/19

Service Address:
2820 Carmel Dr.

Billing Period: 06/18/19-07/18/19

Average Consumption:	1006
Average Bill:	$29.49
Actual Billed Consumption:	45151
Actual Bill Amount:	$3,353.40
Difference of Average and Actual must exceed $125.00	$3,323.91
Meets Qualifications?	Y

Difference Billed - Average		44,145
Difference Bill @	**Tier 1**	1.45
	Total Difference	$640.10
	Average Bill:	$29.49
	Billed Over Average	$640.10
	Total	$669.59
	Total Billed:	$3,353.40
	Minus Total Difference	-$669.59
	Water	$2,683.81
	Tax on Adjusted	$134.19
	Total Adjusted	$2,818.00

Customer is requesting relief on his/her water bill for the month of August-19
If you have any questions, please call Nichole Sierra @ ext 4261

Prepared by: [signature]

UB Approval: ______________________

THIS LEAK ABATEMENT REQUIRES CITY COMMISSION APPROVAL

Finance Approval: ______________________

UT470I07 CITY OF ALAMOGORDO, NEW MEXICO 8/14/19

es 16:03:59

Charge Summary

Code	Description	Amount
GR	GARBAGE	15.19
SW	SEWER	18.75
WA	WATER	3353.40
	TAXES	169.37
	Total Actual Charges	3556.71

Bottom

ENTER=Exit F8=Print F10=Reprint Bill

F14=Send as EMAIL

Customer ID

Location ID

Cycle/route

Bill date .

Due date .

Type option

5=Display

Opt	Svc Type	Ty
_	WA	RE

es : 3556.71

amt: 3556.71

ter Number	Est Cd	Cmt Cd
315772		

Opt	Svc	Rate Group	S/W
_	WA	AL/I/R	
_	WA	AL/I/R	
_	WA	AL/I/R	
_	WA	AL/I/R	
_	WA	AL/I/R	

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

AVG 1005.50

468·00+
517·00+
1,395·00+
477·00+
518·00+
807·00+
401·00+
581·00+
873·00+
1,812·00+
2,470·00+
1,747·00+
012
12,066·00◊
12,066·00÷
12·=
1,005·50*+

1006 X 1.45 = 14.59
13.90
1.00
29.49

UT470I07 CITY OF ALAMOGORDO, NEW MEXICO 8/14/19

Account History - Consumption and Actual Charges 16:03:59

Customer ID: 96335 Name: PERRINE, DAVID

Location ID: 6700 Addr: 2820 CARMEL DR

Cycle/route . : 02 20 Bill type . : CYCLE BILL

Bill date . . : 8/13/19 Prev balance: .00 Charges : 3556.71

Due date . . : 8/28/19 Adj/Pmts . : .00 Bill amt: 3556.71

Type options, press Enter.

5=Display

Opt	Svc Type	Reading Type	Date	Actual Consumption	Demand Consumption	Days	Meter Number	Est Cd	Cmt Cd
_	WA	REG	7/18/19	45151.00	.00	30	00315772		•

Opt	Svc	Comp	Description	Billed Consumption	Amount	Rate Group	S/W
_	GT		GOV GROSS RECPTS TAX	.00	169.37	AL/I/R	
_	GR		GARBAGE	.00	15.19	AL/I/R	
_	SW	BASE	BASE RATE	.00	13.60	AL/I/R	
_	SW	CONS	CONSUMPTION CHARGES	448.00	5.15	AL/I/R	
_	WA	BASE	BASE RATE	.00	13.90	AL/I/R	
_	WA	CON1	TIER 1	1500.00	21.75	AL/I/R	+

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

Customer ID: 96335 Name: PERRINE, DAVID
Location ID: 6700 Addr: 2820 CARMEL DR
Cycle/route . : 02 20 Bill type . : CYCLE BILL
Bill date . . : 8/13/19 Prev balance: .00 Charges : 3556.71
Due date . . : 8/28/19 Adj/Pmts . : .00 Bill amt: 3556.71

Type options, press Enter.
5=Display

Opt	Svc Type	Reading Type	Date	Actual Consumption	Demand Consumption	Days	Meter Number	Est Cd	Cmt Cd
_	WA	REG	7/18/19	45151.00	.00	30	00315772		

Opt	Svc	Comp	Description	Billed Consumption	Amount	Rate Group	S/W
_	WA	CON2	TIER 2	1500.00	35.25	AL/I/R	
_	WA	CON3	TIER 3	1000.00	36.50	AL/I/R	
_	WA	CON4	TIER 4	1000.00	53.00	AL/I/R	
_	WA	CON5	TIER 5	40151.00	3192.00	AL/I/R	
_	WA	CAP	CAPITAL SURCHARGE 81	.00	1.00	AL/I/R	

F3=Exit F6=Date F9=Summary F10=Budget charges F11=Consumption F12=Cancel

ZENNER | Minol
All that counts.

Stealth Reader

Reading

Alamogordo, NM

- All Cycle
  - Cycle01
  - Cycle02
  - Cycle03
  - Cycle04
  - Cycle05
  - Cycle06
  - Cycle07
  - Cycle08
  - Cycle09
  - Cycle10
  - Cycle11
  - Cycle12
  - Cycle13

Reading Report | Reading Detail | Profile Graph | Graph Options

Account#:	096335006700WA00CF	**Utility:**	Alamogordo, NM
Name:	PERRINE, DAVID	**Cycle:**	02
Meter ID:	00315772	**Route:**	20
MIU SN:	2016061	**Sequence:**	014100
Address:	2820 CARMEL DR	**City, State:**	Alamogordo, NM
		Period:	5/18/2019 - 7/26/2019

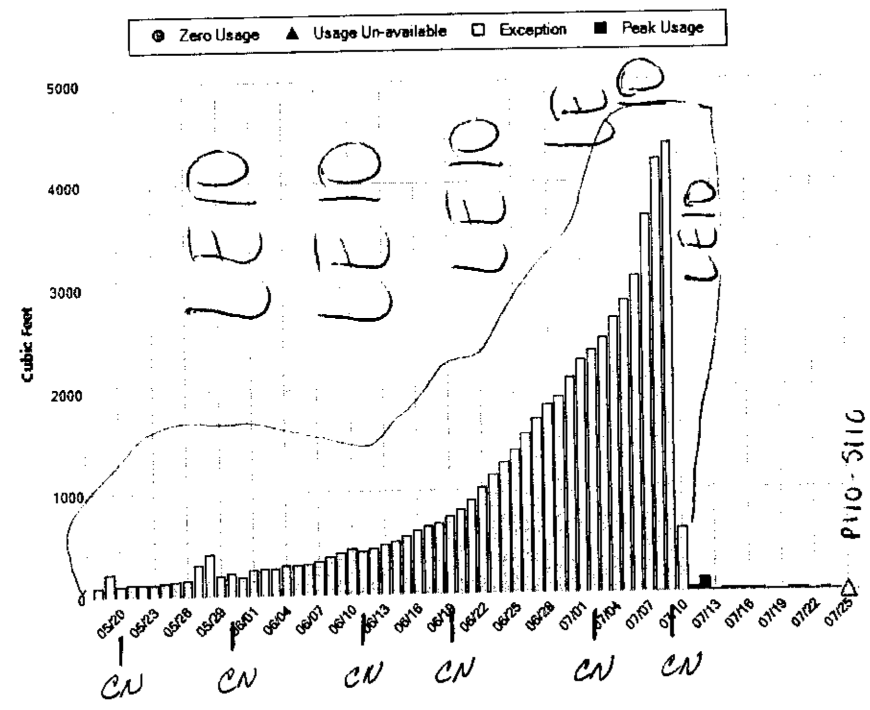
Peak consumption of 4374 cubic feet occurred during the day of 07/09/19

Current Read: 107357 **Read Time:** 7/25/2019 12:00:00 AM

Graph Date: 7/25/2019 3:15:41 PM

Align To Billing | Begin Date 5/18/2019 00:00 | End Date 7/26/2019 01:00 | Agg. Level Daily | Refresh Graph

Now Displaying:5/18/2019 12:00 AM - 7/26/2019 1:00 AM



Stealth Reader 1.2.17

Terms of Use

12:23

City of Alamogordo
Utility Billing Division

Leak Abatement Request

Date of request: July 23 2019

I, David Perrine, account number 96335-6700 had a water leak at 2820 Carmel Dr.

Description/Cause of Leak: Hole worn through pipe under driveway Slab. Pipe repaired w/ parts on hand

The leak was repaired on July 14 2019 and I am requesting an adjustment on my water bill. I have provided proof of repair; either an invoice from a plumber or receipts for parts that were purchased and used to repair the leak.

I also understand that in order to qualify for an adjustment the water charges on the bill in question must be at least $125.00 over the average water charges on the monthly bill.

David Perrine
Customer's Name (print)

[signature]
Customer's Signature

478 952 9889
Phone Number

2019
MG

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/16/2019 **Report No:** 6.

Submitted By: Evelyn Huff

Subject: Consider, and act upon, Resolution 2019-39 requesting written approval from the Local Government Division of the Department of Finance and Administration, State of NM for the revised budget numbers computed as of September 24, 2019. *(Evelyn Huff, Budget Analyst)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Beginning Cash Balances $0

Revenues 181,946 (Increase)
Expenditures 196,578 (Increase)
Transfers In 0
Transfers Out 0

Net Impact (14,632)

Recommendation: Approve the Resolution

Background: The City Commission adopted the FY 2019-2020 budget on May 14, 2019. The Department of Finance & Administration granted approval of the City of Alamogordo's Fiscal Year FY 2019-2020 Final Budget on August 2, 2019. Resolution 2019-39 amends the Budget to reflect a more true and accurate projection of the actual revenues and expenditures. A summary and explanation of revisions are attached for your review.

RESOLUTION NO. 2019-39

A RESOLUTION REQUESTING THE DEPARTMENT OF FINANCE AND ADMINISTRATION, STATE OF NEW MEXICO, APPROVE REVISED BUDGET FIGURES FOR CERTAIN LINE ITEMS IN THE CITY'S BUDGET FOR FISCAL YEAR 2019-20.

WHEREAS, the City of Alamogordo, New Mexico wishes approval to change some of the budget line item figures of various funds; and

WHEREAS, the Department of Finance and Administration, State of New Mexico, gave its written certification to the City of Alamogordo, New Mexico's annual budget on August 2, 2019, for fiscal year 2019-2020; and

WHEREAS, the City of Alamogordo, New Mexico, has tabulated on the following pages the additional resources and expenditures for fiscal year 2019-2020.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the City's annual budget for fiscal year 2020 be and hereby is revised as of September 24, 2019 to reflect a more true and accurate projection of the actual revenues and expenditures for fiscal year 2019-2020 as shown on the following pages.

NOW, BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the Department of Finance and Administration, State of New Mexico, be requested to give its written approval to the revised budget figures computed on September 24, 2019 as a more true and accurate projection of the actual revenues and expenditures for fiscal year 2019-2020.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Alamogordo, New Mexico, at a Regular Meeting held this 24th day of September 2019.

CITY OF ALAMOGORDO, NEW MEXICO,
A NEW MEXICO MUNICIPAL CORPORATION

By: ________________________________
Richard A. Boss, Mayor

ATTEST:

____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

____
Petria Bengoechea, City Attorney

1/12TH REQ RSRV
1,233,430
1/12TH REQ RSRV
1,233,430
Fund Reserve Policy
487,127
Bal. Remaining
92,814

ALL FUNDS SUMMARY
BUDGET 2019-2020

FY20 BUDGET - RESOLUTION 2019-39 (#2) SEPTEMBER 24, 2019

FUND NO.	FY 2019-2020 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
11	GENERAL OPERATING FUND	6,853,189	17,757,582	285,708	7,048,519	(6,762,811)	14,801,159	3,046,801	2,953,987	92,814
12	INTERNAL SERVICE FUND	82,565	383,568	2,774,784	40,826	2,733,958	3,198,127	1,964		$1,964
15	CORRECTIONS-JAIL	10,663	81,827	104,000	259	103,741	193,850	2,381		$2,381
16	LODGER'S TAX-PROMOTIONAL FUND	181,723	255,431	6,695	1,749	4,946	279,219	162,881		$162,881
17	POLICE COURT BOND	10,438	0	0	0	0	0	10,438		$10,438
19	COURT AUTOMATION FUND	5,867	81,566	0	18,311	(18,311)	69,118	4		$4
20	LODGER'S TAX-CITY	98,458	439,292	0	57,702	(57,702)	479,995	53		$53
21	D.A.R.E. DONATIONS FUND	23,639	6,224	0	0	0	13,258	16,605		$16,605
24	GRANT CAPITAL IMPROVEMENT	0	1,050,006	0	0	0	956,429	93,577		$93,577
27	MUNICIPAL COURT OPERATIONS	8,775	10,000	414,000	14,058	399,942	418,707	10		$10
28	POLICE CONTINGENCY	62,595	3,836	0	0	0	10,000	56,431		$56,431
31	CEMETERY-PERPETUAL CARE	770,756	25,843	0	0	0	0	796,599		$796,599
32	COMMUNITY SERVICES	124,369	540,747	4,009,000	623,914	3,385,086	4,049,187	1,015		$1,015
33	FIRE PROTECTION	400,617	659,726	0	0	0	849,592	210,751	23,204	$187,547
35	HIDTA GRANT FUND	0	28,239	0	0	0	28,239	0		$0
36	LAW ENFORCEMENT FUND	(0)	63,000	0	0	0	63,000	(0)		($0)
37	STATE HIGHWAY FUND	127,401	44,429	0	0	0	34,963	136,867		$136,867
38	TRAFFIC SAFETY FUND	69,142	23,684	0	0	0	44,146	48,680		$48,680
39	STATE JUDICIAL	3,416	75,500	0	0	0	75,500	3,416		$3,416
42	1984 GROSS RECEIPTS TAX	245,032	1,693,023	0	1,546,149	(1,546,149)	28,262	363,644	262,110	$101,534
44	TRANSPORTATION FUND	0	2,471,380	1,370,159	153,157	1,217,002	3,261,233	427,149		$427,149
48	NEW MEXICO C.D.B.G.	0	0	0	0	0	0	0		$0
49	1986 GROSS RECEIPTS TAX	4,373,647	1,753,562	0	2,777,234	(2,777,234)	1,065,529	2,284,446	269,728	$2,014,718
50	PROPERTY ACQUISITION	84,410	0	0	0	0	0	84,410		$84,410
53	GENERAL OBLIGATION	872,135	1,049,847	0	0	0	1,021,018	900,964	510,509	$390,455
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	174,046	0	174,046	174,046	21,967		$21,967
56	99 GRT FLOOD CONTROL BOND PROJ	1,650,690	30,981	3,971,608	176	3,971,432	3,916,221	1,736,882		$1,736,882
59	REVENUE BOND P & I FUND	149,984	7,250	2,678,368	0	2,678,368	2,678,368	157,234		$157,234
61	MUNICIPAL INFRASTRUCTURE .0625%	818,034	423,329	0	820,164	(820,164)	7,066	414,133		$414,133
63	COMMUNITY DEVELOPMENT	33,500	0	444,242	42,663	401,579	434,935	144		$144
69	1994 GROSS RECEIPTS	2,219,834	1,689,544	0	2,598,874	(2,598,874)	28,262	1,282,242	553,279	$728,963
71	ALAMO SENIOR CENTER	21,630	793,567	588,400	2,379	586,021	1,395,263	5,955		$5,955
74	ALAMO SENIOR CENTER GIFT	141,812	21,642	0	0	0	81,473	81,981		$81,981
75	RETIRED & SENIOR VOL. PROGRAM	100	232,414	56,500	17,068	39,432	271,564	382		$382
81	WATER/SEWER OPERATING	10,264,053	17,652,279	1,911,578	2,071,120	(159,542)	26,316,634	1,440,156	946,315	$493,841
82	98 JT WATER/SEWER BOND P&I	1,253,517	19,609	1,933,872	0	1,933,872	1,933,328	1,273,670		$1,273,670
86	SOLID WASTE COLLECTION SYS.	458,723	2,288,155	0	136,255	(136,255)	2,178,902	431,721	158,023	$273,698
88	BONITO CAMPGROUND	385,257	5,518	0	0	0	0	390,775		$390,775
89	ESGRT .0625%	2,537,187	443,151	0	215,475	(215,475)	307,600	2,457,263		$2,457,263
90	GOLF COURSE	11,600	1,593,648	218,450	82,406	136,044	1,740,732	560		$560

1/12TH REQ RSRV
1,233,430
1/12TH REQ RSRV
1,233,430
Fund Reserve Policy
487,127
Bal. Remaining
92,814

ALL FUNDS SUMMARY
BUDGET 2019-2020

FY20 BUDGET - RESOLUTION 2019-39 (#2) SEPTEMBER 24, 2019

FUND NO.	FY 2019-2020 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
91	AIRPORT	12,569	350,817	249,500	47,933	201,567	394,326	170,627		$170,627
94	OTERO GREENTREE REG LANDFILL	4,698,915	1,401,009	0	2,972	(2,972)	3,732,197	2,364,755		$2,364,755
96	SELF-INSURED FUND	494,406	66,439	0	0	0	50,239	510,606		$510,606
98	PAYROLL CLEARING	210,809	0	0	0	0	0	210,809		$210,809
104	UTILITY DEPOSITS	660,682	0	0	0	0	0	660,682		$660,682
105	ECONOMIC DEVELOPMENT	3,184,151	947,836	0	0	0	891,559	3,240,428		$3,240,428
107	SELF INSURED/LIABILITY	682,061	11,694	330,000	0	330,000	452,169	571,586		$571,586
109	2004 GRT CAPITAL OUTLAY	11,931,219	3,518,163	0	3,201,438	(3,201,438)	8,907,077	3,340,867	534,720	$2,806,147
114	SIDEWALKS REVOLVING LOANS	138,887	2,095	0	0	0	32,360	108,622		$108,622
115	CORP ESCROW ACCOUNT RESERVE	0	0	0	0	0	0	0		$0
119	2012 GRT REF/IMP REVBD	1,202,310	24,232	0	0	0	903,817	322,725		$322,725
121	2015 GO BONDS-FUN CENTER	87,476	1,441	0	0	0	0	88,917		$88,917
122	2015 GO BONDS-STREETS	169,501	3,003	0	0	0	0	172,504		$172,504
901	HOUSING LOW RENT OPERATING	897,099	822,791	0	109	(109)	1,055,348	664,433	78,002	$586,431
903	HOUSING HOMEOWNERSHIP OPER	746,039	1,705	0	0	0	28,145	719,599		$719,599
904	HOUSING CAPITAL FUND PROJECTS	0	851,194	0	0	0	851,194	0		$0
	TOTALS FY2020	**59,492,852**	**61,701,818**	**21,520,910**	**21,520,910**	**0**	**89,703,356**	**31,491,314**	**6,289,877**	**25,201,437**

1/12TH REQ RSRV
1,233,430
1/12TH REQ RSRV
1,233,430
Fund Reserve Policy
487,127
Bal. Remaining
92,814

ALL FUNDS SUMMARY

BUDGET 2019-2020

FY20 BUDGET - RESOLUTION 2019-39 (#3) SEPTEMBER 24, 2019

FUND NO.	FY 2019-2020 FUND DESCRIPTION	UNAUDITED BEGINNING CASH BALANCE	ESTIMATED REVENUES	TRANSFERS IN	TRANSFERS OUT	NET CASH TRANSFERS	BUDGETED EXPENDITURES	ESTIMATED ENDING CASH BALANCE	LOCAL RESERVE REQUIREMENTS UNAVAILABLE FOR BUDGETING	ADJUSTED ENDING CASH BALANCE
11	GENERAL OPERATING FUND	6,853,189	17,757,082	285,708	7,048,519	(6,762,811)	14,801,159	3,046,301	2,953,987	92,314
	Revision #1		500			0		500		$500
	Total Revised Fund 11	**6,853,189**	**17,757,582**	**285,708**	**7,048,519**	**(6,762,811)**	**14,801,159**	**3,046,801**	**2,953,987**	**92,814**
12	INTERNAL SERVICE FUND	82,565	383,568	2,774,784	40,826	2,733,958	3,197,920	2,171		$2,171
	Revision #2					0	207	(207)		($207)
	Total Revised Fund 12	**82,565**	**383,568**	**2,774,784**	**40,826**	**2,733,958**	**3,198,127**	**1,964**		**1,964**
15	CORRECTIONS-JAIL	10,663	81,827	104,000	259	103,741	193,850	2,381		$2,381
	Total Revised Fund 15	**10,663**	**81,827**	**104,000**	**259**	**103,741**	**193,850**	**2,381**		**2,381**
16	LODGER'S TAX-PROMOTIONAL FUND	181,723	255,431	6,695	1,749	4,946	279,219	162,881		$162,881
	Total Revised Fund 16	**181,723**	**255,431**	**6,695**	**1,749**	**4,946**	**279,219**	**162,881**		**162,881**
17	POLICE COURT BOND	10,438	0	0	0	0	0	10,438		$10,438
	Total Revised Fund 17	**10,438**	**0**	**0**	**0**	**0**	**0**	**10,438**		**10,438**
19	COURT AUTOMATION FUND	5,867	81,566	0	18,311	(18,311)	69,118	4		$4
	Total Revised Fund 19	**5,867**	**81,566**	**0**	**18,311**	**(18,311)**	**69,118**	**4**		**4**
20	LODGER'S TAX-CITY	98,458	439,292	0	57,702	(57,702)	479,995	53		$53
	Total Revised Fund 20	**98,458**	**439,292**	**0**	**57,702**	**(57,702)**	**479,995**	**53**		**53**
21	D.A.R.E. DONATIONS FUND	23,639	6,224	0	0	0	13,258	16,605		$16,605
	Total Revised Fund 21	**23,639**	**6,224**	**0**	**0**	**0**	**13,258**	**16,605**		**16,605**
24	GRANT CAPITAL IMPROVEMENT	0	1,003,588	0	0	0	910,011	93,577		$93,577
	Revision #4		46,418			0	46,418	0		$0
	Total Revised Fund 24	**0**	**1,050,006**	**0**	**0**	**0**	**956,429**	**93,577**		**93,577**
27	MUNICIPAL COURT OPERATIONS	8,775	10,000	414,000	14,058	399,942	418,707	10		$10
	Total Revised Fund 27	**8,775**	**10,000**	**414,000**	**14,058**	**399,942**	**418,707**	**10**		**10**
28	POLICE CONTINGENCY	62,595	3,836	0	0	0	10,000	56,431		$56,431
	Total Revised Fund 28	**62,595**	**3,836**	**0**	**0**	**0**	**10,000**	**56,431**		**56,431**
31	CEMETERY-PERPETUAL CARE	770,756	25,843	0	0	0	0	796,599		$796,599
	Total Revised Fund 31	**770,756**	**25,843**	**0**	**0**	**0**	**0**	**796,599**		**796,599**
32	COMMUNITY SERVICES	124,369	540,747	4,009,000	623,914	3,385,086	4,049,187	1,015		$1,015
	Total Revised Fund 32	**124,369**	**540,747**	**4,009,000**	**623,914**	**3,385,086**	**4,049,187**	**1,015**		**1,015**
33	FIRE PROTECTION	400,617	659,726	0	0	0	849,592	210,751	23,204	$187,547
	Total Revised Fund 33	**400,617**	**659,726**	**0**	**0**	**0**	**849,592**	**210,751**	**23,204**	**187,547**
35	HIDTA GRANT FUND	0	28,239	0	0	0	28,239	0		$0

	Total Revised Fund 35	**0**	**28,239**	**0**	**0**	**0**	**28,239**	**0**		**0**
36	LAW ENFORCEMENT FUND	(0)	106,418	0	0	0	106,418	(0)		($0)
	Revision #4		(46,418)			0	(46,451)	33		$33
	Revision #5		3,000			0	3,033	(33)		($33)
	Total Revised Fund 36	**(0)**	**63,000**	**0**	**0**	**0**	**63,000**	**(0)**		**(0)**
37	STATE HIGHWAY FUND	127,401	44,429	0	0	0	34,963	136,867		$136,867
	Total Revised Fund 37	**127,401**	**44,429**	**0**	**0**	**0**	**34,963**	**136,867**		**136,867**
38	TRAFFIC SAFETY FUND	69,142	23,684	0	0	0	44,146	48,680		$48,680
	Total Revised Fund 38	**69,142**	**23,684**	**0**	**0**	**0**	**44,146**	**48,680**		**48,680**
39	STATE JUDICIAL	3,416	75,500	0	0	0	75,500	3,416		$3,416
	Total Revised Fund 39	**3,416**	**75,500**	**0**	**0**	**0**	**75,500**	**3,416**		**3,416**
42	1984 GROSS RECEIPTS TAX	245,032	1,693,023	0	1,546,149	(1,546,149)	28,262	363,644	262,110	$101,534
	Total Revised Fund 42	**245,032**	**1,693,023**	**0**	**1,546,149**	**(1,546,149)**	**28,262**	**363,644**	**262,110**	**101,534**
44	TRANSPORTATION FUND	0	2,471,380	1,370,159	153,157	1,217,002	3,261,233	427,149		$427,149
	Total Revised Fund 44	**0**	**2,471,380**	**1,370,159**	**153,157**	**1,217,002**	**3,261,233**	**427,149**		**427,149**
48	NEW MEXICO C.D.B.G.	0	0	0	0	0	0	0		$0
	Total Revised Fund 48	**0**	**0**	**0**	**0**	**0**	**0**	**0**		**0**
49	1986 GROSS RECEIPTS TAX	4,373,647	1,753,562	0	2,777,234	(2,777,234)	1,065,529	2,284,446	269,728	$2,014,718
	Total Revised Fund 49	**4,373,647**	**1,753,562**	**0**	**2,777,234**	**(2,777,234)**	**1,065,529**	**2,284,446**	**269,728**	**2,014,718**
50	PROPERTY ACQUISITION	84,410	0	0	0	0	0	84,410		$84,410
	Total Revised Fund 50	**84,410**	**0**	**0**	**0**	**0**	**0**	**84,410**		**84,410**
53	GENERAL OBLIGATION	872,135	1,049,847	0	0	0	1,021,018	900,964	510,509	$390,455
	Total Revised Fund 53	**872,135**	**1,049,847**	**0**	**0**	**0**	**1,021,018**	**900,964**	**510,509**	**390,455**
54	REVERSE OSMOSIS PROJECT RSV	21,967	0	174,046	0	174,046	174,046	21,967		$21,967
	Total Revised Fund 54	**21,967**	**0**	**174,046**	**0**	**174,046**	**174,046**	**21,967**		**21,967**
56	99 GRT FLOOD CONTROL BOND PROJ	1,650,690	30,981	3,971,608	176	3,971,432	3,916,221	1,736,882		$1,736,882
	Total Revised Fund 56	**1,650,690**	**30,981**	**3,971,608**	**176**	**3,971,432**	**3,916,221**	**1,736,882**		**1,736,882**
59	REVENUE BOND P & I FUND	149,984	7,250	2,678,368	0	2,678,368	2,678,368	157,234		$157,234
	Total Revised Fund 59	**149,984**	**7,250**	**2,678,368**	**0**	**2,678,368**	**2,678,368**	**157,234**		**157,234**
61	MUNICIPAL INFRASTRUCTURE .0625%	818,034	423,329	0	820,164	(820,164)	7,066	414,133		$414,133
	Total Revised Fund 61	**818,034**	**423,329**	**0**	**820,164**	**(820,164)**	**7,066**	**414,133**		**414,133**
63	COMMUNITY DEVELOPMENT	33,500	0	444,242	42,663	401,579	434,935	144		$144
	Total Revised Fund 63	**33,500**	**0**	**444,242**	**42,663**	**401,579**	**434,935**	**144**		**144**
69	1994 GROSS RECEIPTS	2,219,834	1,689,544	0	2,598,874	(2,598,874)	28,262	1,282,242	553,279	$728,963
	Total Revised Fund 69	**2,219,834**	**1,689,544**	**0**	**2,598,874**	**(2,598,874)**	**28,262**	**1,282,242**	**553,279**	**728,963**
71	ALAMO SENIOR CENTER	21,630	791,830	588,400	2,379	586,021	1,393,526	5,955		$5,955
	Revision #6		1,737			0	1,737	0		$0
	Total Revised Fund 71	**21,630**	**793,567**	**588,400**	**2,379**	**586,021**	**1,395,263**	**5,955**		**5,955**
74	ALAMO SENIOR CENTER GIFT	141,812	21,642	0	0	0	81,473	81,981		$81,981
	Total Revised Fund 74	**141,812**	**21,642**	**0**	**0**	**0**	**81,473**	**81,981**		**81,981**
75	RETIRED & SENIOR VOL. PROGRAM	100	232,414	56,500	17,068	39,432	271,564	382		$382
	Total Revised Fund 75	**100**	**232,414**	**56,500**	**17,068**	**39,432**	**271,564**	**382**		**382**
81	WATER/SEWER OPERATING	10,264,053	17,652,279	1,911,578	2,071,120	(159,542)	26,314,959	1,441,831	946,315	$495,516
	Revision #2					0	1,675	(1,675)		($1,675)

	Total Revised Fund 81	**10,264,053**	**17,652,279**	**1,911,578**	**2,071,120**	**(159,542)**	**26,316,634**	**1,440,156**	**946,315**	**493,841**
82	98 JT WATER/SEWER BOND P&I	1,253,517	19,609	1,933,872	0	1,933,872	1,933,328	1,273,670	0	$1,273,670
	Total Revised Fund 82	**1,253,517**	**19,609**	**1,933,872**	**0**	**1,933,872**	**1,933,328**	**1,273,670**	**0**	**1,273,670**
86	SOLID WASTE COLLECTION SYS.	458,723	2,111,446	0	136,255	(136,255)	2,002,193	431,721	158,023	$273,698
	Revision #3		176,709				176,709	0		$0
	Total Revised Fund 86	**458,723**	**2,288,155**	**0**	**136,255**	**(136,255)**	**2,178,902**	**431,721**	**158,023**	**273,698**
88	BONITO CAMPGROUND	385,257	5,518	0	0	0	0	390,775		$390,775
	Total Revised Fund 88	**385,257**	**5,518**	**0**	**0**	**0**	**0**	**390,775**		**390,775**
89	ESGRT .0625%	2,537,187	443,151	0	215,475	(215,475)	307,600	2,457,263		$2,457,263
	Total Revised Fund 89	**2,537,187**	**443,151**	**0**	**215,475**	**(215,475)**	**307,600**	**2,457,263**	**0**	**2,457,263**
90	GOLF COURSE	11,600	1,593,648	218,450	82,406	136,044	1,740,732	560		$560
	Total Revised Fund 90	**11,600**	**1,593,648**	**218,450**	**82,406**	**136,044**	**1,740,732**	**560**	**0**	**560**
91	AIRPORT	12,569	350,817	249,500	47,933	201,567	394,326	170,627	0	$170,627
	Total Revised Fund 91	**12,569**	**350,817**	**249,500**	**47,933**	**201,567**	**394,326**	**170,627**	**0**	**170,627**
94	OTERO GREENTREE REG LANDFILL	4,698,915	1,401,009	0	2,972	(2,972)	3,732,197	2,364,755		$2,364,755
	Total Revised Fund 94	**4,698,915**	**1,401,009**	**0**	**2,972**	**(2,972)**	**3,732,197**	**2,364,755**	**0**	**2,364,755**
96	SELF-INSURED FUND	494,406	66,439	0	0	0	50,239	510,606		$510,606
	Total Revised Fund 96	**494,406**	**66,439**	**0**	**0**	**0**	**50,239**	**510,606**	**0**	**510,606**
98	PAYROLL CLEARING	210,809	0	0	0	0	0	210,809		$210,809
	Total Revised Fund 98	**210,809**	**0**	**0**	**0**	**0**	**0**	**210,809**	**0**	**210,809**
104	UTILITY DEPOSITS	660,682	0	0	0	0	0	660,682		$660,682
	Total Revised Fund 104	**660,682**	**0**	**0**	**0**	**0**	**0**	**660,682**	**0**	**660,682**
105	ECONOMIC DEVELOPMENT	3,184,151	947,836	0	0	0	891,559	3,240,428		$3,240,428
	Total Revised Fund 105	**3,184,151**	**947,836**	**0**	**0**	**0**	**891,559**	**3,240,428**		**3,240,428**
107	SELF INSURED/LIABILITY	682,061	11,694	330,000	0	330,000	452,169	571,586		$571,586
	Total Revised Fund 107	**682,061**	**11,694**	**330,000**	**0**	**330,000**	**452,169**	**571,586**	**0**	**571,586**
109	2004 GRT CAPITAL OUTLAY	11,931,219	3,518,163	0	3,201,438	(3,201,438)	8,907,077	3,340,867	534,720	$2,806,147
	Total Revised Fund 109	**11,931,219**	**3,518,163**	**0**	**3,201,438**	**(3,201,438)**	**8,907,077**	**3,340,867**	**534,720**	**2,806,147**
114	SIDEWALKS REVOLVING LOANS	138,887	2,095	0	0	0	32,360	108,622		$108,622
	Total Revised Fund 114	**138,887**	**2,095**	**0**	**0**	**0**	**32,360**	**108,622**	**0**	**108,622**
115	CORP ESCROW ACCOUNT RESERVE	0	0	0	0	0	0	0		$0
	Total Revised Fund 114	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
119	2012 GRT REF/IMP REVBD	1,202,310	24,232	0	0	0	903,817	322,725		$322,725
	Total Revised Fund 119	**1,202,310**	**24,232**	**0**	**0**	**0**	**903,817**	**322,725**		**322,725**
121	2015 GO BONDS-FUN CENTER	87,476	1,441	0	0	0	0	88,917		$88,917
	Total Revised Fund 121	**87,476**	**1,441**	**0**	**0**	**0**	**0**	**88,917**		**88,917**
122	2015 GO BONDS-STREETS	169,501	3,003	0	0	0	0	172,504		$172,504
	Total Revised Fund 122	**169,501**	**3,003**	**0**	**0**	**0**	**0**	**172,504**		**172,504**
901	HOUSING LOW RENT OPERATING	897,099	822,791	0	109	(109)	1,042,098	677,683	78,002	$599,681
	Revision #7					0	13,250	(13,250)		($13,250)
	Total Revised Fund 901	**897,099**	**822,791**	**0**	**109**	**(109)**	**1,055,348**	**664,433**	**78,002**	**586,431**
903	HOUSING HOMEOWNERSHIP OPER	746,039	1,705	0	0	0	28,145	719,599		$719,599
	Total Revised Fund 903	**746,039**	**1,705**	**0**	**0**	**0**	**28,145**	**719,599**	**0**	**719,599**
904	HOUSING CAPITAL FUND PROJECTS	0	851,194	0	0	0	851,194	0		$0
	Total Revised Fund 904	**0**	**851,194**	**0**	**0**	**0**	**851,194**	**0**		**0**
	TOTALS FY2020	**59,492,852**	**61,701,818**	**21,520,910**	**21,520,910**	**0**	**89,703,356**	**31,491,314**	**6,289,877**	**25,201,437**

Resolution # 2019-39   September 24, 2019

RECURRING/ NON-RECURRING	FUND NO.	LINE ITEM NO.	LINE ITEM DESCRIPTION	ORIGINAL BUDGET AMOUNT	INCREASE (DECREASE)	REVISED BUDGET AMOUNT

REVISION #1

This budget revision is to revise the sale of scrap budget for the proceeds from the items from the Rockwood hous

	11	**GENERAL FUND**				
		Revenues				
	PURROC	011-0000-316.15-05	Sale of Scrap	0	**500**	500
			Total Revenues	0	**500**	500

REVISION #2

This budget revision is to correct amounts budgeted for property insurance to the actual amount

	12	**INTERNAL SERVICES**				
		Expenditures				
		012-3303-419.58-07	Insurance/Property	1,158	**92**	1,250
		012-3503-419.58-07	Insurance/Property	1,437	**115**	1,552
			Total Expenditures	2,595	**207**	2,802
	81	**WATER/SEWER**				
		Expenditures				
		081-5503-461.58-07	Insurance/Property	14,347	**1,675**	16,022
			Total Expenditures	14,347	**1,675**	16,022

REVISION #3

This budget revision is to add the revenue and expense for the revenue rebate approved by the Solid Waste Authority

	86	**SOLID WASTE COLLECTION**				
		Revenues				
	CERCON	086-0000-316.15-01	Refunds & Collections	10	**176,709**	176,719
			Total Revenues	10	**176,709**	176,719
		Expenditures				
	CERCON	086-1003-434.61-60	Capital Equipment	13,170	**176,709**	189,879
			Total Expenditures	13,170	**176,709**	189,879

REVISION #4

This budget revision is to move the DWI and CDWI grants to Fund 24. This will make Fund 36 for the Law Enforcement Protection Fund only

	24	**GRANT CAPITAL IMPROVEMENT**				
		Revenues				
		024-4604-317.16-13	Community DWI Grant	0	**8,969**	8,969
		024-4642-317.16-13	Trafic Safety State Grant	0	**14,646**	14,646
		024-4642-317.16-73	Traffic Safety Federal Grant	0	**22,803**	22,803
			Total Revenues	0	**46,418**	46,418
		Expenditures				
		024-4604-420.20-04	Overtime	0	**6,669**	6,669
		024-4604-420.32-75	Program Supplies	0	**2,300**	2,300
		024-4642-420.20-04	Overtime	0	**37,449**	37,449
			Total Expenditures	0	**46,418**	46,418
	36	**LAW ENFORCEMENT PROTECTION**				
		Revenues				
		036-4604-317.16-90	DWI/Traffic Grant	8,969	**(8,969)**	0
		036-4604-317.16-90	DWI/Traffic Grant	37,449	**(37,449)**	0
			Total Revenues	46,418	**(46,418)**	0
		Expenditures				
		036-4604-420.20-04	Overtime	3,201	**(3,201)**	0
		036-4604-420.20-15	Social Security	589	**(589)**	0
		036-4604-420.20-30	Worker's Comp	2,912	**(2,912)**	0
		036-4604-420.32-75	Program Supplies	2,300	**(2,300)**	0
		036-4604-420.20-04	Overtime	37,449	**(37,449)**	0
			Total Expenditures	46,451	**(46,451)**	0

REVISION #5

This budget revision is to revise the Law Enforcement Protection fund to reflect the actual amount awarded in FY20

	36	**LAW ENFORCEMENT PROTECTION**				
		Revenues				
		036-0000-317.16-08	Law Enforcement Grant	60,000	3,000	63,000
			Total Revenues	60,000	**3,000**	63,000
		Expenditures				
		036-0000-420.44-35	Equipment Maintenance	18,753	**33**	18,786
		036-0000-420.50-50	Equipment	6,214	**3,000**	9,214
			Total Expenditures	24,967	**3,033**	28,000

REVISION #6

Budget revision is to revise the Senior Center Programs to the actuals awarded by the Non-Metro Area Agency on Aging for FY2020.

71	**SENIOR CENTER**				
	Revenues				
SCCL20	071-0000-317.16-34	Commodities/NSIP	32,465	**21,141**	53,606
	071-8023-317.16-32	Grants/HB2	97,217	**(9,722)**	87,495
	071-8024-317.16-32	Grants/HB2	124,076	**(12,225)**	111,851
	071-8025-317.16-32	Grants/HB2	53,027	**(5,303)**	47,724
	071-8030-317.16-32	Grants/HB2	34,744	**7,846**	42,590
		Total Revenues	341,529	**1,737**	343,266
	Expenditures				
	071-8023-445.32-60	Supplies/Food Purchases	79,968	**(9,722)**	70,246
SCCL20	071-8023-445.32-65	Commodities/NSIP	16,941	**12,158**	29,099
	071-8024-445.32-60	Supplies/Food Purchases	92,628	**(12,225)**	80,403
SCCL20	071-8024-445.32-65	Commodities/NSIP	15,524	**8,983**	24,507
	071-8025-445.32-75	Program Supplies	29,648	**(5,303)**	24,345
	071-8030-445.32-75	Program Supplies	20,639	**7,846**	28,485
		Total Expenditures	255,348	**1,737**	257,085

REVISION #7

Budget revision is to revise the Housing Authority construction budget to replace the roof at 2408 Cuba

901	**HOUSING AUTHORITY**				
	Expenditures				
HP1701	901-0107-463.61-13	Construction	1,625	**13,250**	14,875
		Total Expenditures	1,625	**13,250**	14,875

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/16/2019 **Report No:** 7.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, acceptance of grant award of trees from Apache Corporation. *(Debbie Osborne, Grant Coordinator*)

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: There is no fiscal impact.

Recommendation: Accept grant from Apache Corporation.

Background: The City applied for and received a grant from the Apache Corporation Tree Program. A total of 50, 5 gallon trees, will be delivered to the City prior to April 1, 2020. The trees will be planted in one or more City park locations.

September 9, 2019

Deborah Osborne
City of Alamogordo
1376 E. Ninth Street
Alamogordo, NM 88310

Dear Deborah:

CONGRATULATIONS! We are excited to confirm that **City of Alamogordo** will receive a *grant of trees* from the 2019/2020 Apache Corporation Tree Program. Details of your award are as follows:

> **APACHE AWARD:** Quantity: **50** Size: **5 gallon trees** Proposed Project Date: **4/1/2020**
> *(We will do our best to meet the types and quantities of species requested on the application based on availability.)*

We are excited to inform you that Apache has entered into a consulting arrangement with Mike Aschenbrener, owner of TreeLife Farms, to assist in the management of the 2019/2020 Tree Grant Program. Mike and his team will be reaching out to you to discuss your specific order, delivery details and coordinating efforts with your local nursery if applicable. Please note that he will be working in priority of project dates.

As a tree grant recipient, we request that you provide the following information:

- Confirm the date of your tree event by email to mike@treelifefarms.com and shelly.williams@apachecorp.com;
- Please send an acknowledgement letter on your organization's letterhead to confirm receipt and delivery of your trees by email to emily.mcclung@apachecorp.com and shelly.williams@apachecorp.com. You may also elect to send a copy by U.S. Mail to our attention at our mailing address below; please be sure to mail no later than May 15, 2020.
- Contact us directly in order to ensure correct usage of Apache's logo if you plan to acknowledge Apache in a newsletter, volunteer flyer, etc. (format guidelines are attached);
- Coordinate any press release and/or public announcements regarding the grant award with Apache;
- Please take pictures! We love to see photos of the actual planting or giveaway of the trees. You may e-mail photos or photo links directly to shelly.williams@apachecorp.com. High resolution photos are best.

Please feel free to contact me at (713) 296-7085 or Shelly Williams at (713) 296-6433 with any questions or concerns that you may have regarding this tree grant award. Congratulations on your tree grant award!

Best Regards,

ERMcClung

Emily McClung
Vice President, Community Partnerships and Employee Engagement

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 8.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, grant application to the New Mexico Library Foundation. *(Sharon Rowe, Library Manager*)

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: If awarded the Library would receive a grant in the amount of $1,000.

Recommendation: Approve grant application to the New Mexico Library Foundation.

Background: The Alamogordo Public Library would like to submit a grant application to the New Mexico Library Foundation in the amount of $1,000. If awarded the library would like to use the funds to help establish an "Outdoor Activity Circulating Collection" program. Outdoor games, hiking equipment and dog games are some of the items that would be available to lend to library patrons. A special "Saturday Fun Day" would be held for patrons to try out equipment and see what is available. A program of this type would allow people to try new things without making a monetary commitment and motivate them to spend more time outdoors interacting with friends, family and their dogs.

New Mexico Library Foundation

Development Grant Application

Grant Requestor Institution

Requesting Organization	City of Alamogordo Public Library
Your Name	Ami Jones
Street Address	920 Oregon Ave
City ST ZIP Code	Alamogordo, NM 88310
Office Phone	(575) 439-4140
E-Mail Address	Ajones@ci.alamogordo.nm.us

Grant Title and Date Submitted

Title: Outdoor Activity Circulating Collection

Date Submitted:

What identified need will your project address?
Describe in terms of your library's patrons and community members.

Our area enjoys wonderful weather and has beautiful outdoor spaces to explore, but sometimes people need an extra 'push' to get them outside and active. Additionally, people don't always own outdoor equipment because it can be costly. We want to promote physical activity, individual and group interaction, and use of outdoor spaces. We have many great hiking trails in our area and in addition to games we will loan hiking kits consisting of backpacks with USFS maps of local hiking trails, a handheld GPS, and first aid kit. This will provide opportunities for hiking to those who want to try it out before committing to owning the items as well as those who want to hike but can't afford the supplies. Finally, we would like to include some pet items such as portable water bottles, foldable water bowls, dog packs for hiking. We hope that by providing a selection of fun outdoor activities we will give our patrons the equipment along with a little extra motivation to head outside and interact with friends, family and their dogs.

Alamogordo resides in Otero County. The Otero County Community Health Council – Healthy Eating Active Living (HEAL) Committee has offered to support this application. Their support of program will help with promotion of it.

Outcomes and Impact Expected
What specifically will you achieve with the project and how will you measure it?
How will it impact your library community?

The purpose of this project is to help provide a positive impact on our community by increasing physical activity and friendly interaction among the members. It will allow families and friends opportunities to have fun and spend time together outdoors. Additionally, it will give the public exposure to games and experiences that they may not otherwise have a chance to play, such as bocce ball or hiking. Experiences such as these would also enhance multicultural awareness. Items will also be available for use in library activities such as the STEM program, summer programs or Saturday program activities allowing patrons of these programs to try out new things.

Programs that encourage group participation, physical activity and time outdoors, overall improve the well-being of the entire community. We will measure the success of the program by feedback and tracking circulation of the items and how often patrons are utilizing the program.

Project Description
State each step required to implement your project. Include time-frame for completion.

The steps to implement the project and anticipated time-frame for completion are:

1. Research outdoor game equipment and select a variety of possibilities. (1 week)
2. Survey patrons to determine interest in selected options. (2-3 weeks)
3. Order, package and catalog items for circulation. (2-3 weeks)
4. Advertise new collection and presentation event. (2 weeks)
5. Host Saturday Fun Day at which patrons can try out equipment on library lawn, after which all items will be available for check-out.
6. Collect surveys and input online and from patrons as they utilize equipment, evaluate any changes that may need to be made. (2-3 weeks)

Metrics to be used to assess the project's success
What exactly will you assess? How will you measure results? What survey instruments, feedback forms, etc. will be used?)

The success of the project can be measured by the following metrics:

1. Number of inquiries such as Facebook comments, phone calls, in-person.
2. Attendance at programs
3. Circulation of items that are checked out
4. Facebook surveys and/or paper surveys

How will you know you achieved the desired outcomes?
Include evidence in the form of data, statistics, and print or photo documentation created during your project to support your assessment.

We will know that we have achieved the desired outcomes by our circulation statistics, survey results and documenting feedback from patrons to library personnel and/or on social media. Photos of people playing the games can provide visual documentation and be shared on the library's Facebook page and/or in printed program materials. Other evidence of program success can include attendance at Fun Day and popularity of the items during the library's STEM, summer and Saturday programs.

Project Budget
List all project expenses. This includes the specific amounts requested from NMLF and expected funding from other sources, as well as in-kind contributions.

Item	Expense/Cost	Source of Funding
Locking storage cabinet	$1,000	library
Outdoor games already owned (ladder ball, giant bowling, Twister)	$200	donations
New outdoor games such as lawn darts, Frisbee golf, bocce ball, etc.	$800	grant
Saturday Fun day advertising, refreshments, door prizes, etc.	$200	grant
Garmin GPS	$86	grant
Portable dog water bottle	$10	donations/library
Foldable dog bowls	$6	donations/library
Hiking logbook	$7	donations/library
Backpacks	$25	donations/library
First aid kits	$12	donations/library
Total Cost	**$2,346**	

Budget Justification
Tell us if your library has other sources of funding and, if so, why these sources are inadequate to complete this project.

The library's materials budget is used for print and audio visual materials. We have received donations of board games to begin a circulating collection of those, as well as a few outdoor games. These outdoor items would be an extension of that collection, helping it involve more outdoor, physical activity. We have an Amazon Wish List that we have received a few items from. The wish list items that we've received are basically program materials; however, we have now added the outdoor items to the list as well.

Projected budget is a very rough estimation, and would change based on patron input and the availability of other games and activities not listed.

How does this project fit both your organization's mission statement and that of the Foundation? See the NMLF mission statement on the website.

Funding for this project would support the NMLF's goals to help libraries build collections and to enhance library programs.

The Alamogordo Public Library's Mission Statement is, in part, "…to provide educational, informational, and recreational resources in print and non-print formats to all residents of all ages and socioeconomic backgrounds…" Creating and expanding this collection would go a long way toward providing access to recreational opportunities that may not be available to patrons with limited funding or space. In doing so it would add to the quality of life for these patrons and provide ways for all of the citizens in Alamogordo to enjoy outdoor games.

Please provide any additional information you believe will be helpful to the Foundation Trustees' decision making process.

As we all know, libraries are not just warehouses for books. As our communities and their needs change, we must change with them to see and even anticipate needs, and then do what we can to meet them within our budget and staffing constraints. From the obesity epidemic to social disconnects, the need to encourage both physical and social health are great, and that need can sometimes be met simply by offering the opportunity and the means.

By submitting this application, I affirm that the facts set forth in it are true and complete. I understand that if the grant application is approved, any false statements, omissions, or other misrepresentations made by me on this application may result in a revocation of grant funding.

Please send this grant application via email as an attachment to: grants@nm-lf.org

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 9.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, grant application to Petco Foundation. *(Dwain Martinez, Animal Control Manager, and Debbie Osborne, Grant Coordinator)*

Fiscal Impact:

Amount Budgeted: $0.00
$0.00
Fund:

Additional Fiscal Impact: Possible award of up to $80,000.

Recommendation: Approve application to Petco Foundation.

Background: Petco Foundation offers funding to municipal animal shelters to help provide resources to promote animal welfare and prevent euthanasia. Alamogordo Animal Control would like to apply for a grant in the amount of $80,000. The funds would be used for animal spay/neuter programs, supplies, adoption events, increasing runs, maintenance and updating the back area for the dogs.

Grant Application Instructions
For Animal Welfare Organizations Performing Sheltering and Adoptions

Thank you for all you do to help animals in your community. Completing the Petco Foundation application is the required initial step for the Foundation to consider making an investment in your organization to support your lifesaving efforts. As our application or application process may have changed since you've last applied, please carefully read the information below prior to completing an application. Completion of our application accurately and in accordance with these instructions is necessary to be considered for funding.

QUALIFICATIONS

Organization Type: All applicants are evaluated based on organization type instead of by type of project or program. It is important that you read the organization type definitions carefully prior to filling out an application and that you select the correct category for your organization. The three organization types below are eligible to apply during the **Animal Welfare Organizations** grant cycle:

- **Non-profit organizations that are primarily foster-based rescues.**
  - 501c3 nonprofit organizations performing adoptions of companion animals; and
  - A primary service of your organization is temporarily caring for animals in need for the purpose of finding them new homes.

- **Animal Control agencies & non-profit organizations responsible for animal control sheltering.**
  - Municipal or other governmental agency, department or division providing animal control sheltering per local ordinance as well as other services, including adoptions; OR
  - 501c3 nonprofit organizations legally or contractually obligated to accept stray dogs or cats from 1 or more municipalities in addition performing adoptions and other services.

- **SPCA/humane societies and other non-profits that operate primarily out of an animal sheltering facility.**
  - 501c3 nonprofit organizations performing sheltering and adoptions of companion animals; and
  - A primary service of your organization is temporarily caring for animals in need for the purpose of finding them new homes; and
  - You operate out of a sheltering facility.
  - Organizations applying under this application may also perform significant other functions like spay/neuter surgeries and veterinary clinic services in addition to the primary service of placing animals up for adoption.
  - *IMPORTANT: If your organization is legally or contractually obligated to accept stray dogs or cats from 1 or more municipalities in addition performing adoptions and other services, please select the organization type: Animal Control agencies & non-profit organizations responsible for animal control sheltering*

For the organization types listed above:

- ✓ There is one grant cycle available during each year.
- ✓ Applicants may submit <u>one</u> proposal per grant cycle.
- ✓ For organizations receiving multi-year funding, all installment payments must have been completed before submitting a new application.
- ✓ For organizations that have received funding in the past, all outstanding follow-up reports (including all annual reports for multi-year grants) for previous awards must be completed before submitting a new application.
- ✓ ALL organizations must also submit their **Annual Partnership Report*** with their animal data for the previous year along with their most recent financial information. **Grant applications received from organizations who have not also submitted their Annual Partnership Report will be automatically declined.*
- ✓ The person submitting the application must be an authorized representative of such organization. If you are a "Friends of" organization, we recommend you work with the primary animal intake organization and assist them in completing the application.

If your organization is primarily one of the types listed below, please **do not** fill out an application at this time.

- ✓ Spay/neuter clinics
- ✓ Community cat support and TNR organizations
- ✓ Service and therapy animal organizations
- ✓ Pet food bank
- ✓ *Sanctuaries (no application is currently available)*
- ✓ *Community pet support organizations (no application is currently available)*
- ✓ *"Friends of" organizations (no application is currently available)*
- ✓ *Organizations unrelated to the animal welfare field (no application is currently available)*

APPLICATION INSTRUCTIONS

As one of the nation's largest funders of animal welfare causes, the Petco Foundation seeks to support organizations that continually endeavor to achieve a high standard of doing more and are determined to save as many lives as possible with our lifesaving investments. Decisions are not made, and funding is not allocated by purpose of funding or program type. We believe that leaders of effective organizations are best positioned to determine the animal needs in their communities and that each community's needs may vary. Consequently, when reviewing your funding request, we are assessing your organization's past effectiveness, as well as the likelihood that our investment will make a positive impact on saving animals lives in the future.

<u>INFORMATION VERIFICATION</u>

- Please review the "Organization Information" in the Partner Portal for your organization and provide updates, if applicable. You may need to submit additional information and/or forms if the information needs to be updated. Additional details will be provided on the application.
  - Please select your organization type. (Refer to the descriptions on page 1 of this document.)
  - Is your Executive Officer correctly listed?
  - Is your Mailing address correctly listed?
  - Has your organization submitted your 2018 Annual Partnership Report?

REQUEST DETAILS

- **Suggested Amount:** Please provide a suggested grant amount. Keep in mind that any potential grant award is based on our evaluation of the organization and may differ from your suggested amount (either higher or lower). The Petco Foundation uses the information provided in your Annual Partnership Report and Application to evaluate your organization's effectiveness and efficiency against your peers.
  - ***NOTE:*** *Investments of $100,000 or more are considered* ***Lifesaving Impact Awards****. Your organization* <u>*must shelter a minimum of 2,500 animals*</u> *in order to qualify of an award of this size.* ***Please see the last page of this instruction document to learn more about Lifesaving Impact Awards.***
- **Use of investment:** Please describe how an investment of this amount will help your organization achieve its lifesaving goals and objectives. Provide specific details directly related to the amount of the investment that you are requesting.

Your description should focus on increasing positive outcomes, decreasing intake and/or providing care to community owned animals in need. The Petco Foundation prefers to fund requests where our investment will increase lifesaving programs and not merely fund programs that continue the status quo.

Requests from municipal or government organizations should be focused on increasing lifesaving efforts, which could be programs and resources needed to increase adoptions, return to owners, etc. The Petco Foundation grants may not be utilized to meet the needs of or subsidize government obligations to care for the animals in their communities.

For sponsorship requests, details should include information about your event, including the date, number of attendees, number of adoptions, recognition of the Petco Foundation, and other pertinent details. *Please be advised that we are unable to supply product, coupons, volunteers, personnel support, and event attendees*.

- **Additional information:** Please provide other important information that may be relevant or important to our consideration of your request. Attachments may be added in the Attachments and Certifications section.

TRANSFER PARTNERSHIPS

The questions in this section differ by type of organization.

If you are a nonprofit or municipal agency that is responsible for animal control sheltering (legally or contractually obligated to accept stray dogs or cats) please provide the names of the top 3 organizations that you transferred animals to in the last calendar year (name of organization, city & state) and the approximate number of animals.

If you are a nonprofit organization who is not legally or contractually obligated to provide animal control sheltering:

- Did your organization transfer in animals from your LOCAL animal control shelter in the last calendar year?
  - If yes, please provide the name of local shelter(s), city & state, and number of animals transferred.
  - If no, why not?

For all organizations,

- Did your organization transfer in animals from shelters other than your local shelter in the last calendar year?
  - If yes, please provide the name of shelter(s), city & state, and number of animals transferred.

PARTNERSHIP & RECOGNITION

Your recognition of the Petco Foundation within your community encourages Petco customers to feel confident in making a donation to the Petco Foundation at the register when they shop. This fundraising in small amounts (on average just under $2 per transaction) helps support the Foundation's grants program in a way that does not diminish your own fundraising efforts. It's incredible that simply by collecting these small contributions we are able to provide more than $30 million in investment support each year

The Petco Foundation makes these investments (grants) to achieve our mutual objective of saving lives. Our support is generally not restricted to a specific program but instead supportive of any purpose that achieves that goal. And while you can use the funds for any lifesaving purpose, our preference is for recognition to be associated with pet adoption, transports or foster care.

- **Recognition:** If the Foundation makes an investment in your organization, please share your ideas of how you will recognize the Petco Foundation. If your request includes an event, please provide example sponsor benefits.
- **Relationship:** Describe your relationship with the Petco Foundation and/or Petco stores if applicable.

FINANICAL INFORMATION

At the end of this application, you will be asked to submit your relevant financial documents.

Timing of financial information: If you are a calendar year nonprofit, your most recent calendar-year financial information is required. If you are a fiscal-year organization, your most recent fiscal-year financial information is required.

ATTACHMENTS AND CERTIFICATIONS

Submission of your request requires the following documents be uploaded in this section. Click the headings for uploading instructions. Please read the documents required information carefully as failure to upload required documents will result in your application being denied.

Documents Required: Certain financial documents must be attached to this application based on the type of organization:

- Non-profit organizations:
  - IRS Form 990 excluding schedules (if you are required to file a 990)
  - If you do not file an IRS Form 990 (or file the 990 postcard), please provide financial statements or other financial information to detail your revenue and expenses.
- Municipal/Governmental agencies:
  - Animal welfare department or divisional budget (not your entire municipal budget)

Optional documents: Other documents commonly associated with requests may include capital campaign materials, sponsorship information, photos or other items. Please limit other documents to those critical to your request.

Certification:

- I certify that the leader of the organization (CEO/Executive Director/President or similar title) has reviewed this application and the accompanying Annual Partnership Report that is a part of this application.
- I certify that I am an officer or authorized representative of the organization submitting this application and that all information on this grant application is true and correct in all material respects.
- I agree that any funds granted will be utilized specifically to accomplish lifesaving objectives.

- I agree on behalf of the organization that as a partner of the Petco Foundation any public messaging that includes information about the Petco Foundation shall promote a positive message about helping animals and saving lives.
- I agree on behalf of the organization that its representatives shall not disparage or speak negatively or take any action intended, or which would reasonably be expected, to harm the Petco Foundation or its reputation or which would reasonably be expected to lead to unwanted or unfavorable publicity to the Petco Foundation.
- I certify and agree that any and all information submitted is not considered confidential, will become the property of the Petco Foundation, and that the Petco Foundation may use such information as it deems appropriate in its sole discretion.
- ***If you cannot agree to these conditions, you may not submit this grant application.***

<u>LIFESAVING IMPACT AWARD REQUIREMENTS</u>

If your organization serves a significant number of animals (at least 2,500 annual intake), you may apply for a lifesaving impact award. Lifesaving impact awards are grants of $100,000 or more and/or multi-year awards. Lifesaving impact awards are very limited and the process to request such award is more extensive. The amount of such award that your organization is seeking should be directly related to the number of animals that your organization serves, the percentage impact that our investment will make on your lifesaving efforts and many other factors.

Finalists for lifesaving impact awards may be required to submit additional information to the Foundation or participate in interviews prior to a decision being rendered. Lifesaving impact awards may be submitted for any purpose provided that your lifesaving impact award is expected to result in an increase in your lifesaving percentage or other significant positive impact for the animals of your community.

<u>Lifesaving impact awards requests may be submitted for any lifesaving purpose.</u> With a request for a lifesaving impact award you are required to submit a detailed plan to increase the lifesaving rate in your community, and describe how our investment will assist in such efforts.

You plan should describe your organization’s overall programs and why you are seeking an award. Your plan should also provide the history of your organization’s efforts to save animals, the current state of animal welfare in your community, the purpose for our investment, and how this investment will increase your future lifesaving efforts, including your specific goals and strategies.

Summary – you may apply for a lifesaving impact award if you:

- Are eligible to apply for funding based on the QUALIFICATIONS section at the beginning of this document
- Have an intake of at least 2,500 animals annually
- Have a detailed plan including the history and future of your organization & community’s lifesaving progress

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 10.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, Resolution No. 2019-40 approving the submission of an application in the amount of $3,340,000 and a $334,000 City match for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for the parallel pipeline project. *(Larry Garner, Public Works Manager/Debbie Osborne, Grant Coordinator)* **(Roll Call Vote Required)**

Fiscal Impact: $334,000.00
Amount Budgeted: $0.00
Fund: 049

Additional Fiscal Impact: Funding application requires a match. If awarded City will receive $3,340,000 in combined grant/loan funds.

Recommendation: Approve Resolution No. 2019-40 and submission of 2020 Water Trust Board application for $3,340,000 with a $334,000 City match.

Background: The City of Alamogordo is applying to the New Mexico Water Trust Board for funding in the amount of $3,340,000 to plan, design and construct a parallel pipeline. The entire pipeline will extend from the existing connection about 6,600 feet south of the intersection of Snake Tank Road and Hwy 54/70 to the existing connection at the intersection at La Luz Gate Road and Riata Road. Plans and design would include approximately 16 miles of transmission line remaining to be installed. Construction would include approximately 2 - 2.5 miles of the line.

This project has been listed on the City's approved Infrastructure Capital Improvement Plan (ICIP) as the Snake Tank Line for several years. Funding would be a grant/loan combination. The loan amount portion would be determined by the NMFA based on the City's financial capacity. The City will provide a required match in the amount of $334,000, from Fund 49.

NOTICE OF INTENT TO APPLY FOR 2020 WATER TRUST BOARD FUNDING

This Notice of Intent ("NOI") serves as i) notification of the Applicant's desire to apply for Water Trust Board ("WTB") funding for the 2020 cycle, and ii) the initial step of the enrollment process to access the New Mexico Finance Authority's ("NMFA") online application and account system, EnABLE™ ("EnABLE") for WTB funding. WTB funding applications may only be submitted via EnABLE.

Enrollment involves completing this NOI to identify the individual who will be the Primary Contact for submitting the application.

Through this NOI, the applicant may also request access for a Secondary Contact and up to two Designated Consultants who may assist in the application and upload documentation. Access for additional contacts or consultants may be requested through WTBAdmin@nmfa.net.

Upon receipt of a properly completed NOI, the NMFA will send, by email, confirmation of our acceptance of your enrollment, and, if applicable, our acceptance of the enrollment of any additional contacts or consultant to use EnABLE, along with an assigned User name and temporary Password. To access EnABLE, a user will be asked to submit a correct User name and Password, as well as acknowledge certain terms of use.

I. APPLICANT INFORMATION:

Applicant Name:	City of Alamogordo
Applicant Mailing Address:	Same as street address
Applicant Street Address:	1376 E. Ninth Street
City: Alamogordo	**State:** NM
County: Otero	**Zip:** 88310
Email: bcesar@ci.alamogordo.nm.us	**Phone:** (575) 439-4203

APPLICANT LEGAL ENTITY TYPE (Check One):	
○	**Authority (specify):**
●	**Municipal or County Government**
○	**Mutual Domestic/Sanitary Projects Act Entity**
○	**Special District (specify):**
○	**Tribe or Pueblo**
○	**Other (specify):**

<table>
<tr><th colspan="3">APPLICANT PRIMARY CONTACT
(Authorized to Submit Application and Request Access for EnABLE users)</th></tr>
<tr><td>Name: Debbie Osborne</td><td colspan="2">Title: Grant Coordinator</td></tr>
<tr><td colspan="3">Mailing Address: 1376 E. Ninth Street</td></tr>
<tr><td>City: Alamogordo</td><td>State: NM</td><td>Zip: 88310</td></tr>
<tr><td>Email: dosborne@ci.alamogordo.nm.us</td><td colspan="2">Phone: (575) 439-4257</td></tr>
</table>

<table>
<tr><th colspan="3">APPLICANT SECONDARY CONTACT
(Authorized to Access EnABLE Application System)</th></tr>
<tr><td>Name: Brian Cesar</td><td colspan="2">Title: Interim City Manager</td></tr>
<tr><td colspan="3">Mailing Address: 1376 E. Ninth Street</td></tr>
<tr><td>City: Alamogordo</td><td>State: NM</td><td>Zip: 88310</td></tr>
<tr><td>Email: bcesar@ci.alamogordo.nm.us</td><td colspan="2">Phone: (575) 439-4203</td></tr>
</table>

<table>
<tr><th colspan="3">Consultant Authorized to Access EnABLE Application System</th></tr>
<tr><td>Name:</td><td colspan="2">Title:</td></tr>
<tr><td colspan="3">Firm:</td></tr>
<tr><td colspan="3">Mailing Address:</td></tr>
<tr><td>City:</td><td>State:</td><td>Zip:</td></tr>
<tr><td>Email:</td><td colspan="2">Phone:</td></tr>
</table>

<table>
<tr><th colspan="3">Consultant Authorized to Access EnABLE Application System</th></tr>
<tr><td>Name:</td><td colspan="2">Title:</td></tr>
<tr><td colspan="3">Firm:</td></tr>
<tr><td colspan="3">Mailing Address:</td></tr>
<tr><td>City:</td><td>State:</td><td>Zip:</td></tr>
<tr><td>Email:</td><td colspan="2">Phone:</td></tr>
</table>

II. PROJECT INFORMATION

Project Name: Alamogordo - Design and Construct Parallel Pipeline

Amount Requested: $3,340,000.00

Note: Per WTB policy, Applicants may not receive more than 15% of the available funds in any year. The available funding for the 2020 cycle is estimated to be approximately $30.3 million, therefore, the 15% cap for the 2020 cycle is approximately $4.54 million.

Project Type – *Check One That Applies*

- (●) Water Storage, Conveyance and Delivery
- ( ) Watershed Restoration and Management
- ( ) Endangered Species Act Collaborative
- ( ) Flood Prevention
- ( ) Water Conservation or Treatment, Recycling or Reuse

III. PROJECT DESCRIPTION

Please provide the Project Location, the Scope of Work to be completed with the requested funding, the Phase or phases to be funded, and a brief description of the Project Goal.

Project Location:

Scope of work: ☐ Planning ☑ Design ☑ Construction (Check all that apply)

Phase or Phases to be Funded: Design of Entire Project/Phase 1 of Construction

Project Goal (*35 words or less*):

Design approximately 16 miles of 24" C-900/905 PVC raw water transmission pipeline from Snake Tank Road and Hwy 54/70 to La Luz Gate Road/Riata Road intersection. Construct approximately 2.5 miles of the project design.

IV. DECLARATION OF PROJECT URGENCY

Section 1.3 of the Water Trust Board Project Management Policies provides additional consideration to projects that are deemed Urgent. Does your project meet any of the following definitions of Urgent (check all that are applicable) and attach evidence of the determination from a Cabinet Secretary or designee.

Public Health Threats: Projects that address existing and imminent public health threats resulting from waterborne disease outbreak and inadequate water supply.	( ) Yes	(●) No

Safe Drinking Water Act Compliance: Projects that address existing and imminent threats resulting from acute and chronic risk contaminants. System must demonstrate that it has received three violations in the past year.	○ Yes	◉ No
Wildfire Public Safety: Watershed projects that modify or break up fuels in such a way as to lessen catastrophic fire and its threat to public safety and damage to property?	○ Yes	◉ No
Dam Safety: Projects that correct safety deficiencies identified by the Office of the State Engineer and restore dams to a satisfactory condition.	○ Yes	◉ No
Other: Does your project address other conditions declared an emergency by the Governor of New Mexico or by a Cabinet Secretary of a state agency? If yes, briefly describe the emergency conditions:	○ Yes	◉ No

V. APPLICATION RESOLUTION ADOPTION DATE: September 24, 2019

PLEASE PROVIDE THE DATE of Governing Board's Adoption or Expected Adoption of Resolution Authorizing the Submission of an application to the Water Trust Board. *Please note that the resolution is due with the application on October 3, 2019.* Applicants who need additional time to work through their governing body approval process may submit a draft resolution with the application and receive an extension to submit the final resolution by November 1, 2019.

VI. ACKNOWLEDGEMENT: I have reviewed a copy of the **Water Trust Board Project Management Policies Revised and Restated as of July 6, 2016**. I understand that I will be invited to make a brief presentation regarding the application to the Water Trust Board at its meeting expected to be held on October 29-30, 2019.

I CERTIFY THAT:

- I have the authority to designate a Primary Contact who will be authorized to submit an application via EnABLE;
- I have the authority to designate local users to access EnABLE;
- I have the authority to designate identified consultants to access EnABLE; and
- To the best of my knowledge, all information contained in this NOI is valid and accurate.

Signature: Richard Boss

Highest Elected Official/Authorized Officer

Print Title: Mayor

Print Name: Richard Boss

Date: 8/22/19

WATER TRUST BOARD
2020 APPLICATION CERTIFICATION

SECTION VI. CERTIFICATION

I certify that:

Applicant has the authority to request the funds described in this application. To the best of my knowledge all information contained in this application is valid and accurate and the submission of this application has been authorized by the governing body of the undersigned jurisdiction.

Signature:

____

Highest Elected Official/Authorized Officer

Print Name: Richard Boss

Print Title: Mayor

Jurisdiction: City of Alamogordo

Date:____________________________________

RESOLUTION NO. 2019-40

RESOLUTION AUTHORIZING FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE NEW MEXICO WATER TRUST BOARD TO PLAN, DESIGN AND CONSTRUCT A PARALLEL PIPELINE

WHEREAS, the City of Alamogordo, New Mexico, whose project to plan, design and construct a water transmission pipeline; and,

WHEREAS, the City of Alamogordo, New Mexico, may apply for financial assistance from the New Mexico Water Trust Board to fund the parallel pipeline project; and

WHEREAS, the City of Alamogordo, New Mexico, is eligible to apply for funding from the New Mexico Water Trust Board.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the filing of an application to the New Mexico Water Trust Board for funding in the 2020 Water Project Fund funding cycle is hereby authorized. The project type falls under Water Storage, Conveyance or Delivery and proposes to plan and design approximately 16 miles and construct approximately 2 miles of a transmission pipeline. The financial assistance requested is in the amount of $3,340,000.00.

BE IT FURTHER RESOLVED, that the Interim City Manager, Brian Cesar, is hereby designated as the City of Alamogordo's representative to act on behalf of this application.

PASSED, APPROVED AND ADOPTED by the City Commission on this _______ day of _________________ 2019.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico Municipal Corporation

By:___________________________
Richard Boss, Mayor

ATTEST:

By: ____________________________
Rachel Hughs, City Clerk

APPROVED AS TO FORM;

By: ____
Petria Bengoechea, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 11.

Submitted By: Debbie Osborne

Subject: Consider, and act upon, Resolution No. 2019-41 approving the submission of an application in the amount of $1,200,000 with a $120,000 City match for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for the rehabilitation of the Lower Heights Water Storage Tank. *(Larry Garner, Public Works Manager and Debbie Osborne, Grant Coordinator)* **(Roll Call Vote Required)**

Fiscal Impact: $120,000
$120,000
Amount Budgeted: ($2.00)
$0.00
Fund: 049
049

Additional Fiscal Impact: Funding application requires a match. If awarded the City will receive $1,200,00 in combined grant/loan funds.

Recommendation: Approve Resolution No. 2019-41 and submission of 2020 Water Trust Board application for $1,200,000 with a $120,000 City match.

Background: The City of Alamogordo is applying to the New Mexico Water Trust Board for funding in the amount of $1,200,000 to rehabilitate the Lower Heights Water Storage Tank. Rehabilitation of the tank would include items identified in a 2016 inspection report.

This project has been listed on the City's approved Infrastructure Capital Improvement Plan (ICIP) for several years. Funding would be a grant/loan combination. The loan amount portion would be determined by the NMFA based on the City's financial capacity. The City will provide a required match in the amount of $120,000, from Fund 49.

NOTICE OF INTENT TO APPLY FOR 2020 WATER TRUST BOARD FUNDING

This Notice of Intent ("NOI") serves as i) notification of the Applicant's desire to apply for Water Trust Board ("WTB") funding for the 2020 cycle, and ii) the initial step of the enrollment process to access the New Mexico Finance Authority's ("NMFA") online application and account system, EnABLE™ ("EnABLE") for WTB funding. WTB funding applications may only be submitted via EnABLE.

Enrollment involves completing this NOI to identify the individual who will be the Primary Contact for submitting the application.

Through this NOI, the applicant may also request access for a Secondary Contact and up to two Designated Consultants who may assist in the application and upload documentation. Access for additional contacts or consultants may be requested through WTBAdmin@nmfa.net.

Upon receipt of a properly completed NOI, the NMFA will send, by email, confirmation of our acceptance of your enrollment, and, if applicable, our acceptance of the enrollment of any additional contacts or consultant to use EnABLE, along with an assigned User name and temporary Password. To access EnABLE, a user will be asked to submit a correct User name and Password, as well as acknowledge certain terms of use.

I. APPLICANT INFORMATION:

Applicant Name:	City of Alamogordo
Applicant Mailing Address:	Same as street address
Applicant Street Address:	1376 E. Ninth Street
City: Alamogordo	**State:** NM
County: Otero	**Zip:** 88310
Email: bcesar@ci.alamogordo.nm.us	**Phone:** (575) 439-4203

APPLICANT LEGAL ENTITY TYPE (Check One):	
○	**Authority (specify):**
●	**Municipal or County Government**
○	**Mutual Domestic/Sanitary Projects Act Entity**
○	**Special District (specify):**
○	**Tribe or Pueblo**
○	**Other (specify):**

APPLICANT PRIMARY CONTACT (Authorized to Submit Application and Request Access for EnABLE users)		
Name: Debbie Osborne	Title: Grant Coordinator	
Mailing Address: 1376 E. Ninth Street		
City: Alamogordo	State: NM	Zip: 88310
Email: dosborne@ci.alamogordo.nm.us	Phone: (575) 439-4257	

APPLICANT SECONDARY CONTACT (Authorized to Access EnABLE Application System)		
Name: Brian Cesar	Title: Interim City Manager	
Mailing Address: 1376 E. Ninth Street		
City: Alamogordo	State: NM	Zip: 88310
Email: bcesar@ci.alamogordo.nm.us	Phone: (575) 439-4203	

Consultant Authorized to Access EnABLE Application System		
Name:	Title:	
Firm:		
Mailing Address:		
City:	State:	Zip:
Email:	Phone:	

Consultant Authorized to Access EnABLE Application System		
Name:	Title:	
Firm:		
Mailing Address:		
City:	State:	Zip:
Email:	Phone:	

II. PROJECT INFORMATION

Project Name: Alamogordo - Rehabilitation of Lower Heights Water Storage Tank

Amount Requested: $1,200,000.00

Note: Per WTB policy, Applicants may not receive more than 15% of the available funds in any year. The available funding for the 2020 cycle is estimated to be approximately $30.3 million, therefore, the 15% cap for the 2020 cycle is approximately $4.54 million.

Project Type – *Check One That Applies*

- (●) Water Storage, Conveyance and Delivery
- ( ) Watershed Restoration and Management
- ( ) Endangered Species Act Collaborative
- ( ) Flood Prevention
- ( ) Water Conservation or Treatment, Recycling or Reuse

III. PROJECT DESCRIPTION

Please provide the Project Location, the Scope of Work to be completed with the requested funding, the Phase or phases to be funded, and a brief description of the Project Goal.

Project Location:

Scope of work: ☐ Planning ☐ Design ☑ Construction (Check all that apply)

Phase or Phases to be Funded: Not phased

Project Goal (*35 words or less*):

Interior and exterior sandblasting and painting; cathodic protection system replacement; replace ladder with staircase; roof hatch, manway, and overflow piping replacement; roof and floor structure replacement.

IV. DECLARATION OF PROJECT URGENCY

Section 1.3 of the Water Trust Board Project Management Policies provides additional consideration to projects that are deemed Urgent. Does your project meet any of the following definitions of Urgent (check all that are applicable) and attach evidence of the determination from a Cabinet Secretary or designee.

Public Health Threats: Projects that address existing and imminent public health threats resulting from waterborne disease outbreak and inadequate water supply.	( ) Yes	(●) No

Safe Drinking Water Act Compliance: Projects that address existing and imminent threats resulting from acute and chronic risk contaminants. System must demonstrate that it has received three violations in the past year.	○ Yes	◉ No
Wildfire Public Safety: Watershed projects that modify or break up fuels in such a way as to lessen catastrophic fire and its threat to public safety and damage to property?	○ Yes	◉ No
Dam Safety: Projects that correct safety deficiencies identified by the Office of the State Engineer and restore dams to a satisfactory condition.	○ Yes	◉ No
Other: Does your project address other conditions declared an emergency by the Governor of New Mexico or by a Cabinet Secretary of a state agency? If yes, briefly describe the emergency conditions:	○ Yes	◉ No

V. APPLICATION RESOLUTION ADOPTION DATE: September 24, 2019

PLEASE PROVIDE THE DATE of Governing Board's Adoption or Expected Adoption of Resolution Authorizing the Submission of an application to the Water Trust Board. *Please note that the resolution is due with the application on October 3, 2019.* Applicants who need additional time to work through their governing body approval process may submit a draft resolution with the application and receive an extension to submit the final resolution by November 1, 2019.

VI. ACKNOWLEDGEMENT: I have reviewed a copy of the **Water Trust Board Project Management Policies Revised and Restated as of July 6, 2016**. I understand that I will be invited to make a brief presentation regarding the application to the Water Trust Board at its meeting expected to be held on October 29-30, 2019.

I CERTIFY THAT:

- I have the authority to designate a Primary Contact who will be authorized to submit an application via EnABLE;
- I have the authority to designate local users to access EnABLE;
- I have the authority to designate identified consultants to access EnABLE; and
- To the best of my knowledge, all information contained in this NOI is valid and accurate.

Signature: Richard Boss
Highest Elected Official/Authorized Officer

Print Title: Mayor

Print Name: Richard Boss

Date: 8/22/19

Water Tank Evaluation Report
City of Alamogordo, New Mexico

SEH No. MIDCO 136025

June 17, 2016

I hereby certify that this report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Miles Jensen, PE

Date: June 16, 2016 Lic. No.: 19869

Reviewed By: Chris Wolfgram, CWI, NACE Date: June 16, 2016

Short Elliott Hendrickson Inc.
3535 Vadnais Center Drive
St. Paul, MN 55110-5196
651.490.2000

SEH

Water Tank Evaluation Report
City of Alamogordo, New Mexico

SEH No. MIDCO 136025

June 17, 2016

I hereby certify that this report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Miles Jensen, PE

Date: June 16, 2016 Lic. No.: 19869

Reviewed By: Chris Wolfgram, CWI, NACE Date: June 16, 2016

Short Elliott Hendrickson Inc.
3535 Vadnais Center Drive
St. Paul, MN 55110-5196
651.490.2000

SEH

Tank Evaluation Field Report
General Information

Project:	Water Tank Evaluation – 2.0 MG Lower Heights Ground Storage Reservoir	
Project No.	MIDCO 136025	
Owner:	City of Alamogordo, New Mexico	
Contact:	Dave Nunnelley	
Address:	2600 North Florida, Alamogordo, NM 88310	
Evaluation Date:	March 7, 2016	Robert Atkinson – Midco Diving & Marine Services, Inc.

Site

Address:	3221 Thunder Rd, Alamogordo, NM
Description:	North: Residential
	South: Residential
	East: Open
	West: Residential
	Security: Perimeter Fence
	Obstructions: None
	Overflow Discharge Orientation: Underground Discharge
	Direction of Site Drainage: East

Tank Information

Manufacturer: Norton Tank	Year Built: 1955	Contract No: 13319086

Capacity (Gallons)	Construction		Height to Overflow (Feet)	Diameter (Feet)	Drawings
	Style	Type			
2,000,000	Ground Storage	Steel	34 Feet	106 Feet	N/A

Coating Information

	INTERIOR WET	EXTERIOR
Date Last Painted	1998	1998
Painting Contractor	Unknown	Unknown
Total or Partial	Unknown	Unknown
Surface Preparation	Unknown	Unknown
Coating System	Unknown	Unknown
Coating Manufacturer	Unknown	Unknown

Water Tank Evaluation Report
Lower Heights Ground Storage Reservoir

Prepared for City of Alamogordo, New Mexico

1.0 Remaining Tank Life

Information from our field evaluation process indicates that the City of Alamogordo should consider reconditioning of this facility. Based on the degree of failures observed along with the age of both the interior and exterior coating systems, work should be scheduled for sometime within the next 12 to 24 months. This will prevent any serious damage to already exposed surfaces.

Upon completion of the recommended modifications, repairs, and coating application, this tank should continue to provide service to the City for many years to come. The normal expectancy of an elevated tower is 60+ years when prescribed periodic maintenance is followed.

Periodic maintenance following guidelines as prescribed by AWWA in Manual M42 is recommended.

2.0 Recommendations

Based on the information obtained during our Field Evaluation Process we recommend the following:

2.1 Structural

2.1.1 Interior Structural

1. Seal the following with elastomeric caulk to inhibit the occurrence of rust bleed:
   - Gaps in the lapped plates including the dollar to roof plate, roof to roof radial/torus plates, and roof rafters (seams above the normal waterline)
   - Roof openings and other roof penetrations
2. The existing ladder should be replaced due to significant corrosion
3. Remove the existing level indicator system

2.1.2 Exterior Structural

1. Install safety climb rigid notched or trolley type carrier system for easier access and fall-protection
2. Remove the existing center-screened roof vent modifying the spool flange and replacing it with a new AWWA frost-free design
3. Add a new 24" pressure man-way 180 degrees from the existing shell man way in compliance with AWWA and OSHA confine space guidelines

4. Modify the existing ladder cage to be compliant with current OSHA Fall-Protection guidelines
5. Clean out the existing overflow pipe at the discharge and replace the screen with a corrosion resistant 3/8" or larger mesh screen, or flap valve
6. Install a splash box at the overflow discharge
7. Provide new locks for all roof hatches
8. Replace shell man-way bolts and gaskets
9. Repair the concrete ring wall as noted in the summary. Remove all spalled and loose concrete, drill holes into the foundation and tie-in reinforcement bars, and patch with concrete. Repair cracks utilizing epoxy injection or as directed by an engineer

2.2 Cathodic Protection

This tank is not equipped with a cathodic protection (CP) system. Based on the condition of this tank, as observed during our investigation, the addition of a CP system is not warranted.

2.3 Interior Coating

Based on the extent of observed coating failures as documented in the Coating Summary, a total reconditioning is recommended. This work would include piping within the valve vault.

All surfaces should be abrasive blasted to a Society for Protective Coatings (SSPC) SP-10 "Near White" standard of cleanliness. Valve vault surfaces should be prepared to an SSPC SP-6 "Commercial Blast" level of cleanliness. Surface discontinuities such as erection marks, weld spatter, and sharp fins should be removed by grinding, and re-blasted to achieve a uniform surface profile consistent with the coating manufacturer's product recommendation. This would also include all applicable structural repairs and modifications.

Following surface preparation, all surfaces should receive a two to three-coat application (depending on product manufacturer) of a zinc/epoxy-polyamide coating system certified in accordance with ANSI/NSF standard 61.

2.4 Exterior Coating

The general condition of the exterior coating system is poor, as based on the adhesion results as stated in the Coating Summary Report as well as other observed modes of failure. The system is representative of the system applied in 1998. Based on this assessment SEH recommends complete reconditioning of the tanks exterior surfaces.

Complete removal and replacement with a new epoxy/polyurethane coating system offers a long-term solution to the existing system. All surfaces should be prepared to an SSPC SP-6 or equal "Commercial Blast" level of cleanliness. This should be followed by a zinc/polyamide-epoxy/acrylic-polyurethane coating system. To avoid fugitive dust emissions and/or paint drift, a full-containment structure will need to be constructed.

3.0 Engineers Estimate

Tank description	Units	Cost
Interior Structural		
Caulking	LF	$24,600
Ladder replacement	LS	$3,600
Remove level indicator	LS	$3,500
Interior Coating:	LS	$379,700

Tank description	Units	Cost
Exterior Structural		
Ladder cage modification	LS	$3,200
Install manway	EA	$6,500
Roof vent replace with frost-free	LS	$7,500
Concrete repair	LS	$3,000
Replace manway bolts and gaskets	LS	$500
Install concrete splash pad	LS	$1,500
Replace overflow screen	LS	$500
Safety-climb	LS	$1,500
Exterior Coating:	LS	$208,100
Containment	LS	$70,000
Subtotal		$713,700
15% Contingency		$107,100
Estimated Project Cost		$820,800

The above project costs are based on current pricing derived from consultation with area contractors, suppliers, and manufacturers as applicable to the scope of work. SEH suggests that the project be bid several months prior to the anticipated start date attract competitive bids. We estimate this project to be completed in 12 weeks.

SEH also recommends inspection during critical operations on the project to ensure proper surface preparation and coating system application, along with any other work noted herein.

As an alternative, SEH through its subsidiary SEH Design Build can provide the City with seamless delivery of the entire project.

State law specific to water tank maintenance allows City's to avoid the traditional contracting process and enter into reliable long-term maintenance agreements. Through SEH Design Build the City can defer full-payment up to five years, and have the workmanship guaranteed. SEH has teamed exclusively with Classic Protective Coatings.

4.0 Summary

4.1 Standard of Care

The conclusions and recommendations contained in this report were developed in accordance with generally accepted professional engineering practices at this time and location. Other than this, no warranty is implied or intended.

4.1.1 Structural Evaluation

Structural commentary under this section refers to the general condition of the foundation, and plate sections of the tank.

Based on our visual examination of the tank structure and footings, it appears that the facility is in good condition at this time. However, modifications are necessary to bring it into compliance with current standards with respect to both ventilation and personal access. In addition, repairs within the tank interior are suggested before any recoating in order to enhance its long-term serviceability.

The structure complies with current standards with respect to personal access.

Specific references to items requiring maintenance repair, replacement, or installations to provide code compliance are included in the Recommendation section of this report under *Interior or Exterior Structural.*

Our inspection of the tanks footing revealed missing, loose and spalled concrete on the outer ringwall. The grout between the base plates and foundation was found to be in good condition. The surrounding area is sloped away from the tank providing good drainage.

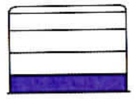
The interior of the tank is in good condition, with no observed pitting of steel plates. Few deficiencies were identified with regard to weld finish.

4.2 Coating Evaluation

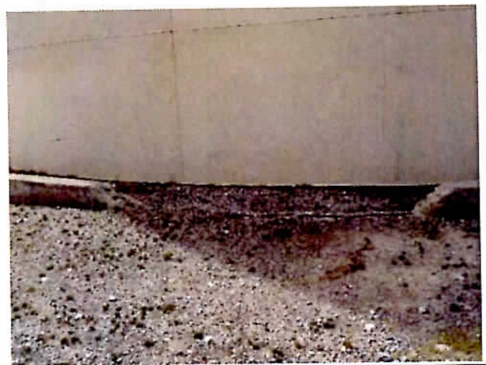
Interior and exterior paint chip samples were not extracted during the evaluation. Based on the unknown age of the current coating system, SEH recommends samples be obtained and tested for concentration levels of hazardous components within the coating systems which may require additional environmental considerations in conformance with local, state, and federal regulations during the rehabilitation process. The exterior system may require provisions that include the abatement of lead and/or chromium, or the disposal of hazardous waste materials. Containment would also be necessary to prevent the emission of fugitive dust during operations that include the removal of the exterior coating system.

Exterior Coating Summary

Location:	Exterior	
Area:	Shell (Lower)	
Adhesion:	2A	
Overall Condition:	Fair	



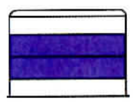
Dry Film Thickness:	Minimum	Maximum	Average
	1.5	3.2	2.3



Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting				●	
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Slight rusting along base or tank, advanced chalking throughout**

Location:	Exterior	
Area:	Shell (Mid)	
Adhesion:	-	
Overall Condition:	Fair	



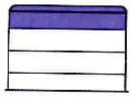
Dry Film Thickness:	Minimum	Maximum	Average
	-	-	-

Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting				●	
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Slight rusting in localized areas, advanced chalking throughout**

Exterior Coating Summary

Location:	Exterior	
Area:	Shell (Upper)	
Adhesion:	-	
Overall Condition:	Poor	

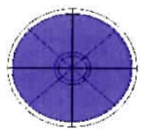


Dry Film Thickness:	Minimum	Maximum	Average
	-	-	-

Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting			●		
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Moderate rusting and rust bloom at top shell ring, advanced chalking throughout**

Location:	Exterior	
Area:	Roof	
Adhesion:	-	
Overall Condition:	Fair	



Dry Film Thickness:	Minimum	Maximum	Average
	2.2	7.3	4.5

Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting				●	
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Slight rusting in localized areas, advanced chalking throughout**

Exterior Accessories

Exterior	Level	Condition	Agency Compliant	Comments
Ladders	Shell	Good	☒ Yes ☐ No	None
Ladder Cage	Shell	Good	☐ Yes ☒ No	Dia. >28 in. Vert. bars >9.5 in. CC
Handrail	Roof	Good	☒ Yes ☐ No	Pipe

	Level	Condition	Type	Size	Agency Compliant	Comments
Confined Space Entry					☒ Yes ☐ No	
Manways	Shell	Good	Bolted	24"	☒ Yes ☐ No	
Vent	Roof	Good	Screened	80"	☐ Yes ☒ No	Replace with Frost Free

	Level	No.	Interference	Comments
Antenna	Roof	2	☐ Yes ☒ No	1 Omni, 1 Directional

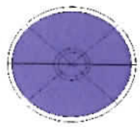
	Size	Type	Condition	Agency Compliant	Comments
Overflow/ Splash-pad	Unknown	N/A	Fair	☐ Yes ☒ No	No Splash Pad

	Condition	Comments
Foundation/ Footings	Good	Settlement ☐ Cracks ☐ Spalling ☐ Grout:
Outer Ring Wall	Poor	Repair

	Level	Comments
Paint Sample	None	

Interior Coating Summary

Location:	Interior
Area:	Floor
Adhesion:	-
Overall Condition:	Fair

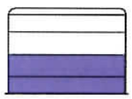


Dry Film Thickness:	**Minimum**	**Maximum**	**Average**
	-	-	-

Condition	***Severe***	***Advanced***	***Moderate***	***Slight***	***None/NA***
Rusting				●	
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Rigid sediment, based on observed coatings slight rusting in localized areas, advanced chalking throughout**

Location:	Interior
Area:	Shell (Lower)
Adhesion:	-
Overall Condition:	Poor



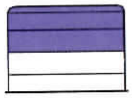
Dry Film Thickness:	**Minimum**	**Maximum**	**Average**
	-	-	-

Condition	***Severe***	***Advanced***	***Moderate***	***Slight***	***None/NA***
Rusting		●			
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Advanced rusting throughout below high water line, advance chalking throughout**

Interior Coating Summary

Location:	Interior	
Area:	Shell (Upper)	
Adhesion:	-	
Overall Condition:		

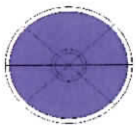


Dry Film Thickness:	Minimum	Maximum	Average
	-	-	-

Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting			●		
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Moderate rusting and rust bleed at roof rafter attachment locations, advanced chalking throughout**

Location:	Interior	
Area:	Roof	
Adhesion:	-	
Overall Condition:		



Dry Film Thickness:	Minimum	Maximum	Average
	-	-	-

Condition	*Severe*	*Advanced*	*Moderate*	*Slight*	*None/NA*
Rusting		●			
Blistering					●
Cracking					●
Peeling					●
Pitting					●
Chalking		●			
Delamination					●

Comments: **Advanced rusting and chalking throughout**

Interior Accessories

Interior Wet

	Level	Condition	Agency Compliant	Comments
Ladders	Shell	Poor	☒ Yes ☐ No	None

	Level	Condition	Type	Size	Agency Compliant	Comments
Manways	Roof	Good	Hinged	24”	☒ Yes ☐ No	

		Depth		
Sediment	☒ Yes ☐ No	¼”	Distributed evenly	**Removed:** ☒ Yes ☐ No
Sump Pit	☐ Yes ☒ No			

Cathodic Protection	Type	Comments
☐ Yes ☒ No	N/A	

RESOLUTION NO. 2019-41

RESOLUTION AUTHORIZING FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE NEW MEXICO WATER TRUST BOARD TO REHABILITATE THE LOWER HEIGHTS WATER STORAGE TANK

WHEREAS, the City of Alamogordo, New Mexico, whose project to rehabilitate the Lower Heights Water Storage Tank; and,

WHEREAS, the City of Alamogordo, New Mexico, may apply for financial assistance from the New Mexico Water Trust Board to fund the Lower Heights Water Storage Tank rehabilitation project; and

WHEREAS, the City of Alamogordo, New Mexico, is eligible to apply for funding from the New Mexico Water Trust Board.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO, NEW MEXICO, that the filing of an application to the New Mexico Water Trust Board for funding in the 2020 Water Project Fund funding cycle is hereby authorized. The project type falls under Water Storage, Conveyance or Delivery and proposes to rehabilitate the Lower Heights Water Storage Tank. The financial assistance requested is in the amount of $1,200,000.00.

BE IT FURTHER RESOLVED, that the Interim City Manager, Brian Cesar, is hereby designated as the City of Alamogordo's representative to act on behalf of this application.

PASSED, APPROVED AND ADOPTED by the City Commission on this _______ day of _________________ 2019.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico Municipal Corporation

By:___________________________
Richard Boss, Mayor

ATTEST:

By: ____________________________
Rachel Hughs, City Clerk

APPROVED AS TO FORM;

By: ____
Petria Bengoechea, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 12.

Submitted By: Diane Malone

Subject: Consider, and act upon, first publication of Ordinance 1600 for refunding of the City's outstanding 2009 loan agreement. *(Chris Muirhead and John Archuleta)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Approval of the refunding of the 2009 loan agreement.

Background:
AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE “GOVERNMENTAL UNIT”) AND THE NEW MEXICO FINANCE AUTHORITY (NMFA), EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF $3,270,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE CITY’S OUTSTANDING 2009 LOAN AGREEMENT WITH THE NEW MEXICO FINANCE AUTHORITY, FUNDING THE LOAN AGREEMENT RESERVE ACCOUNT AND PAYING A LOAN PROCESSING FEE AND EXPENSES; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE GOVERNMENTAL UNIT’S JOINT WATER AND SEWER UTILITY SYSTEM; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

CITY OF ALAMOGORDO, NEW MEXICO
NEW MEXICO FINANCE AUTHORITY LOAN

Financing Schedule

JULY 2019						
S	**M**	**T**	**W**	**T**	**F**	**S**
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

AUGUST 2019						
S	**M**	**T**	**W**	**T**	**F**	**S**
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SEPTEMBER 2019						
S	**M**	**T**	**W**	**T**	**F**	**S**
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCTOBER 2019						
S	**M**	**T**	**W**	**T**	**F**	**S**
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Tuesday, July 9, 2019	City Commission Adopts Intent Resolution	City Modrall
Thursday, August 22, 2019	Finance Authority Board Approves Application	Finance Authority
Monday, August 26, 2019	Distribute Draft Loan Ordinance	Modrall
Friday, August 30, 2019	Distribute Draft of Loan Agreement	Sutin
Tuesday, September 3, 2019	Submit Notice of Intent to adopt Loan Ordinance to the *Alamogordo Daily News* for publication on Saturday, September 7, 2019	Modrall City Clerk

Tuesday, September 3, 2019	Comments due on Loan Ordinance	All Parties
Wednesday, September 4, 2019	Distribute Revised Draft of Loan Ordinance	Modrall
Friday, September 6, 2019	Comments due on Loan Agreement	All Parties
Saturday, September 7, 2019	Notice of Intent to Adopt Loan Ordinance published in *Alamogordo Daily News*	Newspaper City Clerk
Monday, September 9, 2019	Distribute Revised Draft of Loan Agreement	Sutin
Tuesday, September 10, 2019	Finance Authority Sets Interest Rates	Finance Authority
~~Tuesday, September 10, 2019~~ Tuesday, September 24, 2019	First Reading of Loan Ordinance at City Commission Meeting	City GKB Modrall
~~Friday, September 13, 2019~~ Wednesday, September 25, 2019	File Conditional Notice of Redemption for the Series 2009 Bonds with Finance Authority	Modrall
~~Tuesday, September 24, 2019~~ October 8, 2019	City Commission adopts Loan Ordinance	City GKB Modrall
~~Wednesday, September 25, 2019~~ October 9, 2019	Notice of adoption of Loan Ordinance submitted for publication on Saturday, ~~September 28, 2019~~ in the *Alamogordo Daily News* October 5, 2019	Modrall City Clerk
~~Saturday, September 28, 2019~~ October 9, 2019	Notice of adoption of Loan Ordinance published in the *Alamogordo Daily News*	Newspaper City Clerk

~~Friday, October 4, 2019~~	Distribute Draft Closing Documents	Modrall Sutin
~~Friday, October 11, 2019~~	Comments Due on Closing Documents	All
~~Week of October 21, 2019~~	Pre-Closing/Document Signing	City GKB Modrall
~~Monday, October 28, 2019~~	30-day Limitation of Action Period Expires	City Modrall
~~Friday, November 1, 2019~~	Closing and Refunding of Series 2009 Bonds	
~~Friday, November 1, 2019~~	File Notice of Debt on EMMA	Modrall

SOURCES AND USES OF FUNDS

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Sources:		
Bond Proceeds:		
Par Amount		3,270,000.00
Other Sources of Funds:		
Prior Debt Service Reserve Fund		413,150.16
		3,683,150.16

Uses:		
Refunding Escrow Deposits:		
Cash Deposit		3,275,940.10
Other Fund Deposits:		
Debt Service Reserve Fund		327,000.00
Delivery Date Expenses:		
Cost of Issuance	55,000.00	
Underwriter's Discount	24,525.00	
		79,525.00
Other Uses of Funds:		
Additional Proceeds		685.06
		3,683,150.16

BOND SUMMARY STATISTICS

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Dated Date	11/01/2019
Delivery Date	11/01/2019
Last Maturity	06/01/2029
Arbitrage Yield	1.289575%
True Interest Cost (TIC)	1.443271%
Net Interest Cost (NIC)	1.437348%
All-In TIC	1.794143%
Average Coupon	1.291214%
Average Life (years)	5.132
Duration of Issue (years)	4.925
Par Amount	3,270,000.00
Bond Proceeds	3,270,000.00
Total Interest	216,697.92
Net Interest	241,222.92
Total Debt Service	3,486,697.92
Maximum Annual Debt Service	368,375.92
Average Annual Debt Service	363,829.35
Underwriter's Fees (per $1000)	
Average Takedown	
Other Fee	7.500000
Total Underwriter's Discount	7.500000
Bid Price	99.250000

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	3,270,000.00	100.000	1.291%	5.132
	3,270,000.00			5.132

	TIC	All-In TIC	Arbitrage Yield
Par Value	3,270,000.00	3,270,000.00	3,270,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-24,525.00	-24,525.00	
- Cost of Issuance Expense		-55,000.00	
- Other Amounts			
Target Value	3,245,475.00	3,190,475.00	3,270,000.00
Target Date	11/01/2019	11/01/2019	11/01/2019
Yield	1.443271%	1.794143%	1.289575%

BOND PRICING

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Bond Component	Maturity Date	Amount	Rate	Yield	Price
Bond Component:					
	06/01/2020	345,000	1.080%	1.080%	100.000
	06/01/2021	310,000	1.100%	1.100%	100.000
	06/01/2022	315,000	1.130%	1.130%	100.000
	06/01/2023	315,000	1.150%	1.150%	100.000
	06/01/2024	315,000	1.170%	1.170%	100.000
	06/01/2025	325,000	1.210%	1.210%	100.000
	06/01/2026	330,000	1.240%	1.240%	100.000
	06/01/2027	335,000	1.300%	1.300%	100.000
	06/01/2028	340,000	1.390%	1.390%	100.000
	06/01/2029	340,000	1.460%	1.460%	100.000
		3,270,000			

Dated Date	11/01/2019	
Delivery Date	11/01/2019	
First Coupon	12/01/2019	
Par Amount	3,270,000.00	
Original Issue Discount		
Production	3,270,000.00	100.000000%
Underwriter's Discount	-24,525.00	-0.750000%
Purchase Price	3,245,475.00	99.250000%
Accrued Interest		
Net Proceeds	3,245,475.00	

SUMMARY OF REFUNDING RESULTS

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Dated Date	11/01/2019
Delivery Date	11/01/2019
Arbitrage yield	1.289575%
Escrow yield	0.000000%
Value of Negative Arbitrage	
Bond Par Amount	3,270,000.00
True Interest Cost	1.443271%
Net Interest Cost	1.437348%
Average Coupon	1.291214%
Average Life	5.132
Par amount of refunded bonds	3,220,000.00
Average coupon of refunded bonds	4.257553%
Average life of refunded bonds	5.420
PV of prior debt to 11/01/2019 @ 1.289575%	3,769,579.54
Net PV Savings	414,114.44
Percentage savings of refunded bonds	12.860697%
Percentage savings of refunding bonds	12.664050%

SUMMARY OF BONDS REFUNDED

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Series 2009A Bond, PPRF2283:					
BOND	06/01/2020	4.000%	265,000.00	11/01/2019	100.000
	06/01/2021	4.000%	280,000.00	11/01/2019	100.000
	06/01/2022	4.000%	290,000.00	11/01/2019	100.000
	06/01/2023	4.000%	300,000.00	11/01/2019	100.000
	06/01/2024	4.000%	310,000.00	11/01/2019	100.000
	06/01/2025	4.125%	325,000.00	11/01/2019	100.000
	06/01/2026	4.250%	340,000.00	11/01/2019	100.000
	06/01/2027	4.250%	355,000.00	11/01/2019	100.000
	06/01/2028	4.375%	370,000.00	11/01/2019	100.000
	06/01/2029	4.500%	385,000.00	11/01/2019	100.000
			3,220,000.00		

SAVINGS

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Date	Prior Debt Service	Refunding Debt Service	Savings	Annual Savings	Present Value to 11/01/2019 @ 1.2895748%
12/01/2019	67,128.13	3,339.42	63,788.71		63,720.42
06/01/2020	332,128.13	365,036.50	-32,908.37	30,880.34	-32,662.53
12/01/2020	61,828.13	18,173.50	43,654.63		43,050.93
06/01/2021	341,828.13	328,173.50	13,654.63	57,309.26	13,379.53
12/01/2021	56,228.13	16,468.50	39,759.63		38,709.00
06/01/2022	346,228.13	331,468.50	14,759.63	54,519.26	14,277.55
12/01/2022	50,428.13	14,688.75	35,739.38		34,350.58
06/01/2023	350,428.13	329,688.75	20,739.38	56,478.76	19,805.76
12/01/2023	44,428.13	12,877.50	31,550.63		29,937.29
06/01/2024	354,428.13	327,877.50	26,550.63	58,101.26	25,031.57
12/01/2024	38,228.13	11,034.75	27,193.38		25,473.29
06/01/2025	363,228.13	336,034.75	27,193.38	54,386.76	25,310.10
12/01/2025	31,525.00	9,068.50	22,456.50		20,767.37
06/01/2026	371,525.00	339,068.50	32,456.50	54,913.00	29,822.89
12/01/2026	24,300.00	7,022.50	17,277.50		15,773.85
06/01/2027	379,300.00	342,022.50	37,277.50	54,555.00	33,815.22
12/01/2027	16,756.25	4,845.00	11,911.25		10,735.73
06/01/2028	386,756.25	344,845.00	41,911.25	53,822.50	37,533.02
12/01/2028	8,662.50	2,482.00	6,180.50		5,499.40
06/01/2029	393,662.50	342,482.00	51,180.50	57,361.00	45,248.57
	4,019,025.06	3,486,697.92	532,327.14	532,327.14	499,579.54

Savings Summary

PV of savings from cash flow	499,579.54
Less: Prior funds on hand	-413,150.16
Plus: Refunding funds on hand	327,685.06
Net PV Savings	414,114.44

BOND DEBT SERVICE

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2019			3,339.42	3,339.42	
06/01/2020	345,000	1.080%	20,036.50	365,036.50	368,375.92
12/01/2020			18,173.50	18,173.50	
06/01/2021	310,000	1.100%	18,173.50	328,173.50	346,347.00
12/01/2021			16,468.50	16,468.50	
06/01/2022	315,000	1.130%	16,468.50	331,468.50	347,937.00
12/01/2022			14,688.75	14,688.75	
06/01/2023	315,000	1.150%	14,688.75	329,688.75	344,377.50
12/01/2023			12,877.50	12,877.50	
06/01/2024	315,000	1.170%	12,877.50	327,877.50	340,755.00
12/01/2024			11,034.75	11,034.75	
06/01/2025	325,000	1.210%	11,034.75	336,034.75	347,069.50
12/01/2025			9,068.50	9,068.50	
06/01/2026	330,000	1.240%	9,068.50	339,068.50	348,137.00
12/01/2026			7,022.50	7,022.50	
06/01/2027	335,000	1.300%	7,022.50	342,022.50	349,045.00
12/01/2027			4,845.00	4,845.00	
06/01/2028	340,000	1.390%	4,845.00	344,845.00	349,690.00
12/01/2028			2,482.00	2,482.00	
06/01/2029	340,000	1.460%	2,482.00	342,482.00	344,964.00
	3,270,000		216,697.92	3,486,697.92	3,486,697.92

PRIOR BOND DEBT SERVICE

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2019			67,128.13	67,128.13	
06/01/2020	265,000	4.000%	67,128.13	332,128.13	399,256.26
12/01/2020			61,828.13	61,828.13	
06/01/2021	280,000	4.000%	61,828.13	341,828.13	403,656.26
12/01/2021			56,228.13	56,228.13	
06/01/2022	290,000	4.000%	56,228.13	346,228.13	402,456.26
12/01/2022			50,428.13	50,428.13	
06/01/2023	300,000	4.000%	50,428.13	350,428.13	400,856.26
12/01/2023			44,428.13	44,428.13	
06/01/2024	310,000	4.000%	44,428.13	354,428.13	398,856.26
12/01/2024			38,228.13	38,228.13	
06/01/2025	325,000	4.125%	38,228.13	363,228.13	401,456.26
12/01/2025			31,525.00	31,525.00	
06/01/2026	340,000	4.250%	31,525.00	371,525.00	403,050.00
12/01/2026			24,300.00	24,300.00	
06/01/2027	355,000	4.250%	24,300.00	379,300.00	403,600.00
12/01/2027			16,756.25	16,756.25	
06/01/2028	370,000	4.375%	16,756.25	386,756.25	403,512.50
12/01/2028			8,662.50	8,662.50	
06/01/2029	385,000	4.500%	8,662.50	393,662.50	402,325.00
	3,220,000		799,025.06	4,019,025.06	4,019,025.06

BOND SOLUTION

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Period Ending	Proposed Principal	Proposed Debt Service	Existing Debt Service	Total Adj Debt Service	Revenue Constraints	Unused Revenues	Debt Serv Coverage
06/01/2020	345,000	368,376	832,884	1,201,260	3,926,158	2,724,898	326.83662%
06/01/2021	310,000	346,347	834,352	1,180,699	3,926,158	2,745,459	332.52819%
06/01/2022	315,000	347,937	830,483	1,178,420	3,926,158	2,747,738	333.17135%
06/01/2023	315,000	344,378	1,172,253	1,516,631	3,926,158	2,409,527	258.87372%
06/01/2024	315,000	340,755	1,171,625	1,512,380	3,926,158	2,413,778	259.60132%
06/01/2025	325,000	347,070	1,175,713	1,522,783	3,926,158	2,403,375	257.82784%
06/01/2026	330,000	348,137	855,447	1,203,584	3,926,158	2,722,574	326.20556%
06/01/2027	335,000	349,045	855,446	1,204,491	3,926,158	2,721,667	325.95981%
06/01/2028	340,000	349,690	855,447	1,205,137	3,926,158	2,721,021	325.78523%
06/01/2029	340,000	344,964	855,448	1,200,412	3,926,158	2,725,746	327.06760%
	3,270,000	3,486,698	9,439,099	12,925,797	39,261,580	26,335,783	

ESCROW REQUIREMENTS

City of Alamogrodo
Series 2009 Net System Revenue Bond Refunding

Period Ending	Interest	Principal Redeemed	Total
11/01/2019	55,940.10	3,220,000.00	3,275,940.10
	55,940.10	3,220,000.00	3,275,940.10

STATE OF NEW MEXICO)
COUNTY OF OTERO) ss.
CITY OF ALAMOGORDO)

The City Commission (the "Governing Body") of the City of Alamogordo, New Mexico, met in regular session in full conformity with the law and the rules and regulations of the Governing Body at Alamogordo Municipal Offices, 1376 East Ninth Street, Alamogordo, New Mexico, being the regular meeting place of the Governing Body, on the 8th day of October, 2019, at the hour of 6:30 p.m. Upon roll call, the following members were found to be present:

Present: ______________________________________

____

____

____

____

____

____

Absent: ______________________________________

Also Present: ______________________________________

____

____

____

Thereupon, there was officially filed with the Clerk a copy of a proposed ordinance in final form.

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. 1600

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF $3,270,000, TOGETHER WITH INTEREST THEREON, FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE CITY'S OUTSTANDING 2009 LOAN AGREEMENT WITH THE NEW MEXICO FINANCE AUTHORITY, FUNDING THE LOAN AGREEMENT RESERVE ACCOUNT AND PAYING A LOAN PROCESSING FEE AND EXPENSES; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE GOVERNMENTAL UNIT'S JOINT WATER AND SEWER UTILITY SYSTEM; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

Capitalized terms used in the following recitals have the same meaning as defined in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS, the Governmental Unit is a legally and regularly created, established, organized and existing municipality under the general laws of the State; and

WHEREAS, the Governmental Unit now owns, operates and maintains a joint public utility constituting a joint water and sanitary sewer system; and

WHEREAS, the Governing Body has determined and hereby determines that the Refunding Project may be financed with amounts borrowed under the Loan Agreement and that it is in the best interests of the Governmental Unit and its residents that the Loan Agreement be executed and delivered and that the financing of the Refunding Project take place by executing and delivering the Loan Agreement; and

WHEREAS, the Governing Body has determined pursuant to the Act that it may lawfully pledge the Net Revenues for the payment of amounts due under the Loan Agreement; and

WHEREAS, other than as described in the Term Sheet, the Net Revenues have not heretofore been pledged to secure the payment of any obligation which is currently outstanding; and

WHEREAS, the Loan Agreement shall be a special, limited obligation of the Governmental Unit, payable solely from the Net Revenues and shall not constitute a general obligation of the Governmental Unit, or a debt or pledge of the faith and credit of the Governmental Unit or the State; and

WHEREAS, other than the Net Revenues, no revenues collected by the Governmental Unit shall be pledged to the Loan Agreement; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the City Clerk this Ordinance and the form of the Loan Agreement, which is incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the improvements originally financed with the proceeds of the Governmental Unit's Loan Agreement dated June 18, 2009, were and are to be used for governmental purposes of the Governmental Unit and will not be used for purposes which would cause the Loan Agreement to be deemed a "private activity bond" as defined by the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Governing Body intends by this Ordinance to authorize the execution and delivery of the Loan Agreement in the amount and for the purposes set forth herein; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use and pledge of the Net Revenues to the Finance Authority (or its assigns) for the payment of the amounts due under the Loan Agreement, (ii) the use of the proceeds of the Loan Agreement to finance the Refunding Project, and (iii) the authorization, execution and delivery of the Loan Agreement which are required to have been obtained by the date of this Ordinance, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE GOVERNMENTAL UNIT:

Section 1. Definitions. As used in this Ordinance, the following capitalized terms shall, for all purposes, have the meanings herein specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"2009 Bond Ordinance" means City Ordinance No. 1356 adopted on May 12, 2009.

"2009 Loan Agreement" means the loan agreement by and between the Governmental Unit and the New Mexico Finance Authority dated June 18, 2009.

“Act” means the general laws of the State, including Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and enactments of the Governing Body relating to the Loan Agreement, including this Ordinance.

“Aggregate Annual Debt Service Requirement” means the total principal and interest payments due and payable pursuant to the Loan Agreement and on all Parity Obligations secured by a pledge of any of the Net Revenues for any one Fiscal Year.

“Authorized Officers” means the Mayor, Manager, Finance Director, and Clerk of the Governmental Unit.

“Bonds” means public project revolving fund revenue bonds, if any, issued hereafter by the Finance Authority and specifically related to the Loan Agreement and the Loan Agreement Payments.

“Closing Date” means the date of execution, delivery and funding of the Loan Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“Expense Fund” means the expense fund created pursuant to the Indenture to be held and administered by the Trustee to pay Expenses.

“Expenses” means the cost of execution of the Loan Agreement and costs of issuance of the Bonds, if any, and the periodic and regular fees and expenses incurred by the Finance Authority in administering the Loan Agreement, including legal fees.

“Finance Authority” means the New Mexico Finance Authority.

“Finance Authority Debt Service Account” means the debt service account in the name of the Governmental Unit and held by the Finance Authority to pay principal and interest on the Loan Agreement as the same become due.

“Fiscal Year” means the period commencing on July 1 in each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Governmental Unit as its fiscal year.

“Governing Body” means the City Commission of the Governmental Unit, or any future successor governing body of the Governmental Unit.

“Governmental Unit” means the City of Alamogordo, New Mexico.

"Herein," "hereby," "hereunder," "hereof," "hereinabove" and "hereafter" refer to this entire Ordinance and not solely to the particular section or paragraph of this Ordinance in which such word is used.

"Income Fund" means the "City of Alamogordo, New Mexico Joint Water and Sewer System Gross Income Fund" previously created by the Governmental Unit and to be continued and maintained by the Governmental Unit to which all Net Revenues are credited.

"Indenture" means the General Indenture of Trust and Pledge dated as of June 1, 1995, as amended and supplemented, by and between the Finance Authority and the Trustee, or the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, as supplemented, by and between Finance Authority and the Trustee, as determined by the Finance Authority pursuant to a Pledge Notification or Supplemental Indenture (as defined in the Indenture).

"Joint Water and Sewer System," "Joint System," "System," or "Utility" means the municipally owned public utility designated as the Governmental Unit's water system and sanitary sewer system (continued as a joint system) consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Governmental Unity through purchase, construction or otherwise, and used in connection with said water system and sanitary sewer system of the Governmental Unit and in any way appertaining thereto, whether situated within or without the limits of the Governmental Unit.

"Loan" means the funds to be loaned to the Governmental Unit by the Finance Authority pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement dated the Closing Date between the Finance Authority and the Governmental Unit which provides for the financing of the Refunding Project and requires payments by or on behalf of the Governmental Unit to the Finance Authority.

"Loan Agreement Payment" means, collectively, the Principal Component and the Interest Component to be paid by the Governmental Unit as payment of the Loan Agreement as shown on Exhibit "B" thereto.

"Loan Agreement Payment Date" means each date a payment is due on the Loan Agreement as shown on Exhibit "B" thereto.

"Loan Agreement Principal Amount" means the original principal amount of the Loan Agreement as shown on the Term Sheet.

"Loan Agreement Reserve Account" means the loan agreement reserve account established in the name of the Governmental Unit funded from the proceeds of the Loan Agreement and administered by the Trustee pursuant to the Indenture

“Loan Agreement Reserve Requirement” means, with respect to the Loan, the amount shown as the Loan Agreement Reserve Account Deposit on the Term Sheet, which amount shall not to exceed the least of (i) ten percent (10%) of the Loan Agreement Principal Amount, (ii) 125% of the average annual principal and interest requirements under the Loan Agreement, or (iii) the maximum annual principal and interest requirements under the Loan Agreement.

“Net Revenues” means the revenues of the System after deducting Operation and Maintenance Expenses of the System.

“NMSA” means the New Mexico Statutes Annotated, 1978 compilation, as amended and supplemented.

“Operation and Maintenance Expenses” (or a phrase of similar import) means all reasonable and necessary current expenses of the Governmental Unit, paid or accrued, of operating, maintaining and repairing the System, and shall include, without limiting the generality of the foregoing, legal and overhead expense of the various Governmental Unit departments directly related and reasonably allocable to the administration of the System, insurance premiums, the reasonable charges of depositary banks and paying agents, contractual services, professional services required by this ordinance, salaries and administrative expenses, labor, the cost of materials and supplies used for current operation, but shall not include any allowance for depreciation, liabilities incurred by the Governmental Unit as the result of its negligence in the operation of the System, extensions, enlargements or betterments, or any charges for the accumulation of reserves for capital replacements.

“Operation and Maintenance Fund” means the "City of Alamogordo Joint Water and Sewer Operation and Maintenance Fund" which is continued and to be maintained by the Governmental Unit.

“Ordinance” means this Ordinance adopted by the Governing Body on October 8th, 2019 approving the Loan Agreement and pledging the Net Revenues, as amended from time to time.

“Parity Obligations” means the Loan Agreement and any other obligations, now outstanding or hereafter issued or incurred, payable from or secured by a lien or pledge of the Net Revenues and issued with a lien on the Net Revenues on parity with the Loan Agreement, including those obligations described on the Term Sheet, if any.

“Processing Fee” means the processing fee to be paid by the Governmental Unit on the Closing Date to the Finance Authority for the costs of originating and servicing the Loan, as shown on the Term Sheet.

“Program Account” means the account in the name of the Governmental Unit established under the Indenture and held by the Trustee for deposit of the net proceeds of the Loan Agreement for disbursal to the Governmental Unit for payment of the costs of the Refunding Project.

"Refunding Project" means the refunding, refinancing and prepayment of the City's outstanding 2009 Loan Agreement, on the date of execution and delivery of the Loan Agreement.

"Revenues" or "gross revenues" from the System means all income and revenues derived by the Governmental Unit from the operation of the System, or any part thereof, whether resulting from extensions, enlargements or betterments to the System, or otherwise, and includes all revenues received by the Governmental Unit or any municipal corporation succeeding to the rights of the Governmental Unit from the System and from the sale and use of water, water service and facilities, sanitary sewer service and facilities, or any combination thereof to the inhabitants of the Governmental Unit (including all territorial annexations which may be made while the Loan Agreement is outstanding), or from the sale and use of water, water service and facilities, sanitary sewer service and sewer facilities, and facilities or any combination thereof, by means of the System owned and operated by the Governmental Unit as the same may at any time exist to serve customers outside the Governmental Unit limits as well as customers within the Governmental Unit limits, and also means income derived from the investment of any money in any of the funds established herein or contained herein (but excluding such income from investments in the Rebate Fund) even though such investment income is to be credited to the particular fund from which such investment is made.

"State" means the State of New Mexico.

"Term Sheet" means Exhibit "A" to the Loan Agreement.

"Trustee" means BOKF, NA, or any successor trustee company, national or state banking association or financial institution at the time appointed Trustee by the Finance Authority.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Governing Body and officers of the Governmental Unit directed toward the completion of the Refunding Project and the execution and delivery of the Loan Agreement, be, and the same hereby are, ratified, approved and confirmed.

Section 3. Authorization of the Refunding Project and the Loan Agreement. The Refunding Project and the method of financing the Refunding Project through the pledge of the Net Revenues and the execution and delivery of the Loan Agreement are hereby authorized and ordered. The Refunding Project is for the benefit of the Governmental Unit.

Section 4. Findings. The Governmental Unit hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Refunding Project is needed to meet the needs of the Governmental Unit and its residents and the issuance, execution and delivery of the Loan Agreement is necessary or advisable.

B. Moneys available and on hand for the Refunding Project from all sources other than the Loan are not sufficient to defray the cost of the Refunding Project.

C. The Net Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreement.

D. It is economically feasible to defray, in whole or in part, the costs of the Refunding Project by the execution and delivery of the Loan Agreement.

E. The Refunding Project and the execution and delivery of the Loan Agreement pursuant to the Act to provide funds for the financing of the Refunding Project are necessary and in the interest of the public health, safety and welfare of the residents of the Governmental Unit.

F. The Governmental Unit will complete the Refunding Project, in whole or in part, with the net proceeds of the Loan.

G. Other than as described in the Term Sheet, the Governmental Unit does not have any outstanding obligations payable from the Net Revenues which it has incurred or will incur prior to the initial execution and delivery of the Loan Agreement.

H. The net effective interest rate on the Loan does not exceed twelve percent (12.0%) per annum, which is the maximum rate permitted by State law.

I. The Governmental Unit is current in the accumulation of all amounts which are required to have been accumulated in both the debt service funds and reserve funds for any outstanding Parity Obligations.

Section 5. Loan Agreement - Authorization and Detail.

A. Authorization. This Ordinance has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, protecting the general welfare and prosperity of the residents of the Governmental Unit and completing the Refunding Project, it is hereby declared necessary that the Governmental Unit, pursuant to the Act, pledge the Net Revenues and execute and deliver the Loan Agreement evidencing a special, limited obligation of the Governmental Unit to pay the principal amount of $3,270,000, and the pledge of the Net Revenues and the execution and delivery of the Loan Agreement are hereby authorized. The Governmental Unit shall use the proceeds of the Loan to (i) finance the completion of the Refunding Project, (ii) fund the Loan Agreement Reserve Account, and (iii) pay the Processing Fee and Expenses.

B. Detail. The Loan Agreement shall be in substantially the form of the Loan Agreement presented at the meeting of the Governing Body at which this Ordinance was adopted. The Loan shall be in an original aggregate principal amount of $3,270,000, shall be payable in installments of principal due on June 1 of the years designated in Exhibit "B" to the Loan Agreement and bear interest payable on June 1 and December 1 of each year, commencing on December 1, 2019, at the rates designated in Exhibit "B" to the Loan Agreement.

Section 6. Approval of Loan Agreement. The form of the Loan Agreement as presented at the meeting of the Governing Body at which this Ordinance was adopted is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, and the Clerk is hereby authorized to affix the seal of the Governmental Unit on the Loan Agreement and attest the same. The execution of the Loan Agreement by an Authorized Officer shall be conclusive evidence of such approval.

Section 7. Special Limited Obligation. The Loan Agreement shall be secured by the pledge of the Net Revenues as set forth in the Loan Agreement and shall be payable solely from the Net Revenues. The Loan Agreement, together with other obligations of the Governmental Unit thereunder, shall be a special, limited obligation of the Governmental Unit, payable solely from the Net Revenues as provided in this Ordinance and the Loan Agreement and shall not constitute a general obligation of the Governmental Unit or the State, and the holders of the Loan Agreement may not look to any general or other fund of the Governmental Unit for payment of the obligations thereunder. Nothing contained in this Ordinance nor in the Loan Agreement, nor any other instruments, shall be construed as obligating the Governmental Unit (except with respect to the application of the Net Revenues), as incurring a pecuniary liability or a charge upon the general credit of the Governmental Unit or against its taxing power, nor shall a breach of any agreement contained in this Ordinance, the Loan Agreement, or any other instrument impose any pecuniary liability upon the Governmental Unit or any charge upon its general credit or against its taxing power. The Loan Agreement shall never constitute an indebtedness of the Governmental Unit within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Governmental Unit or a charge against its general credit or taxing power. Nothing herein shall prevent the Governmental Unit from applying other funds of the Governmental Unit legally available therefor to payments required by the Loan Agreement, in its sole and absolute discretion.

Section 8. Disposition of Proceeds: Completion of the Refunding Project.

A. Program Account, Finance Authority Debt Service Account and Loan Agreement Reserve Account. The Governmental Unit hereby consents to creation of the Finance Authority Debt Service Account to be held and maintained by the Finance Authority and to the Program Account and Loan Agreement Reserve Account to be held by the Trustee pursuant to the Indenture, each in connection with the Loan. The Governmental Unit hereby approves: (i) of the deposit of the portion of the proceeds of the Loan Agreement in the Program Account and the Finance Authority Debt Service Account, (ii) the deposit of funds in the amount of the Loan Agreement Reserve Requirement in the Loan Agreement Reserve Account as set forth in the Term Sheet; (iii) payment of the Processing Fee directly to the Finance Authority, from the proceeds of the Loan Agreement or from other legally available funds of the Governmental Unit, and (iv) for payment of the Expenses.

The proceeds derived from the execution and delivery of the Loan Agreement shall be deposited promptly upon the receipt thereof in the Program Account, the Finance Authority Debt Service Account and the Loan Agreement Reserve Account, and the Processing Fee shall be paid to the Finance Authority, as provided in the Loan Agreement and the Indenture.

The money in the Program Account shall be used and paid out solely for the purpose of completing the Refunding Project in compliance with applicable law and the provisions of the Loan Agreement and the Indenture.

The Governmental Unit will complete the Refunding Project with all due diligence.

B. Finance Authority and Trustee Not Responsible. The Finance Authority and the Trustee shall in no manner be responsible for the application or disposal by the Governmental Unit or by its officers of the funds derived from the Loan Agreement or of any other funds herein designated.

Section 9. Deposit of Net Revenues, Distributions of the Net Revenues and Flow of Funds.

A. Deposit of Net Revenues. Net Revenues shall be paid to the Finance Authority for deposit in the Finance Authority Debt Service Account and remittance to the Trustee in an amount sufficient to pay principal, interest and other amounts due under the Loan Agreement, including sufficient Net Revenues in the Loan Agreement Reserve Account to maintain the Loan Agreement Reserve Requirement.

B. Termination on Deposits to Maturity. No payment shall be made into the Finance Authority Debt Service Account if the amount in the Finance Authority Debt Service Account and the Loan Agreement Reserve Account total a sum at least equal to the entire aggregate amount to become due as to principal and interest on, and any other amounts due under, the Loan Agreement in which case moneys in such account in an amount at least equal to such principal and interest requirements shall be used solely to pay such obligations as the same become due, and any moneys in excess thereof in such account shall be transferred to the Governmental Unit and used as provided below.

C. Use of Surplus Revenues. After making all the payments hereinabove required to be made by this Section, any moneys remaining in the Finance Authority Debt Service Account shall be transferred to the Governmental Unit on a timely basis and shall be applied to any other lawful purpose, including, but not limited to, the payment of Parity Obligations and bonds or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Governmental Unit, the Constitution and laws of the State, as the Governmental Unit may from time to time determine.

Section 10. Lien on Net Revenues. Pursuant to the Loan Agreement, the Net Revenues are hereby authorized to be pledged to, and are hereby pledged, and the Governmental Unit grants a security interest therein for, the payment of the principal, interest, and any other amounts due under the Loan Agreement, subject to the uses thereof permitted by and the priorities set forth in this Ordinance. The Loan Agreement constitutes an irrevocable lien and a first lien, but not necessarily an exclusive first lien, on the Net Revenues with the lien thereon of the Parity Obligations as set forth herein and therein. The Governmental Unit shall not create a lien on the Net Revenues superior to that of the Loan Agreement.

Section 11. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Ordinance, the Loan Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Ordinance and the Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Ordinance and the Loan Agreement, including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Loan Agreement and the publication of the summary of this Ordinance set out in Section 18 of this Ordinance (with such changes, additions and deletions as may be necessary).

Section 12. Amendment of Ordinance. This Ordinance may be amended by ordinance of the Governing Body without receipt by the Governmental Unit of any additional consideration, but only with the prior written consent of the Finance Authority.

Section 13. Ordinance Irrepealable. After the Loan Agreement has been executed and delivered, this Ordinance shall be and remain irrepealable until all obligations due under the Loan Agreement shall be fully paid, canceled and discharged, as herein provided.

Section 14. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Repealer Clause. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 16. Redemption of the 2009 Loan Agreement. The Governmental Unit hereby elects to optionally redeem the outstanding 2009 Loan Agreement, issued pursuant to the 2009 Bond Ordinance, contemporaneously with the execution and delivery of the Loan Agreement.

Section 17. Effective Date. Upon due adoption of this Ordinance, it shall be recorded in the book of the Governmental Unit kept for that purpose, authenticated by the signatures of the Mayor and Clerk of the Governmental Unit, and the title and general summary of the subject matter contained in this Ordinance (set out in Section 18 below) shall be published in a newspaper which maintains an office and is of general circulation in the Governmental Unit, or posted in accordance with law, and said Ordinance shall be in full force and effect thereafter, in accordance with law.

Section 18. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Alamogordo, New Mexico
Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 1600 duly adopted and approved by the Governing Body of the City of Alamogordo, New Mexico, on October 8th, 2019. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, 1376 East Ninth Street, Alamogordo, New Mexico.

The title of the Ordinance is:

CITY OF ALAMOGORDO, NEW MEXICO
ORDINANCE NO. 1600

AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BY AND BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY, EVIDENCING A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF $3,270,000, TOGETHER WITH

INTEREST THEREON, FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE CITY'S OUTSTANDING 2009 LOAN AGREEMENT WITH THE NEW MEXICO FINANCE AUTHORITY, FUNDING THE LOAN AGREEMENT RESERVE ACCOUNT AND PAYING A LOAN PROCESSING FEE AND EXPENSES; PROVIDING FOR THE PLEDGE AND PAYMENT OF THE PRINCIPAL AND INTEREST DUE UNDER THE LOAN AGREEMENT SOLELY FROM THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE GOVERNMENTAL UNIT'S JOINT WATER AND SEWER UTILITY SYSTEM; APPROVING THE FORM AND TERMS OF, AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title. This notice constitutes compliance with Section 6-14-6, NMSA 1978.

(End of Form of Summary for Publication)

(Signature Page Follows)

PASSED, APPROVED AND ADOPTED THIS 8th DAY OF OCTOBER, 2019.

CITY OF ALAMOGORDO, NEW MEXICO

By________________________________
Mayor

[SEAL]

ATTEST:

By ____________________________
Clerk

Commissioner __________ then moved adoption of the foregoing Ordinance, duly seconded by Commissioner __________.

The motion to adopt said Ordinance, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: ______________________________________

____

____

____

____

____

____

Those Voting Nay: ______________________________________

Those Absent: ______________________________________

__________ (__) members of the Governing Body having voted in favor of said motion, the Mayor declared said motion carried and said Ordinance adopted, whereupon the Mayor and the Clerk signed the Ordinance upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Ordinance, the meeting on the motion duly made, seconded and unanimously carried, was adjourned.

CITY OF ALAMOGORDO, NEW MEXICO

By ______________________________
Mayor

[SEAL]

ATTEST:

By______________________________
Clerk

Y:\dox\client\10623\0136\GENERAL\W3496947.DOC

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/16/2019 **Report No:** 13.

Submitted By: Bob Johnson

Subject: Consider, and act upon, award of Public Works Bid No. 2019-005 to Stone Electric & Power, LLC related to the Replace Emergency Generator at Alamogordo Police Department project in an amount not to exceed $77,554.80, including NMGRT. *(Bob Johnson, Engineering Manager)*

Fiscal Impact: $77,554.80
Amount Budgeted: $110,403.00
Fund: 011-4104-420.65-70 PW1719

Additional Fiscal Impact:

Recommendation: Approve the award.

Background: The work will consist of removing the existing generator and replacing with a new Owner-furnished generator and automatic transfer switch..

The project was advertised for bids on August 11, 2019. Bids were opened at 2:00 p.m. on September 12, 2019 with three (3) bids received: Stone Electric & Power, LLC; RCI Lighting & Power, Inc.; and Southeast Electric, Inc.

Please refer to the attached bid tabulation.

BID TABULATION
REPLACE EMERGENCY GENERATOR AT ALAMOGORDO POLICE DEPARTMENT
PUBLIC WORKS BID NO. 2019-005
SEPTEMBER 12, 2019 2:00 PM
COMMISSION CHAMBERS

ITEM NO.	QUANTITY	DESCRIPTION	Stone Electric & Power, LLC	RCI Lighting & Power, Inc.	Southeast Electric, Inc.
			Total Price	Total Price	Total Price
Base Bid	1 L/S	Replace Emergency Generator at Alamogordo Police Department	$71,810.00	$87,174.00	$89,443.72
		NMGRT 8%	$5,744.80	$6,973.92	$7,155.50
		TOTAL	$77,554.80	$94,147.92	$96,599.22

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** **Report No:** 14.

Submitted By:

Subject: Consider, and act upon, an MOU Agreement with Alliance for Regional Military Support to hire a consulting group Cypress International for $10,000 a year for 3 years for a total of $30,000. *(Ed Brabson and Tom Thomas)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation:

Background: Mr. Brabson and Mr. Thomas are requesting the approval to hire hiring a City/County consulting group Cypress International.

City of Alamogordo City Commission Meeting
AGENDA REQUEST FORM

RECEIVED
SEP 03 2019
CITY CLERK

Today's Date: 9/3/19

Request Date of Meeting: 9/10/19

Name: ED Brabson and Tom Thomas

Address: 901 Texas Ave
Alamogordo NM ZIP 88310

Phone Number: 575-430-1300

E-Mail Address: mtd@alamogordo.com

Item requested will be for: (Please check one)

[ ] Information only [X] Action Item

Brief description of topic to be discussed:
Please attach one original of any documents pertaining to the topic -
We do not allow handouts at the meeting

Requesting the approval to hire a city/county consulting group cypress & international $10,000 a year for 3 years total of $30,000

Signature:

Please return to: Rachel Hughs, CMC, City Clerk
City of Alamogordo
1376 E. 9th Street
Alamogordo, NM 88310

Phone: (575) 439-4272 Fax: (575) 439-4396 E-mail: rhughs@ci.alamogordo.nm.us

ALLIANCE FOR REGIONAL MILITARY SUPPORT

MISSION, GOAL AND STRATEGY OF ARMS

- **Mission**:
  - To ensure Fort Bliss, White Sands Missile Range and Holloman AFB "the triad" remain an integral part of America's National Defense Strategy.
- **Goal**
  - To solidify and enhance the capabilities of our regional military installation missions and importance to the Department of Defense
- **Strategy**
  - Develop actionable items to enhance the Military Value of the region

OUR FOCUS

- **Prioritize Current Defense Industry Engagement**
  Decisively engaging current defense companies based on missions at Fort Bliss, White Sands and Holloman AFB.
- **Leverage Higher Education Partnerships to Attract Defense R&D Projects**
  For example, build upon UTEP's R1 designation to attract defense companies for new research and development projects. Develop relationship with NMSU Engineering and JMC/WSMR/Holloman
- **Address Transitioning Soldiers and Families**
  Improve messaging and ability to retain and attract transitioning soldiers, families and veterans within the region following service completion.
- **Improve Regions Appeal for Future Stationing Initiatives**
  Identify and advise on actions to be taken now to improve the regions standing for future stationing initiatives such as Base Realignment and Closure activities.
- **Attract New Defense and Aerospace Contractors to the Region**
  As one of seven key industry sectors identified as providing a high level of opportunity for our region, provide support and guidance in attracting new defense and aerospace contractors to the region.

★ These are the Fort Bliss/El Paso focus areas, Once completed they will include Holloman AFB and WSMR based on support and planning

WHO IS CYPRESS INTERNATIONAL

- Consulting company based in Arlington, Virginia
- Lead by Retired Senior Military Officers
- Strong contacts within the Pentagon
- Provides advice on military matters
- Has strong and current connections within the Defense Industry
- Integral part of the 2005 BRAC Success in El Paso

Under contract to The City of El Paso and the El Paso Chamber for a period of three years

CURRENT MEMBERS OF ARMS

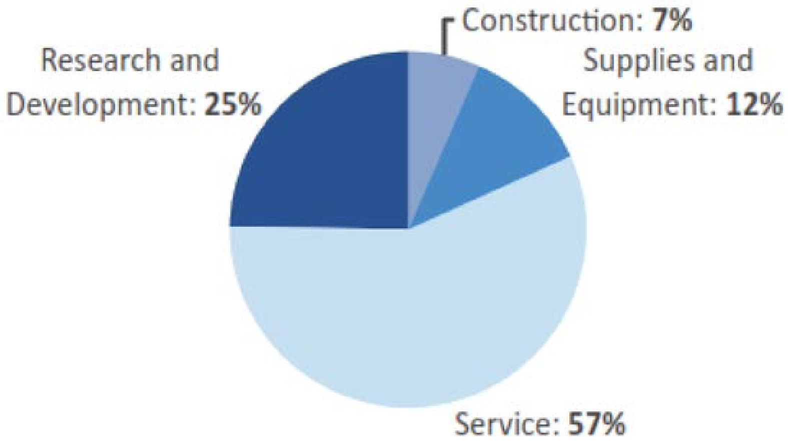
- The City of El Paso (Coordinator – Cary Westin)
- The El Paso Chamber
- El Paso County
- City of Alamogordo
- County of Otero

CURRENT BUSINESS ENTITIES ENGAGED

- First Light Federal Credit Union
- Teachers Federal Credit Union
- Southwest Land Development
- Pride Industries
- Hyundai of El Paso
- Tenant Healthcare
- Casa Ford
- River Oaks Properties
- Tropicana Homes

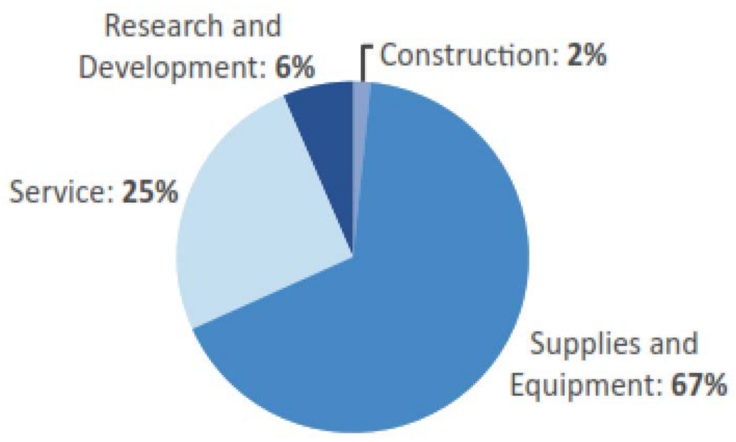
FISCAL ANALYSIS – NEW MEXICO

- New Mexico was the beneficiary of over 1.3 billion dollars in defense contract spending in 2017 with the top three companies being TRAX international (82.7 M), Applied Research Associates (74.7 M) and Lockheed Martin (48.5 M), with 471.1 million flowing to the triad area. We must work to keep these defense contracts coming to NM.
- The triad area had 420.8 Million in personnel spending



FISCAL ANALYSIS - TEXAS

- Texas was the beneficiary of over 26 billion dollars in defense contract spending in 2017 with the top three companies being Lockheed Martin (13 b), L3 Technologies (2.4 B) and Bell Boeing Joint (1.9 B)., with 676.5 million flowing to El Paso. We must work to keep these defense contracts coming to TX.
- El Paso had 1.7 billion in personnel spending



QUESTIONS?

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF ALAMOGORDO, NEW MEXICO
AND ALLIANCE FOR REGIONAL MILITARY SUPPORT

This Memorandum of Understanding ("MOU") is entered into by and between the **Alliance for Regional Military Support** ("ARMS"), a Texas based nonprofit corporation, and the **City of Alamogordo**, (collectively, the "Parties") on this the ___ day of ____________________, 2019.

RECITALS:

WHEREAS, both Parties desire to support regional economic development by promoting growth in the defense and aerospace industries; and

WHEREAS, through a Professional Services Agreement, the City of El Paso has engaged Cypress International, Inc., ("Cypress") to provide the City, Region and ARMS with information, advice and assessment for the purpose of promoting growth in regional defense and aerospace industries; and

WHEREAS, the City of Alamogordo recognizes that the Professional Services Agreement with Cypress supports and potentially will benefit economic development in the White Sands, Holloman and Fort Bliss region; and

WHEREAS, the City of Alamogordo desires to contribute financially towards the Professional Services Agreement with Cypress; and

WHEREAS, the ARMS wishes to accept the City of Alamogordo's financial contribution towards the City of El Paso's Professional Services Agreement with Cypress.

NOW, THEREFORE, ARMS and the City of Alamogordo hereby mutually agree to the following:

AGREEMENT

1. **Term.** The Term of this MOU is three years, beginning September 24, 2019 ("Effective Date") and ending March 1, 2022.

2. **Obligation of the City of Alamogordo**. Alamogordo will pay ARMS the sum of $10,000 annually for each of the three years comprising the Term of this MOU. The total amount Alamogordo shall pay over the Term of this MOU shall not exceed $30,000.

3. **Money collected** will be used to support the professional services contract held by the City of El Paso with Cypress. ARMS is obligated to fund $60,000.00 (Sixty Thousand Dollars and zero cents) annually paid to the City of El Paso.

4. Manner of Payment. The City of Alamogordo will provide a one-time payment to ARMS due on the effective date for three consecutive years in accordance with line 2 of this MOU. Payment shall be made within 45 days of receipt of invoice in each of the three years.

Payment shall be mailed to:

Alliance for Regional Military Support
1460 Common Drive
El Paso, TX 79936

5. Obligations of ARMS and the City of Alamogordo.

A. The ARMS will brief the City of Alamogordo's Commission, its City Manager and/or its designee on a quarterly basis on the direction and efforts of ARMS.

B. The City of Alamogordo will identify key focus areas and missions and be responsible for developing the tasks to support their local military installation through interaction and dialogue with its installation's leadership with assistance from ARMS and Cypress International.

C. The City of Alamogordo will appoint a Point of Contact (POC), the City Manager or his designee to interface with both ARMS and Cypress

D. ARMS and Cypress International will work with the City of Alamogordo's City Manager to execute on Alamogordo's priorities

E. ARMS, along with the City of El Paso, will provide the City of Alamogordo with the opportunity to participate in phone calls, visits, and meetings with Cypress that are organized by the City of El Paso and that concern the information, advice and assessment gathered by Cypress for the purpose of increasing regional defense and aerospace industries.

F. ARMS and the City of Alamogordo agree to collaborate and share information on all activities related to the Military that are deemed to be relevant by the City of Alamogordo to their stated priorities.

G. The City of El Paso, as the contracting party in the Professional Services Agreement with Cypress, is solely responsible for payments to be made pursuant to its Professional Services Agreement with Cypress. Further, the City is the sole decision maker in all matters concerning the Professional Service Agreement with Cypress, including any decision to terminate the Agreement or amend any provision therein.

6. No Partnership or Joint Venture. Nothing contained herein shall constitute a partnership between or joint venture by the Parties or constitute any party the agent of the others. No party shall hold itself out contrary to the terms of this paragraph and no party shall become liable by any representation, act or omission of the other contrary to the provisions hereof.

This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not.

7. Notice. Any notices required under this Agreement shall be sufficient if sent by Certified Mail postage prepaid, to ARMS at the following addresses:

ARMS:	Alliance for Regional Military Support 1460 Common Drive El Paso, Texas 79936
COPY TO:	The City of Alamogordo Attn: City Manager 1376 E Ninth St Alamogordo, NM 88310

8. Termination. This MOU shall terminate at the end of the Term or as otherwise agreed upon by the parties hereto in writing. Either party may terminate this MOU for any reason after ninety (90) days written notice to the other party of the intention to terminate or at any time by mutual agreement of the parties. If the City of Alamogordo elects to terminate this MOU for any reason prior to the end of the Term, the City of Alamogordo shall be responsible for their obligated amount in the year of the termination.

9. Governing Law. It is agreed that this MOU is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the courts of El Paso County, Texas.

10. Complete Agreement. This Agreement constitutes and expresses the entire agreement between the parties hereto in reference to the Memorandum of Understanding.

(Signatures on the Following Page)

IN WITNESS WHEREOF, the Parties execute this MOU:

ARMS:

____
Gustavo Rodriguez
Date:

____
Lance Lehr
Date:

____
John Baily
Date:

____
Richard Dayoub
Date:

____
A.F. Thomas
Date:

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

Date: _____________

____
Brian Cesar
Interim City Manager

ATTEST:

____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

____
Petria Bengoechea, City Attorney

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 15.

Submitted By: Mark Threadgill

Subject: Consider, and act upon, approval of changes to City of Alamogordo Leak Abatement Policy.
(Mark Threadgill, Customer Service Manager)

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Staff recommends approval of the revised Leak Abatement Policy.

Background: The city's Leak Abatement Policy was first approved in 2009 and last revised in 2016.

Staff is recommending a number of revisions to the current policy which reflect changes in the city's operations (customer service portal, courtesy notices, etc.) and clearly defining what is covered by an abatement request, which the current policy does not.

Staff has also included guidance on adjusting the WQA (winter Quarter Average) and commercial sewer commodity charges if a leak adjustment is approved.

Staff is also recommending that the City Manager be granted authority to approve Leak Abatements in excess of $2,500 instead of having Commission approve such requests.

~~Deleted~~ text New text

CITY OF ALAMOGORDO FINANCE DEPARTMENT		
LEAK ABATEMENT		City Manager Approval: Commission Approval:
Section: CUSTOMER SERVICE	Document No.	Last Update:

Purpose: To provide a fair and equitable manner in addressing water consumption charges due to customer water leaks or extraordinary circumstances.

Policy: It is the policy of the City of Alamogordo to grant relief from high water bills due to undetected water leaks or charges caused by extraordinary circumstances when the applicant for relief meets eligibility requirements.

Persons Affected: Customers of the City of Alamogordo water utility.

Procedures:

A) Determining eligibility:
   1) Leak Abatement
      a) The leak must have occurred in the customer service supply line between the meter and structure, or internal supply line(s).
         i. Leak Abatement will not be granted for leaks in toilets, faucets, sprinkler/irrigation systems, evaporative coolers, water softeners, Reverse Osmosis Systems, ice makers, water heaters, or any other appliance/fixture.
      b) The monthly water bill in question must exceed $125 over customer's average monthly water charges
      c) The applicant must furnish proof that;
         ~~i. The leak or break was beyond his/her control~~
         ii. ~~That~~ He/she did not and could not have reasonably detected the problem earlier, and
         iii. ~~That~~ The customer took immediate action, but not more than two days, to correct the problem as soon as he/she became aware of it. If customer received notification from City of ~~a~~ potential leak/high consumption the date of the city notification shall be considered date customer became aware of leak, ~~;~~ and
      d) The applicant must prove that repairs have been completed satisfactorily~~.~~, and
      e) Customer must register on city's customer portal (AquaHawk, or successor) – abatement request will not be processed until requestor is registered.

   2) Extraordinary Circumstances

~~Deleted~~ text New text

a) Consumption caused by faulty City supplies or parts: (i.e.; risers, curb stops, backflow preventers, meter and/or associated components)
b) Staff determines the consumption was caused by construction or maintenance by City: (i.e.; air in lines, break on customer's service line during maintenance, etc).
~~c) Unexplainable consumption~~

B) Calculations
1) Leak Abatement
a) To determine leak abatement credit, the average consumption will be ~~estimated by~~ computed using consumption for the previous twelve months. Any consumption over the average shall be calculated by using last year's average Tier. For example, if customer averaged Tier 2, then customers consumption over the average consumption will be calculated using Tier 2 Rates. If the applicant has had service at the address for less than one year, then by determining the average consumption for the period of service of at least three months. If the customer has had less than three months of service, an average of 1,500 cubic feet will be used to calculate abatement.
b) The City of Alamogordo will allow only one customer side leak ~~per calendar year~~ during any twelve consecutive months to be adjusted. If leak affects more than one billing period, a maximum of two consecutive months may be adjusted.

2) Extraordinary Circumstances
a) The City of Alamogordo will adjust Utility Charges under extraordinary circumstances through the abatement of monthly charge amounts in excess of the average monthly charge for the previous twelve (12) months, or, if customer has had service for less than 12 months using an average of 1,500 cubic feet per month to calculate abatement.

3) The Winter Quarter Average (WQA) for sewer charges will be adjusted for residential customers receiving a leak abatement for a leak occurring during the WQA calculation months. The WQA will be adjusted to the previous year's rate or $5.00 whichever is greater.

4) Sewer commodity charges for commercial customers will be adjusted to the twelve month average for the month(s) which a leak abatement is approved.

C) Determinations
1) The ~~City Manager or~~ Finance Director, or designee, shall have the authority to determine eligibility for any adjustment under these guidelines and shall grant any adjustment as set forth in the policy up to $2,500.00. Any amount over $2,500.00 must be approved by the ~~City Commission~~ City Manager.

History: Approved by City Commission December 15, 2009
Revised and Approved by City Commission November 17, 2015
Revised and Approved by City Commission August 23, 2016
Revised and Approved by the City Commission September 24, 2019

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/19/2019 **Report No:** 16.

Submitted By: Stephanie Hernandez

Subject: Consider, and act upon, first publication of Ordinance 1601 Adopting a Municipal Gross Receipts Tax and Repealing Ordinance 1594 titled "An Ordinance Implementing Hold Harmless Tax". *(Stephanie Hernandez, Finance Director)* **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact: None. .1250% passed on 6-26-2019. This is to change the language, amount is still .125%.

Recommendation: Approve for first publication.

Background: House Bill 479 Signed by the Governor on April 4th, 2019 repeals the hold harmless tax in favor of the "Unrestricted Municipal Gross Receipts Tax"

ORDINANCE NUMBER 1601
ADOPTING A MUNICIPAL GROSS RECEIPTS TAX
AND REPEALING ORDINANCE 1594

BE IT ORDAINED BY THE GOVERNING BODY OF
THE CITY OF ALAMOGORDO:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in this municipality for the privilege of engaging in business in this municipality an excise tax equal to .1250% of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the Municipal Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "unrestricted municipal gross receipts tax."

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality;

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to Subsection C of Section 7-1-6.4 NMSA 1978; or

C. direct broadcast satellite services.

Section 4. Dedication. This tax is dedicated for general fund and operational expenses.

Section 5. Effective Date. The effective date of the municipal gross receipts tax shall be either January 1, or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted, unless an election is held on the question of approving the ordinance, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

Section 6. Repeal Effect. The effect of this ordinance is to repeal Ordinance 1594 titled "An Ordinance Implementing Hold Harmless Tax" in its entirety.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF ALAMOGORDO THIS ___DAY OF __________ 2019.

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

By: ___________________________________
Richard A. Boss, Mayor

ATTEST:

____
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

____
Petria Bengoechea, City Attorney

Refer to Section 13 Page 52 "Municipal Gross Receipts Tax- Authority to Impose Rate- Stephanie Hernandez

AN ACT

RELATING TO TAXATION; DE-EARMARKING CERTAIN MUNICIPAL AND COUNTY LOCAL OPTION GROSS RECEIPTS TAXES; PROVIDING THAT CERTAIN MUNICIPAL GROSS RECEIPTS TAXES MAY BE USED FOR ANY MUNICIPAL PURPOSE; PROVIDING THAT CERTAIN COUNTY GROSS RECEIPTS TAXES MAY BE USED FOR ANY COUNTY PURPOSE; PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL OPTION GROSS RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING REVENUE BONDS; PROVIDING THAT PREVIOUSLY DEDICATED REVENUE ATTRIBUTABLE TO A LOCAL OPTION GROSS RECEIPTS TAX BEING AMENDED OR REPEALED BY THIS ACT SHALL CONTINUE TO BE DEDICATED FOR THE SAME PURPOSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section.

B. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds.

C. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds.

D. Gross receipts tax revenue bonds may be issued for any municipal purpose. A municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds or for any area of municipal government services. A law that imposes or authorizes the imposition of a tax authorized by the Municipal Local Option Gross Receipts Taxes Act or that affects the tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor. Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue and to administer the payment of principal of and interest on the bonds.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

H. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

SECTION 2. A new Section 3-31-1.1 NMSA 1978 is enacted to read:

"3-31-1.1. DEFINITIONS.--As used in Chapter 3, Article 31 NMSA 1978:

A. "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments;

B. "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978;

C. "gasoline tax revenue bonds" means the bonds authorized by Subsection E of Section 3-31-1 NMSA 1978;

D. "gross receipts tax revenue" means the amount of money distributed to a municipality pursuant to Section 7-1-6.4 NMSA and transferred to a municipality pursuant to Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act;

E. "gross receipts tax revenue bonds" means the bonds authorized by Subsection D of Section 3-31-1 NMSA 1978;

F. "joint utility revenue bonds" or "joint utility bonds" means the bonds authorized by Subsection C of Section 3-31-1 NMSA 1978;

G. "pledged revenues" means the revenues, net income or net revenues authorized to be pledged to the payment of revenue bonds as specifically provided in Chapter 3, Article 31 NMSA 1978;

H. "project revenue bonds" means the bonds authorized by Subsection F of Section 3-31-1 NMSA 1978; and

I. "utility revenue bonds" or "utility bonds" means the bonds authorized by Subsection B of Section 3-31-1 NMSA 1978."

SECTION 3. Section 4-61-3 NMSA 1978 (being Laws 1982, Chapter 44, Section 3, as amended) is amended to read:

"4-61-3. SMALL COUNTIES ASSISTANCE FUND--DISTRIBUTION.--

A. The "small counties assistance fund" is created within the state treasury.

B. On or before September 1, 2003 and on or before September 1 of each subsequent year, the demographer shall certify in writing to the department of finance and administration the population of the state and of each county as of June 30 of the year.

C. On or before September 15, 2003 and on or before September 15 of each subsequent year, the secretary of finance and administration shall certify to the state treasurer with respect to each qualifying county:

(1) its population as certified by the demographer;

(2) its total valuation for the preceding property tax year; and

(3) the distribution amount calculated for it.

D. The distribution amount for each qualifying county shall be determined for 2003 and each subsequent year in accordance with the following table; provided that the bracket amounts in the first two columns of the table shall be adjusted annually after 2003 by the adjustment factor.

The bracket amounts in the last column shall be adjusted annually after 2005 by the inflation factor and, in 2011 and subsequent years, shall be adjusted by the tax rate factor. The department of finance and administration may round the results of the adjustments made pursuant to this subsection to the nearest one thousand dollars ($1,000).

If the county's total valuation for the preceding property tax year is:

at least:	but less than:	and the county population is:	then the distribution amount is:
$ 0	$100,000,000	under 1,000	$515,000
$ 0	$100,000,000	at least 1,000 but under 4,000	$370,000
$ 0	$100,000,000	at least 4,000	$285,000
$100,000,000	$230,000,000	under 12,000	$200,000
$100,000,000	$230,000,000	at least 12,000	$145,000
$230,000,000	$1,400,000,000	under 48,000	$85,000.

E. If the balance in the small counties assistance fund as of the preceding August 31 exceeds the sum of the distributions to be made to qualifying counties pursuant to the provisions of Subsection D of this section, the department of finance and administration shall increase the distribution amount for each county receiving a distribution amount pursuant to the provisions of Subsection D of this section by:

(1) fifty thousand dollars ($50,000) if the

county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county gross receipts tax at a rate of at least one-eighth percent; provided that the ordinance imposing the increment shall dedicate the revenue from the increment:

(a) for the purpose of operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or a county correctional facility or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping or any combination of the foregoing;

(b) for the purpose of transporting or extraditing prisoners; or

(c) to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to Section 4-62-1 NMSA 1978;

(2) twenty thousand dollars ($20,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county gross receipts tax increment of one-sixteenth percent; or

(3) seventy thousand dollars ($70,000) if the county has met the requirements of Paragraphs (1) and (2) of this subsection.

F. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions determined pursuant to Subsection D of this section plus the distribution increases authorized pursuant to Subsection E of this section, the distribution increases pursuant to Subsection E of this section shall be proportionately reduced.

G. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions to be made to qualifying counties, the department of finance and administration shall reduce each qualifying county's calculated distribution by a percentage computed by dividing the amount by which the fund is insufficient by the sum of all the calculated distributions and shall certify the reduced amounts as the qualifying counties' distributions.

H. Any interest accruing from the temporary investment of the small counties assistance fund shall be credited to the general fund.

I. On or before September 30, 2003 and on or before September 30 of each subsequent year, the state treasurer shall distribute to each county for whom a distribution has been certified for that year the amount certified for that county for that year. If the balance in the fund as of the preceding August 31 exceeds the sum of certified amounts distributed, the difference shall revert to the general fund.

J. If any date specified in Subsection B, C or I of this section falls on a Saturday, Sunday or legal holiday, any action required to be performed as provided in those subsections is timely if performed on the next day that is not a Saturday, Sunday or legal holiday."

SECTION 4. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section.

B. Gross receipts tax revenue bonds may be issued for any county purpose. A county may pledge irrevocably any or all of the revenue received by the county pursuant to Section 7-1-6.13 NMSA 1978 for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds or for any area of county government services. If the revenue is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county. Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds.

D. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds.

E. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project and acquiring and improving parking lots. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project shall not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds.

F. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating a fire district project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

G. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

H. PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project.

I. Except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

J. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section

4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission.

K. Any law that imposes or authorizes the imposition of a tax authorized by the County Local Option Gross Receipts Taxes Act or that affects that tax shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of the tax unless the outstanding revenue bonds have been discharged in full or for which provision has been fully made."

SECTION 5. A new Section 4-62-1.1 NMSA 1978 is enacted to read:

"4-62-1.1. DEFINITIONS.--As used in Chapter 4, Article 62 NMSA 1978:

A. "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a county to make payments;

B. "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

C. "gasoline tax revenue bonds" means the bonds authorized by Subsection C of Section 4-62-1 NMSA 1978;

D. "gross receipts tax revenue" means the revenue attributable to the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution made pursuant to Section 7-1-6.16 NMSA 1978;

E. "gross receipts tax revenue bonds" means the bonds authorized by Subsection B of Section 4-62-1 NMSA 1978;

F. "PILT revenue" means revenue received by a county from the federal government as payments in lieu of taxes;

G. "pledged revenue" means the revenue, net income or net revenue authorized to be pledged to the payment of particular revenue bonds as specifically provided in Section 4-62-1 NMSA 1978;

H. "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to Subsection E of Section 4-62-1 NMSA 1978;

I. "public project" means "public project" as defined in Subsection E of Section 6-21-3 NMSA 1978;

J. "utility" means a water, wastewater, sewer, gas or electric utility or joint utility servicing the public; and

K. "utility revenue bonds" or "joint utility revenue bonds" means the bonds authorized by Subsection D of Section 4-62-1 NMSA 1978."

SECTION 6. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes:

(1) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;

(2) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(3) public works improvements essential to the location or expansion of a qualifying entity;

(4) payments for professional services contracts necessary for local or regional governments to implement a plan or project;

(5) the provision of direct loans or grants for land, buildings or infrastructure;

(6) technical assistance to cultural facilities;

(7) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the:

(a) municipal gross receipts tax

imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment to a project; or

(b) county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project;

(8) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities;

(9) the purchase of land for a publicly held industrial park or a publicly owned cultural facility; and

(10) the construction of a building for use by a qualifying entity;

F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "person" means an individual, corporation, association, partnership or other legal entity;

J. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

(9) a retail business;

K. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

L. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) ten thousand or less; or

(2) more than ten thousand but less than thirty-five thousand if:

(a) the economic development project is not funded or financed with state government revenues; and

(b) the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail."

SECTION 7. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

"5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

(1) the value of any land or building contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of an increment of the municipal gross receipts tax at a rate not to exceed one-fourth percent and dedicated to furthering or implementing economic development plans and projects as

defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of an increment of the county gross receipts tax at a rate not to exceed one-eighth percent and dedicated to furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

(5) the proceeds of a revenue bond issue to which the revenue from an increment of the county gross

receipts tax, imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project, is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic development fund may be expended only as provided in the Local Economic Development Act or the Statewide Economic Development Finance Act.

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular local or county election or at a special election called for that purpose by the governing body. A special local election shall be called, conducted and canvassed as provided in the Local Election Act. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

G. If a majority of the voters voting on the question approves the ordinance adding arts and cultural districts and cultural facilities or retail businesses as an approved use of the local option municipal or county economic development infrastructure gross receipts tax fund, the ordinance shall become effective on July 1 or January 1, whichever date occurs first after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date."

SECTION 8. Section 5-15-15 NMSA 1978 (being Laws 2006, Chapter 75, Section 15, as amended) is amended to read:

"5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX INCREMENT.--

A. Notwithstanding any law to the contrary, but in accordance with the provisions of the Tax Increment for Development Act, a tax increment development plan, as originally approved or as later modified, may contain a provision that a portion of certain gross receipts tax increments collected within the tax increment development area after the effective date of approval of the tax increment development plan may be dedicated for the purpose of securing gross receipts tax increment bonds pursuant to the Tax Increment for Development Act.

B. As to a district formed by a municipality, a portion of the following may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) an increment of a municipal option gross receipts tax that is dedicated by the ordinance imposing the increment to the tax increment development project;

(2) an amount distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

(3) the state gross receipts tax.

C. As to a district formed by a county, a portion of the following may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) an increment of a county option gross receipts tax that is dedicated by the ordinance imposing the increment to the tax increment development project;

(2) the amount distributed to counties pursuant to Section 7-1-6.47 NMSA 1978; and

(3) the state gross receipts tax.

D. The gross receipts tax increment generated by the imposition of municipal or county local option gross receipts taxes specified by statute for particular purposes may nonetheless be dedicated for the purposes of the Tax Increment for Development Act if intent to do so is set forth in the tax increment development plan approved by the governing body, if the purpose for which the increment is intended to be used is consistent with the purposes set forth in the statute authorizing the municipal or county local option gross receipts tax.

E. An imposition of a gross receipts tax increment attributable to the imposition of a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to the imposition of gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

F. An imposition of a gross receipts tax increment attributable to the imposition of the state gross receipts tax within a district less the distributions made pursuant to Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the state board of finance, evidenced by a resolution adopted by a majority vote of the state board of finance. The state board of finance shall not agree to dedicate more than seventy-five percent of the gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district. The resolution of the state board of finance shall become effective only on January 1 or July 1 of the calendar year and shall find that:

(1) the state board of finance has reviewed the request for the use of the state gross receipts tax;

(2) based upon review by the state board of finance of the applicable tax increment development plan, the dedication by the state board of finance of a portion of the

gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district for use in meeting the required goals of the tax increment plan is reasonable and in the best interest of the state; and

(3) the use of the state gross receipts tax is likely to stimulate the creation of jobs, economic opportunities and general revenue for the state through the addition of new businesses to the state and the expansion of existing businesses within the state.

G. The governing body of the jurisdiction in which a tax increment development district has been established shall timely notify the assessor of the county in which the district has been established, the taxation and revenue department and the local government division of the department of finance and administration when:

(1) a tax increment development plan has been approved that contains a provision for the allocation of a gross receipts tax increment;

(2) any outstanding bonds of the district have been paid off; and

(3) the purposes of the district have otherwise been achieved."

SECTION 9. Section 6-25-7 NMSA 1978 (being Laws 2003, Chapter 349, Section 7, as amended) is amended to read:

"6-25-7. PROJECT REVENUE BONDS.--

A. The authority may issue project revenue bonds on behalf of an eligible entity to provide funds for a project. Project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall not be a general obligation of the authority or the state within the meaning of any provision of the constitution of New Mexico and shall never give rise to a pecuniary liability of the authority or the state or a charge against the general credit or taxing powers of the state. Project revenue bonds shall be payable from the revenue derived from a project being financed by the bonds and from other revenues pledged by an eligible entity and may be secured in such manner as provided in the Statewide Economic Development Finance Act and as determined by the authority. Project revenue bonds may be executed and delivered at any time, may be in such form and denominations, may be payable in installments and at times not exceeding thirty years from their date of delivery, may bear or accrete interest at a rate or rates and may contain such provisions not inconsistent with the Statewide Economic Development Finance Act, all as provided in the resolution and proceedings of the authority authorizing issuance of the bonds. Project revenue bonds issued by the authority pursuant to the Statewide Economic Development Finance Act may be sold at public or private sale in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses that the authority may determine necessary in connection with the authorization, sale and issuance of the bonds. All project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be negotiable.

B. The principal of and interest on project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be secured by a pledge of the revenues of the project being financed with the proceeds of the bonds, may be secured by a mortgage of all or a part of the project being financed or other collateral pledged by an eligible entity and may be secured by the lease of such project, which collateral and lease may be assigned, in whole or in part, by the department to the authority or to third parties to carry out the purposes of the Statewide Economic Development Finance Act. The resolution of the authority pursuant to which the project revenue bonds are authorized to be issued or any such mortgage may contain any agreement and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of all revenues from any project to which the resolution or mortgage pertains, the terms to be incorporated in the lease of the project, the maintenance and insurance of the project, the creation and maintenance of special funds from the revenues of the project and the rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as determined by the authority or the department and as shall not be in conflict with the Statewide Economic Development Finance Act; provided, however, that, in making any such agreements or provisions, the authority and the department may not obligate themselves except with respect to the project and application of the revenues from the project, and except as expressly permitted by the Statewide Economic Development Finance Act, and shall not have the power to incur a pecuniary liability or a charge or to pledge the general credit or taxing power of the state. The resolution authorizing the issuance of project revenue bonds may provide procedures and remedies in the event of default in payment of the principal of or interest on the bonds or in the performance of any agreement. No breach of any such agreement shall impose any pecuniary liability upon the authority, the department or the state or any charge against the general credit or taxing powers of the state.

C. The authority may arrange for such other guarantees, insurance or other credit enhancements or additional security provided by an eligible entity as determined by the authority for the project revenue bonds and may provide for the payment of the costs from the proceeds of the bonds or may require payment of the costs by the eligible entity on whose behalf the bonds are issued.

D. Project revenue bonds issued to finance a project may also be secured by pledging a portion of the qualifying municipal or county gross receipts tax revenues by the municipality or county in which the project is located, as permitted by the Local Economic Development Act.

E. The project revenue bonds and the income from the bonds, all mortgages or other instruments executed as security for the bonds, all lease agreements made pursuant to the provisions of the Statewide Economic Development Finance Act and revenue derived from any sale or lease of a project shall be exempt from all taxation by the state or any political subdivision of the state. The authority may issue project revenue bonds the interest on which is exempt from taxation under federal law.

F. In any calendar year, no more than fifteen percent of the state ceiling allocated pursuant to the Private Activity Bond Act may be used for projects financed pursuant to the Statewide Economic Development Finance Act."

SECTION 10. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

D. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

E. "financial institution" means any state or federally chartered, federally insured depository institution;

F. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

(1) the chief hearing officer;

(2) an employee of the administrative hearings office; or

(3) a contractor of the administrative hearings office;

G. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

H. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

I. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

J. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

K. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

L. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

M. "paid" includes the term "paid over";

N. "pay" includes the term "pay over";

O. "payment" includes the term "payment over";

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

Q. "property" means property or rights to property;

R. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

S. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

T. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

U. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

V. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

W. "security" means money, property or rights to property or a surety bond;

X. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

Y. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act, including the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

Z. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person; and

AA. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement pursuant to Section 7-1-21.1 NMSA 1978 to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

SECTION 11. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

D. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the

performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

E. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

G. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

H. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

I. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

J. "property" means real property, tangible personal property, licenses other than the licenses of copyrights, trademarks or patents and franchises. Tangible personal property includes electricity and manufactured homes;

K. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) developing a new or improved product,

process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

N. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

SECTION 12. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all entities included in the reorganization for all positions that are included in the business entity resulting from the reorganization;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which it is located and all machinery, equipment and other real and tangible personal property located at or within it and used in connection with its operation;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

G. "qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before

July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature; and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars ($5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

SECTION 13. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax on the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances. The governing body of a municipality may, at the time of enacting the ordinance, dedicate the revenue for any municipal purpose. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal gross receipts tax".

C. The maximum rate of the municipal gross receipts tax on the gross receipts of any person engaging in business in the municipality shall not exceed two and one-half percent. Of that two and one-half percent:

(1) a governing body may choose to require an election to impose increments that total two and five-hundredths percent; and

(2) the remaining increments, totaling forty-five hundredths percent, shall not go into effect until after an election is held and a majority of the voters in the

municipality voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

D. An election shall be called on the questions of disapproval or approval of any ordinance enacted pursuant to Subsection C of this section or any ordinance amending such ordinance:

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of the Local Election Act; or

(2) if the ordinance does not contain a mandatory election provision as provided in Paragraph (1) of this subsection, upon the filing of a petition requesting such an election if the petition is filed:

(a) pursuant to the requirements of a referendum provision contained in a municipal home-rule charter and signed by the number of registered voters in the municipality equal to the number of registered voters required in its charter to seek a referendum; or

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were registered to vote in the most recent regular municipal election.

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the Local Election Act, and the election shall be held within seventy-five days after the date the petition is verified by the municipal clerk or it may be held in conjunction with a regular local election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

G. Any law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 14. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

A. A majority of the members of the governing body of a county may impose by ordinance an excise tax on the gross receipts of a person engaging in business in the county or the county area. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances. The governing body may, at the time of enacting the ordinance, dedicate the revenue for any county purpose.

B. The tax authorized by this section is to be referred to as the "county gross receipts tax".

C. The maximum rate of the county gross receipts tax on the gross receipts of any person engaging in business in a county shall not exceed one and twenty-five hundredths percent. Of that one and twenty-five hundredths percent:

(1) a governing body may choose to require an election to impose increments that total one percent; and

(2) increments up to a total of twenty-five hundredths percent shall not go into effect until after an election is held and a majority of the voters in the county voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

D. The maximum rate of the county gross receipts tax on the gross receipts of any person engaging in business in a county area shall not exceed one-half percent. Of that one-half percent:

(1) a governing body may choose to require an election to impose increments that total twelve hundredths

percent; and

(2) remaining increments, totaling thirty-eight hundredths percent, shall not go into effect until after an election is held and a majority of the voters in the county area voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

E. A class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico shall provide not less than one million dollars ($1,000,000) in funds, and that amount shall be dedicated to the support of indigent patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents ($83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars ($20,000) for all other assistance in any year.

F. A county, except a class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, shall be required to dedicate revenue produced by the imposition of a one-eighth percent gross receipts tax increment for the support of indigent patients who are residents of that county. A county that imposed up to two one-eighth percent increments on January 1, 1996 for support of indigent patients in the county or, after January 1, 1996, imposes a one-eighth percent increment and dedicates one-half of that increment for county indigent patient purposes shall deposit the revenue dedicated for county indigent purposes that is transferred to the county in the county health care assistance fund, and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act."

SECTION 15. TEMPORARY PROVISION--OUTSTANDING REVENUE BONDS--DEDICATIONS.--

A. The repeal of and changes to certain taxes made in this act shall not impair outstanding bonds that are secured by a pledge of those taxes.

B. If a municipality or county has issued a revenue bond that is secured by a pledge of a tax being amended or repealed by this act, the revenue received by the municipality or county is impressed with the obligation to repay the outstanding bond and is dedicated to that repayment until the bond is fully discharged or otherwise provided for in full.

C. If a municipality or county has dedicated any amount of revenue attributable to a tax being amended or repealed by this act, the municipality or county shall continue to dedicate the same amount of revenue attributable to the tax until the ordinance dedicating the revenue expires, the term of the dedication expires, the governing body acts to change the dedication or, in the case of bonded indebtedness, the debt is fully discharged or otherwise provided for in full.

SECTION 16. REPEAL.--

A. Sections 7-19D-10 through 7-19D-12 and 7-19D-18 NMSA 1978 (being Laws 1990, Chapter 99, Section 51, Laws 1991, Chapter 9, Section 3, Laws 2001, Chapter 172, Section 1 and Laws 2013, Chapter 160, Section 11, as amended) are repealed.

B. Sections 7-20C-1 through 7-20C-17 NMSA 1978 (being Laws 1991, Chapter 176, Sections 1 through 9, Laws 1993, Chapter 306, Section 4, Laws 1991, Chapter 176, Sections 10 through 15 and Laws 1996, Chapter 18, Sections 3 and 4, as amended) are repealed.

C. Sections 7-20E-10 through 7-20E-12, 7-20E-15 through 7-20E-17, 7-20E-19, 7-20E-21, 7-20E-24, 7-20E-27 and 7-20E-28 NMSA 1978 (being Laws 1983, Chapter 213, Sections 32 and 35, Laws 1989, Chapter 239, Section 1, Laws 1979, Chapter 398, Sections 3 and 8, Laws 1990, Chapter 99, Section 58, Laws 1998, Chapter 90, Section 7, Laws 2001, Chapter 172, Section

2, Laws 2005, Chapter 212, Section 1, Laws 2010, Chapter 31, Section 1 and Laws 2013, Chapter 160, Section 12, as amended) are repealed.

D. Sections 7-20F-1 through 7-20F-12 NMSA 1978 (being Laws 1993, Chapter 303, Sections 1 through 12, as amended) are repealed.

E. Sections 7-24B-1 through 7-24B-9 NMSA 1978 (being Laws 1987, Chapter 45, Sections 10 through 13, Laws 1990, Chapter 88, Section 16 and Laws 1987, Chapter 45, Sections 15 through 18, as amended) are repealed.

F. Section 60-2E-47.1 NMSA 1978 (being Laws 2010, Chapter 31, Section 3) is repealed.

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

TAXATION & REVENUE
NEW MEXICO

Michelle Lujan Grisham
Governor

Stephanie Schardin Clarke
Cabinet Secretary

FOR IMMEDIATE RELEASE

June 27, 2019

HB479 Did not get listed on the changes memo -SJH

Media Contact: Charlie Moore

Charlie.Moore@state.nm.us

(505) 827-0690

Several Changes to New Mexico Tax Law Effective July 1, 2019

Starting July 1, taxpayers will see some important changes to New Mexico tax laws intended to level certain playing fields and raise revenue for critical needs such as road repairs.

Most of the changes were included in House Bill 6, which was sponsored by Reps. Jim Trujillo, Sheryl Williams Stapleton, Javier Martinez, Susan K. Herrera, and Antonio “Moe” Maestas and signed into law by Gov. Michelle Lujan Grisham.

Perhaps the largest change will be for businesses outside of the state that sell to New Mexicans over the internet. Businesses with $100,000 in sales or more in the preceding calendar year to New Mexico buyers will now be required to pay gross receipts taxes.

Collecting GRT from out-of-state internet sellers will raise about $43 million for the state General Fund in the coming fiscal year. New Mexico is one of many states rolling out taxes on internet-based sales in the wake of a 2018 Supreme Court decision making clear that they are legal.

“Extending gross receipts taxes to e-commerce businesses that don’t have a physical presence here eliminates an unfair competitive advantage those companies enjoyed at the expense of homegrown, New Mexico-based businesses,” said Taxation and Revenue Secretary Stephanie Schardin Clarke. “It is an important move that will also ensure the State’s revenues will grow along with the economy and the need for public services into the future.”

Starting July 1, 2019, businesses subject to the new collections will pay only the statewide GRT rate of 5.125 percent. Starting July 1, 2021, those businesses will also be required to collect city and county GRT increments based on sale destinations. In the two-year interim before city and county taxes are collected, those local governments will share a $24 million annual appropriation from the General Fund, apportioned to each entity by population.

Other changes taking effect July 1 include:

- An increase in the Motor Vehicle Excise Tax from 3% to 4%. The increase is effective for any motor vehicles purchased on July 1, 2019 or later. Vehicles purchased before that date, even if titled and registered afterward, will be subject to the 3% tax. Revenue from this increase will make $52 million annually available for roads and bridges, including improvements to address emergency road conditions present in southeastern New Mexico's Permian basin.
- Non-profit and governmental hospitals will now collect tax on sales and services, bringing them in line with similar for-profit hospitals. All hospitals will be eligible to deduct an additional 60% of receipts after all other eligible exemptions and deductions have been taken. The move will raise a total of $93 million per year for the General Fund.
- Taxes on cigarettes will increase from $1.66 per pack to $2 per pack. Cigars will be taxed at 50 cents each or 25 percent of wholesale/manufacturer value, whichever is lower.
- E-cigarette liquid will now be subject to a 12.5% tax on the wholesale/manufacturer value. So-called "closed system" cartridges, such as Juul pods, will be taxed at 50 cents each.

Refer to Page 22 -
Stephanie Hernandez

New Mexico Municipal League

SUMMARY OF 2019 LAWS of Interest to Municipalities

July, 2019

P.O. Box 846
Santa Fe, New Mexico 87504-0846
Street Address: 1229 Paseo de Peralta 87501

Telephone: (505) 982-5573
Toll-Free: 1-800-432-2036
FAX: (505) 984-1392
www.nmml.org

PREFACE

New Mexico Chapter Laws are numbered in the order in which the Governor signs them.

The Governor has line-item veto power over bills containing appropriations. Partial vetoes are designated by striking through the deleted language.

The designation “CS/” or “FL/” before a bill means “Committee Substitute” or “Floor Substitute” indicating that a House or Senate Committee, or the entire House or Senate during a floor session, passed a rewritten version in place of the original bill.

The effective date of the signed bill is shown at the end of the chapter summary. Unless a specific effective date is listed in the bill, it is effective 90 calendar days after the close of the session (June 14 this year) or, if it is an appropriation, on July 1, the beginning of the new fiscal year. Bills with an emergency clause (*) become effective on the date signed by the Governor if passed by a two-thirds margin in each house.

Proposed Constitutional Amendments (CA) are in the form of joint resolutions passed by both houses and are numbered in order of final passage. They do not require the Governor’s signature, but are enacted if they receive voter approval by a majority vote at a statewide general or special election.

Joint Resolutions and Memorials are expressions of intent and usually request state agencies or committees to perform some task and report back to the Legislature. They have passed both houses, but do not require the Governor’s signature. Memorials are also expressions of intent or request for some action but need only pass the house in which they were introduced. They do not require the Governor’s signature.

All bills that were vetoed by the Governor this year are reported at the end of the Summary. A “pocket veto” designation means the Governor took no action on the bill within the required time limit. This effectively vetoes the measure.

More legislative information is available at the Legislature’s web site at www.nmlegis.gov.

Santa Fe, New Mexico

2019 SUMMARY OF LAWS SUBJECT INDEX

2019 Summary of New Mexico Laws of Interest to Municipalities

(pv) = partial veto

Chapter 6

HB 74 **TRADITIONAL HISTORIC COMMUNITY QUALIFICATIONS (Gonzales, Romero, Lara, Herrera)** This bill changes eligibility for areas that qualify as an urbanized territory under NMSA 1978, Section 3-2-3, striking two sections of statute. The first section amended by this bill strikes reference to county class and population between 95,000 and 99,500, based on the 1990 federal decennial census. This bill also changes eligibility for areas that qualify as a traditional historic community. This bill strikes references to county class and population between 95,000 and 99,500, based on the 1990 federal decennial census. Effective July 1, 2019.

Chapter 7

HB 97 **LOCAL GOVERNMENT INVESTMENT POOL PARTICIPANTS (Salazar)** This bill amends Section 6-10-10.1 NMSA 1978 to specifically allow the Public Employees Retirement Association (PERA), Educational Retirement Board (ERB) and the State Investment Council (SIC) to participate in the local government investment pool. Effective July 1, 2019.

Chapter 10

HB 217 **INFRASTRUCTURE DEVELOPMENT ZONE MEETING (Trujillo, L.)** This bill amends Chapter 5, Article 17 NMSA 1978, cited as the Infrastructure Development Zone Act, to allow the petitioner(s) to send a notification of a public hearing by first class mail or electronic mail to property owners within the area proposed to be included within the infrastructure development zone as listed on the records of the county clerk. Failure to notify all property owners by first class or by email would not provide grounds for a challenge to the hearing being held. The bill replaces the term “certified” with the term “first class” mail and would also allow notifications to property owners to be sent by email to those owners that have an email address. Effective July 1, 2019.

Chapter 13

HB 229 **REGIONAL AIR CENTER SPECIAL ECONOMIC DISTRICT (Ezzell, Anderson, Nibert) C**ontains specific requirements related to authority member eligibility, term limits, conflicts of interest, and removal. The district itself would consist of land and real property formerly associated with a United States military base. However, the Bill also allows other land to be included as well. To that end, the authority is granted with the power to seize land through eminent domain. The authority governing the district itself would be given a number of other specific, enumerated powers, including: bringing lawsuits, adopting policies and procedures, employing personnel, and altering the boundaries of the district. Effective July 1, 2019.

Chapter 14

HB 237 **EXTEND UNIVERSITY POLICE OFFICER AUTHORITY (Ruiloba)** Amends Section 29-5-2 NMSA 1978, which currently limits authority of university police to lands controlled by universities. This bill extends that authority to roadways immediately adjacent to school campuses, and replaces use of the pronoun "him" with "the officer." Effective July 1, 2019.

Chapter 18

HB 276 **ESTABLISH ADVANCED MAPPING FUND (Sweetser)** Creates a new fund to support advanced mapping techniques for water resources. Effective July 1, 2019.

Chapter 20

SB 18 **LOCAL GOVERNMENT PLANNING FUND (Candelaria, Salazar)** Appropriates $3 million from the public project revolving loan fund (PPRF) to the local government planning fund (LGPF) administered by the New Mexico Finance Authority (NMFA) for the purpose of funding local governments and other qualified entities to evaluate, estimate, and determine the most feasible costs or alternatives for infrastructure, and to develop planning documents for water or wastewater public projects, water conservation, long-term master plans, economic development plans, and energy audits. The bill allows for payment of the administrative costs incurred by NMFA for administration of the LGPF. Effective July 1, 2019.

Chapter 25

SB 106 **SHORT TERM OCCUPANCY RENTALS TAX (Sapien)** Removes an exemption from the local-option occupancy tax (3-38-13 et seq. NMSA 1978) for short-term rentals (less than 30 days) by a vendor that does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction. It appears the intent of this bill is to remove an unanticipated tax exemption for homeowners who rent rooms through third-party websites and applications, as well as to level the playing field between designated and compliant accommodations and somewhat less compliant accommodations. The effective date of this bill is January 1, 2020 per SCORC amendment.

Chapter 27

SB 118 **PROTECT CONFIDENTIALITY OF CRIME VICTIMS (Candelaria, Hochman-Vigil)** Amends the Inspection of Public Records Act by: providing that the law enforcement records exception applies to portions of law enforcement records that reveal, before charges are filed, the names of victims and non-law enforcement witnesses to specified crimes of assault, stalking, criminal sexual penetration, and criminal sexual contact. The bill provides that the presence of information covered by the exception does not exempt the record from inspection; and amending the "catch all" exception to protect public records from the right to inspect as otherwise provided by the New Mexico Constitution, statute, or rules promulgated by the New Mexico Supreme Court. Senate Bill 118 adds a new section to the Inspection of Public Records Act that contains the provision governing the redaction of protected personal identifier information currently in Section 14-2-1(B) of the Act. The House Judiciary Committee's amendment to Senate Bill 118 adds the "address, contact information, or protected personal identifier information" of a covered individual to the information SB 118 exempts from the right to inspect public records. Effective July 1, 2019.

Chapter 39

SB 199 **ELECTRONIC COMMUNICATIONS PRIVACY ACT (Wirth)** Will require law enforcement and other government entities to seek court approval in order to acquire, retain, and use electronic information found on mobile phones, found on tablets or similar devices, and/or obtained from mobile telephone and internet service providers, with some exceptions. Effective July 1, 2019.

Chapter 44

SB 11 **GROSS RECEIPTS FOR NONPROFIT (Cisneros, Martinez, Chandler, Romero)** Amends Section 7-9-29 NMSA 1978, which provides an exemption from gross receipts taxes (GRT) on receipts of 501(c)(3) nonprofits. Broadens the applicability of the bill, removing from the tax exemption not just the receipts of a prime contractor derived from operating a national laboratory but also the receipts of a prime contractor derived from operating a research facility owned by the state. This is intended to address concerns about the prior exclusion being too narrow, now broadening it to prime contractor receipts from the state or federal government through a contract to operate a state-owned research facility or national laboratory. Effective July 1, 2019.

Chapter 47

SB 162 **INSURANCE PREMIUM TAX PROVISIONS (Sanchez)** Amends Section 53-8-51 NMSA 1978 by requiring each type of business subject to the statute to submit an additional statement as part of articles of dissolution, confirming that it has resigned as registered agent, or that it is not a registered agent of another entity. The bill also updates the filing office as the Secretary of State. Effective July 1, 2019.

Chapter 50

SB 42 **MISSING PERSON NOTIFICATIONS (Martinez)** Amends the Missing Person and Information Act ("MPI Act") to require a silver alert when an "endangered person," as defined by the MPI Act, is missing and is fifty years or older, or suffers from Alzheimer's disease or another form of dementia, regardless of age. The bill expands the silver alert requirements developed and implemented by DPS for disseminating information about a person subject to an alert, including notification to DOIT that a silver alert has been issued.

Upon notification, DOIT is required to transmit the notification to all "state field operations employees." The bill provides DPS to require cellular service companies to implement silver alerts in accordance with the FCC's wireless emergency alerts processes, and that only DPS may terminate a silver alert. Under SB 42, DPS is required to develop a silver alert plan that includes, in addition to the notification to DOIT, procedures for: notifying the "lead station," as defined by the MPI Act, that a silver alert has been declared; other state and private news media sources to alert the public of the missing person; notifying cellular service companies and paging service companies, who will send a text message to their customers at no additional expense to the recipients; notifying all local and federal law enforcement agencies about an alert; the dissemination of information about the missing person to the lead station, DOIT, and local law enforcement agencies; and collecting and maintaining specified records regarding each silver alert issued. SB 42 requires DPS to distribute the silver alert plan and provide training to all local law enforcement agencies. Effective July 1, 2019.

Chapter 55

HB 124 **FIRE PROTECTION FUND CHANGES (Sweetser, Armstrong)** Amends the Fire Protection Fund Act by clarifying that municipalities and county fire districts may use Fire Protection Fund (FPF) money to buy land for fire stations and substations, and allowing these entities with obligations from the fund to solicit additional awards. This bill adds that FPF money may go towards refinancing cost associated building and operating fire stations and substations, and fire station equipment, and simplifies language around the prohibited use of FPF money for cost associated water supply systems, fire hydrants, and water distribution from an entity's water system. This bill states that an entity may use money from the FPF if they own the land on which it intends to build without any liens, or land is donated to the entity for the use of building construction. HB124 clarifies that the purchase of land is an allowable expenditure of the Fire Protection Fund money. HB 124 also removes the statutory limitation imposed on municipal fire departments ("Departments") and county fire districts ("Districts") requiring that only one land acquisition, fire station, or substation obligation can be outstanding at any time.

This bill also requires the fire marshal to approve of expenditures related to water supply systems or their improvement or construction, the purchase, rental, installation or maintenance of fire hydrants, or any other appurtenance related to the distribution or use of water from its water supply system. The bill also states that money distributed from the fire protection fund to a municipality or county fire district shall not be expended for any public, private or other water system used for potable water supply. Effective July 1, 2019.

Chapter 63

HB 430 **LIBRARY PROCUREMENT CODE EXEMPTION (Trujillo)** Amends the Procurement Code Section 13-1-98 NMSA 1978 to exempt purchases of print, digital, or electronic format library materials by public, school and state libraries for access by the public and publishing and distribution services for materials produced and intended for resale by the cultural affairs department. Effective July 1, 2019.

Chapter 65

SB 489 **ENERGY TRANSITION ACT (Candelaria, Small, Stewart, Caballero, Egolf)** Creates the Energy Transition Act (ETA). The bill establishes new renewable and zero carbon emission portfolio standards for both utilities and rural electric cooperatives and authorizes an alternative mechanism for financing the retirement of coal-fired power plants. The mechanism (referred to as "energy transition bonds" in the bill, commonly known as "securitization") provides investor-owned utilities with 100 percent recovery of stranded costs at potentially lower cost to customers as compared to conventional financing mechanisms. It has been designed to accommodate the retirement in 2022 of units 1 and 4 of the San Juan Generation Station (SJGS) and to anticipate the closure of the Four Corners Power Plant in 2031. The bill also amends the duties and powers of the Environmental Improvement Board (EIB), requiring the EIB to promulgate a rule limiting carbon dioxide emissions from coal fired generating plants to an emissions standard of 1,100 lbs-CO_2/MWh on or after January 1, 2023.

The ETA is also designed to mitigate some of the adverse economic effects on local communities. It allows for abandonment costs of a coal-fired plant to include mine reclamation costs and severance and job training costs for displaced workers. It requires the location of replacement power resources in the school district where the abandoned facilities are located, taking into consideration system reliability. The bill creates three new funds – managed by the Indian Affairs Department (IAD), Economic Development Department (EDD) and the Department of Workforce Solutions (DWS) and – to be used to assist communities affected by abandoned coal plants and displaced workers. If a utility issues energy transition bonds, the bill requires some of the bond proceeds to be transferred to these funds. The ETA also establishes the Apprenticeship Assistance Act to be administered by the Workforce Solutions Department requiring the employment of apprentices during the construction of electric facilities in increasing percentages over time.

The bill indicates that the provisions of the act shall not apply to a qualifying utility that makes an initial application for a financing order more than 12 years after the effective date of this act. Effective July 1, 2019.

Chapter 66
SB 143 **PRC FIRE SAFETY STANDARDS (Stewart)** Requires the Public Regulation Commission (PRC) to promulgate rules requiring inspection and testing of fire and smoke dampers and smoke control systems in accordance with national fire protection association standards (NFPA) for a set list of occupancies. NFPA standards require inspection and testing upon installation, one year thereafter, and then every four years. This differs from the current requirement that requires inspections and testing at the time of installation. Effective July 1, 2019.

Chapter 67
SB 672 **EARLY & AUTO VOTER REGISTRATION (Lopez, Ivey-Soto, Trujillo l.)** Adds a new sections to the Election Code governing voter registration during early voting and requirements for registering to vote in connection with driver's licenses. The bill sets forth procedures for allowing qualified electors to register to vote or update a registration during early voting periods at the county clerk's office and alternative voting sites immediately before voting in the election. Effective July 1, 2019.

Chapter 70
SB 43 **DRINKING WATER SYSTEM FINANCING (Martinez, R.C.)** Appropriates $2.5 million from the public project revolving fund (PPRF) to the drinking water state revolving loan fund (DWSRLF), to provide matching funds for the federal Safe Drinking Water Act and for the purposes of the Drinking Water State Revolving Loan Fund Act. Effective July 1, 2019.

Chapter 72
SB 165 **MUNICIPAL RECENT FOR BOND REPAYMENT (Sanchez, Powdrell-Culbert)** Strikes language that currently restricts municipalities from: Using gross receipts tax (GRT) revenue to repay utility bonds, joint utility bonds, or gas tax revenue bonds; Using gas tax revenue to repay utility bonds, joint utility bonds, or GRT bonds; and using the revenues of any utility or joint utility to repay GRT bonds or gas tax bonds. It also explicitly provides authority to municipalities to pledge revenues from one source to the payment of bonds that refund bonds payable from a different source of revenue. Effective July 1, 2019.

Chapter 76
SB 326 **WATER PROJECT FUND PROJECTS (Cervantes, Salazar)** Authorizes the New Mexico Finance Authority (NMFA) to make loans or grants for 30 projects from the water project fund. The NMFA establishes the terms and conditions of the loans and

grants awarded from the water project fund as recommended by the Water Trust Board (WTB). The bill contains an emergency clause. Effective July 1, 2019.

Chapter 79
SB 517 **DWI WITH MINOR IN THE VEHICLE (Ivey-Soto)** Creates a new section of Chapter 66, Article 8, NMSA 1978, that creates a new offense of driving under the influence of intoxicating alcohol or drugs in violation of 66-8-102 NMSA 1978. The new offense is a misdemeanor offense and only applies if the minor does not suffer great bodily harm or death, which shall be in addition to a charge for the violation of Section 66-8-102 NMSA 1978. The law defines minor as someone who is under the age of 13 years of age. Effective July 1, 2019.

Chapter 81
HB 85 **UNION SECURITY AGREEMENTS (Ely, Romero)** Creates a law permitting an employer or labor organization in the state to execute and apply an agreement requiring membership in a labor organization as condition of employment to the full extent allowed by federal law. HB85 precludes cities, counties, home rule municipalities, and other political subdivisions from adopting or continuing in effect ordinances, rules or resolutions that prohibit agreements requiring membership in a labor organization as a condition of employment in the state. Effective July 1, 2019.

Chapter 86
SB 668 **STATE ETHICS COMMISSION ACT (Stewart)** The act provides for the appointment of members of the State Ethics Commission, created under Article IV, Section 17 of the state constitution. The duties of the commission include receiving and investigating complaints against public officials and employees, government contractors and lobbyists; holding hearings to determine whether violations have merit; promulgating rules necessary to implement and administer the act; compiling and providing public access to advisory opinions and reports; drafting a code of ethics for public officials and employees; and submitting an annual report to the Governor. Effective July 1, 2019.

Chapter 88
SB 12 **WATER RIGHTS NOTIFICATIONS ONLINE (Cisneros, Salazar)** Enacts a new section of Chapter 2, Article 2 NMSA 1978 and amends other sections of state laws to provide when notice of certain water permit applications are required. If the state engineer determines that notice of an application shall be published: the State Engineer shall post on its website the facts of the application, the newspaper required to provide notice, its contact information and date objections may be filed, which is 70 days after the date of posting on its website; within five days of posting, the State Engineer shall instruct applicant to publish notice in a form and newspaper prescribed once a week for three weeks, with the last date of publication no less than ten days prior to the date objections may be filed; the applicant shall file with the State Engineer proof of publication as required within twenty days after the last date of publication; and if publication does not occur within sixty days of posting, the applicant shall request new publication instructions and deadlines from the State Engineer. The posting, publication and timeline instructions are repeated in each of five sections of the bill for five types of permit applications; Sections 72-5-4 (appropriation of surface water), Section 72-5A-5 (groundwater storage and recovery), Section 72-6-6 (water use leasing), Section 72-12- 3 (appropriation of groundwater), and Section 72-12B-1 (export of water outside the State). Effective July 1, 2019.

Chapter 101

HB 56 **PROSTITUTION AS DELINQUENT ACT (Chasey, Trujillo)** Amends the Code to allow a law-enforcement officer to take into protective custody a child who the officer reasonably believes is engaged in prostitution or is a victim of human trafficking. Consistent with the Code's current language 32A-3B-3(A)) NMSA 1978 the law-enforcement officer would not need a court order to take custody of the child. The bill also requires that, when law enforcement notifies CYFD that they have taken a child into protective custody, CYFD must refer the child to Community based services regardless of whether CYFD returns the child to its parent, guardian, or custodian, or files a petition for custody be in the community. Effective July 1, 2019.

Chapter 102

HB 135 **SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS (Thomson)** Amends the Criminal Code to add a sexual assault survivor's bill of rights. The bill of rights requires a health care provider to, among other things, provide a survivor with a consent form authorizing the release of a sexual assault examination kit to a law enforcement agency and to contact law enforcement if the survivor consents. The obligations of a law enforcement agency that receives an examination kit include providing the survivor with test results and information related to any DNA profile obtained; and, with the survivor's consent, entering information from the kit into the DPS statewide sexual assault examination kit tracking system. The bill of rights requires a crime laboratory to complete the processing of an examination kit within 180 days of receiving the kit. Effective July 1, 2019.

Chapter 103

HB 151 **LIQUOR DELIVERIES BY LICENSED MINORS (Ruiloba)** Amends the Liquor Control Act to allow minors of at least 18 years of age and who are licensed under the New Mexico Commercial Driver's License Act to deliver packaged alcoholic beverages to holders of dispenser, retailers, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's or rectifier or any other license that allows for the purchase and delivery of alcoholic beverages. The bill also authorizes wholesalers to employ persons who are at least 18 years of age and licensed under the New Mexico Commercial Driver's License to deliver packaged alcoholic beverages to holders of dispenser, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's or rectifier license or to any other licensee that allows for the purchase and delivery of alcoholic beverages by license wholesalers. Only sealed, unbroken packages may be delivered by minors. Effective July 1, 2019.

Chapter 105

HB 205 **BABY CHANGES FACILITIES IN RESTROOMS (Romero)** Requires baby changing facilities be available in each restroom in a place of public accommodation. The bill identifies 12 types of facilities deemed to be public accommodations. No later than January 1, 2020, the authority having jurisdiction of RLD must adopt rules governing baby changing facilities for restrooms in these public accommodations. Every restroom must have baby changing facilities when a new restroom is constructed and those facilities can be provided in compliance with other local, state and federal laws regarding access for persons with disabilities and existing fire, health and safety standards. All drawings, specifications and other submittal documents for construction of a place of public accommodation shall incorporate the requirements of this section when submitted to the CID for plan review. No certificate of occupancy can be issued unless the submitted documents are in compliance with this requirement. Effective July 1, 2019.

Chapter 109
HB 389 **GENDER FREE RESTROOMS (Rubio)** Requires that a single-user toilet facility in a public accommodation (which includes any establishment that provides or offers its services, facilities, or goods to the public) be made available to any person regardless of gender identity or sex, be designated for use by not more than one occupant at a time or for family or assisted use, and be identified with gender-neutral signage but clarifies that the provisions of the bill apply to existing and newly constructed restrooms, and do not require the construction of any new restrooms. Effective July 1, 2019.

Chapter 110
HB 440 **SOLAR ENERGY IMPROVEMENT ASSESSMENT (Akhil, Sarinana, Sanchez)** Allows for residents in municipalities to take advantage of the county solar energy improvement special assessment, which provides for counties to pay the up-front cost of renewable energy systems for individuals and be paid back through property tax assessment, if the municipality adopts an ordinance allowing it. The bill also allows the county to contract with a third party for help planning and administering the special assessment. Effective July 1, 2019.

Chapter 114
SB 437 **RAISE MINIMUM WAGE AND CREATE SEPARATE ONE (Sanchez)** The bill raises the minimum wage as follows: "A. Except as provided in Subsection B or C of this section, an employer shall pay to an employee a minimum wage rate of: (1) prior to January 1, 2020, at least seven dollars fifty cents ($7.50) an hour; (2) beginning January 1 , 2020 and prior to January 1,2021, at least ten dollars ($10.00) an hour; (3) beginning January 1,2021 and prior to January 1,2022, at least eleven dollars ($11.00) an hour; and (4) on and after January 1, 2022, at least twelve dollars ($12.00) an hour. B. Beginning January 1, 2023 and on January 1 of each successive year, the minimum wage rate provided in Subsection A of this section shall be increased by the lesser of three percent or the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor or its successor agency, with the amount of the minimum wage rate increase rounded to the nearest multiple of five cents ($.05); however, the minimum wage rate shall not be adjusted downward as a result of a decrease in the cost of living. The workforce solutions department shall publish by October 1 of each year the adjusted minimum wage rates that shall take effect the following January 1." Finally, the amendment changes rates for tipped employees to, "that is thirty percent of the minimum hourly wage rate provided in Subsection A of this section at the time the hours were worked in addition to tips received." Effective July 1, 2019.

Chapter 118
HB 324 **PTSD AS FIREFIGHTER EMPLOYMENT CONDITION (Armstrong, D., Stansbury)** Amends the Occupational Disease and Disablement Law to add post-traumatic stress disorder (PTSD) to the list of conditions that are presumed to be caused by a firefighter's employment. If PTSD is added, an employer shall provide

medical treatment as would be done for other job-related conditions. The bill also makes minor adjustments such as changing references of “disease” to “condition”. Effective July 1, 2019.

Chapter 120
HB 16 **DEPARTMENT OF PUBLIC SAFETY INFORMATION SHARING (Sanchez)** Adds a new section to the Missing Persons Information and Reporting Act (29-15 NMSA 1978) titled the Mark Daniel Aguilar Information Sharing Requirement. The bill requires the Department of Public Safety (DPS) to share with the federal Department of Justice National Missing and Unidentified Persons System all information in the state missing persons information clearinghouse and all information DPS receives pursuant to 29-15 NMSA 1978 regarding the identification and location of missing and unidentified persons or human remains. Effective July 1, 2019.

Chapter 121
HB 17 **WATER LEASES & USE OF LEASED WATER (Chandler, Wirth)** Amends Section 72-6-3 NMSA 1978 by requiring that a water use lease permit may only be granted after OSE has heard objections to and approved the application. Makes the bill only applicable to water right leases served by an acequia or community ditch, and further provides that such water use be subject to approval by the acequia or community ditch in accordance with statutory procedures for approval of changes in point of diversion, place or use. Effective July 1, 2019.

Chapter 123
HB 100 **REPLACE COLUMBUS DAY AS INDIGENOUS PEOPLES DAY (Lente, Romero)** Amends section 12-5-2 NMSA 1978 to change “Columbus” to “Indigenous Peoples’”, effectively changing Columbus Day to Indigenous Peoples’ Day. This bill also amends parts of section 57-12-21 NMSA 1978 to standardize language, as well as change “Columbus” to “Indigenous Peoples’”, “Washington’s birthday” to “President’s day” and adds “Armistice day” to the list of business holidays stated in this section. Effective July 1, 2019.

Chapter 127
HB 241 **PUBLIC PROJECT REVOLVING FUND PROJECTS (Lundstrom, Candelaria)**. The bill authorizes NMFA to provide loans from the public project revolving fund (PPRF) to 222 separate state and local government entities based on terms and conditions established by NMFA. This bill contains an emergency clause. The bill voids legislative authorization if a qualified entity does not notify NMFA by the end of FY2022 of its intent to pursue a loan from the NMFA. Effective July 1, 2019.

Chapter 128
HB 256 **ADD E-CIGARETTES TO CLEAN INDOOR AIR ACT (Ferrary, Thomson, Armstrong, Pratt, Trujillo)** Amends the Dee Johnson Clean Indoor Air Act to make two major changes: 1) Include e-cigarettes and their vapors from being used and inhaled in the spaces in which tobacco and similar products are prohibited by the act; 2) Further restrict the use of all tobacco and related products, including e-cigarettes, by eliminating areas where smoking traditional tobacco products or inhaling e-cigarettes could be used. The newly defined locations where smoking or using e-cigarettes would be permitted would include retail tobacco stores and cigar bars if they were in stand-alone buildings, state-licensed casinos and the like, designated outdoor smoking areas, private residences (unless a private residence was used for child care) or clubs, all

limousines for hire, enclosed areas within restaurants, bars, conference and meeting rooms, hotel or motel rooms designated as allowing smoking (but only 10 percent of all rooms in a given motel or hotel could be designated as allowing smoking), theatrical stages or motion picture sets when "necessary for performers to smoke as part of the performance." In addition, a new definition of "secondhand smoke" is proposed, to include smoke emitted from cigarettes, cigars, pipes or hookahs or coming from other lighted or heated tobacco or other plant products (to include cannabis) or any other use of an e-cigarette. Effective July 1, 2019.

Chapter 129

HB 129 **SCHOOL SECURITY PERSONNEL & DEADLY WEAPONS (Trujillo)** Adds new sections to New Mexico Statutes providing armed school security personnel. Section 1: language is added to Chapter 22, Article 5 NMSA 1978 providing only local school boards have authority to authorize school security personnel to carry firearms on public school premises or other school district property. This action must be made in an open meeting. Section 2: a new section is added to the Charter Schools Act providing only the governing board of a charter school has the authority to authorize school security personnel to carry firearms on charter school premises or other charter school property. This action must be made in an open meeting. Section 3: definitions for "armed school security personnel", "firearm", "local school board", "school district", "school premises" and "school security guard" are added to the Public School Code.

PED shall promulgate rules pertaining to persons who are prohibited from employment as armed school security personnel. Prior to an offer of employment, the school district shall require from each potential armed school security personnel: proof the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing; successful completion of school security personnel training; successful completion of background check as stipulated in HB 129/HJCS; other conditions required by law, PED rule, or school district policy; holding no other job title or job duties in the school district. Prior to being allowed to carry firearms as authorized by local school board policy, the armed school security personnel must successfully pass a physical and psychological evaluation as prescribed by PED. PED shall approve one or more nationally recognized armed school security personnel training programs that include cultural competency and prohibited profiling practices. Section 4: Nothing in HB 129/HJCS shall be construed as allowing armed school security personnel to carry a firearm on school premises if doing so would be a violation of state or federal law. HB 129/HJCS does not apply to school resource officers. Effective July 1, 2019.

Chapter 133

HB 312 **SEIZURE & DISPOSITION OF FORFEITED PROPERTY (Chandler, Ivey-Soto)** Amends Section 8(H), governing the property of innocent owners, by requiring that forfeited firearms, ammunition, or explosives subject to forfeiture that are not returned to an innocent owner must be destroyed upon a motion by the law enforcement agency and an order of the court. The bill clarifies that abandoned property is not subject to the provisions of 29-1-14 NMSA 1978 which governs unclaimed property including deadly weapons, controlled substances, and other contraband. The bill adds an exemption for animals that are subject to seizure, impoundment removal from custody or destruction for public health, safety and welfare purposes.

The bill also exempts real property or personal property that is located on real property that is subject to destruction to protect public health, safety and welfare, and it exempts forfeiture that results from a lien for charges or assessments. When determining the value of a forfeited asset, the bill allows the court to consider the nonmonetary value of the property the defendant would suffer if the forfeiture occurs. The bill authorizes two expenses before revenues are deposited in to the general fund: 1) reimburse the costs to the State Treasurer to store forfeited items and 2) pay reasonable expenses for law enforcement agencies or the Treasurer to dispose of property. The bill requires the preparation of an annual report within 60 days following the conclusion of each fiscal year regarding seizures and forfeitures conducted pursuant to "applicable state law" rather than the Forfeiture Act. This bill has an emergency clause and is effective April 2, 2019.

Chapter 140

HB 429 **PROPERTY TAX INCREASE LIMIT FOR SOME PEOPLE (Rehm, Powdrell-Culbert)** The modified gross income limits are increased from $32,000 to $35,000. This income limit is indexed to the Consumer Price Index (CPI-U), with a base year of 2020 and a calculation year of September of the year before the tax year. This restructuring will allow indexing to actually work to increase the $35,000 limit each year to account for inflation. There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends, or June 14, 2019. The new provision would affect the 2020 property tax year.

Chapter 147

HB 651 **WATER DATA ACT (Stansbury, Armstrong, Sedillo, Lopez)** The Water Data Act creates the directing agencies, and directs the establishment of a water data account. The bill defines "agencies" and provides that the purpose of the Water Data Act is to develop a modern, integrated approach to collecting, sharing and using data and information by state agencies for water management, and to integrate federal, tribal, state, local, and nongovernmental data.

The act also establishes a fund to accept both state and outside monies to support improvements to water data. The bill creates a new interagency water data council to be administered, co-chaired, and staffed by the Bureau of Geology and Mineral Resources (the entity charged with maintaining the data) and the Interstate Stream Commission at OSE (the primary state agency charged with state water planning. The mission of the council is to; identify water data, information, and tools; Develop common water data standards and best practices for data collection, sharing, transparency, and integration; develop an integrated water data and information platform; and identify data and information gaps and needs for further development. By September 1 each year, the council would submit a plan assessing water data needs, goals, and actions, progress and performance metrics, and budgetary needs for the next fiscal year. The council would organize an advisory group of federal, tribal, local, and nongovernmental stakeholders to advise the council on water data needs and collaborate on water data integration. Effective July 1, 2019.

Chapter 151

SB 76 **PROHIBIT COYOTE KILLING CONTESTS (Moores, Steinborn)** Senate Bill 76 prohibits organized or sponsored competition with the objective of killing coyotes for prizes or entertainment and establishes penalties. A person that organizes, causes, sponsors, arranges, provides a venue for, or holds a coyote-killing contest would be guilty of a misdemeanor and a person who participates in a coyote-killing contest would be guilty of a petty misdemeanor. Senate Bill 76 further provides that killing a coyote in the protection of a person or property will continue to be permitted, unless otherwise prohibited by law. Effective July 1, 2019.

Chapter 152

SB 84 **SENIOR CENTER FOOD GARDENS (Stefanics, Armstrong)** The purpose of Senate Bill 84 is to encourage the growing of food crops at senior centers, with ALTSO permitting any senior center to develop programs for producing edible fruits and vegetables by senior citizens and senior center staff, and to use the harvested crops from these efforts in food service at these institutions or to be given to senior participants. Effective July 1, 2019.

Chapter 153

SB 88 **PROCUREMENT FUNCTIONS TO GSD (Tallman)** Requires sole source and emergency procurements to be posted to the websites of the purchasing agency and the GSD website, narrows and clarifies provisions for emergency procurements. Section 1 of the bill requires DFA to collect and maintain information on the amount of state agency contracts awarded to in-state and out-of-state contractors and to make an annual report to the Purchasing Division of the General Services Department (GSD) on the amount of the state agency contracts awarded to in-state and out-of-state contractors. Sections 2 and 3 strike references to DFA in relation to review and award of professional services and small purchase contracts. Section 4 requires GSD and the central purchasing office of any government entity to post intent to award a sole source contract to its website 30 days prior to the procurement. Section 5 alters the test for award of emergency procurement but maintains that agencies show an immediate need to make the procurement related to a serious threat to public health, welfare, safety or property caused by disasters enumerated in the section. Section 6 transfers all employees and related equipment, funding, and records from the contract review bureau at DFA to GSD. Effective July 1, 2019.

Chapter 154

SB 107 **FINANCIAL RESPONSIBILITY ELECTRONIC EVIDENCE (Sapien)** Amends Section 66-5-299 NMSA 1978 to allow an owner or operator of a vehicle to provide evidence of financial responsibility in print or via accessibility through a portable electronic device. The owner or operator of a vehicle who provides evidence of financial responsibility through a portable electronic device assumes all liability for any resulting damage to the portable device and is presumed to not consent to provide access to law enforcement to any other information stored on the portable electronic device. Effective July 1, 2019.

Chapter 158

SB 147 **SCHOOL SAFETY DRILL REQUIREMENTS (Brandt)** Amends Section 22-13-14 NMSA 1978, public and private school must: During the first four weeks of the school year, each school shall conduct one shelter in place drill that includes preparation to respond to an" active shooter, one evacuation drill and two fire drills. After the first four weeks, for the remainder of the school year, each school shall conduct a least four more emergency drills, at least two of which shall be fire drills. The requirement for public and private schools to conduct monthly emergency drills throughout the school year after the first four weeks of the school year is stricken. Effective July 1, 2019.

Chapter 165

SB 264 **RURAL LIBRARY DEVELOPMENT PROGRAM & FUND (Ortiz y Pino)** Creates a rural libraries endowment fund in the State Treasury to fund rural libraries (defined as any public or tribal library serving a population under 3,000 or any nonprofit library serving an unincorporated area), as well as specialized rural library services, administered by the state librarian. Starting in FY22, earnings on the fund shall be distributed based on a formula using the fund's average investment earnings, in a total amount up to 5 percent of the year-end market value of the fund for the preceding calendar year. The funds shall be distributed to the rural libraries program fund (95 percent of the distribution) and to the department of cultural affairs for the delivery of specialized services to rural libraries (5 percent of the distribution). SB264 also creates the rural libraries program fund, administered by the State Librarian, into which disbursements from the rural libraries endowment fund are made. Funding in the rural libraries program fund shall be distributed in the forms of grants to rural libraries, including both developing and established rural libraries. Rural libraries are defined as any library located in unincorporated areas with populations less than 3,000, established by a political subdivision of the state or tribal government or established as a nonprofit corporation. Effective July 1, 2019.

Chapter 167

SB 278 **DRIVERS LICENSE CHANGES (Ortiz y Pino, Ivey-Soto)** Amends the Motor Vehicle Code to mandate only two types of driver's licenses— REAL ID-complaint and a standard driver's licenses—distinguishing each by their use or nonuse for official federal purposes and by federal agencies. TRD will ensure the REAL-ID compliant and standard driver's licenses that are distinguishable in color or design but only to the extent that a standard driver's license shall bear the statement: "NOT INTENDED FOR FEDERAL PURPOSES" and a REAL ID-compliant driver's license shall include a gold star. It sets requirements for each type of license. Expiration of licenses are either four or eight years from the effective date of the license instead of being linked to the applicant's birthday. The bill changes language throughout statute to REAL ID-compliant driver's license and standard driver's license instead of non-REAL ID driver's license. Identification cards will also be REAL ID-compliant or a standard identification card with requirements for each. For a standard driver's license, a valid license or ID card shall satisfy the department's identity, age and New Mexico residency requirements. The bill also repeals Section 66.5.15.2 NMSA 1978 requiring photographs and fingerprints of individuals applying for a driver's license or identification card. The substitute also adds the licensee's organ donor status to the information required on any driver's license. This bill adds a new section that makes it unlawful for a public accommodation to refuse to accept a standard driver's license identification card if federal identification is not required. This bill also amends Section 66-8-111.1 NMSA 1978 requiring a law enforcement officer to serve immediate written notice of revocation and of right to a hearing to a person who refuses to permit chemical testing and whose chemical test results indicate a blood alcohol concentration in the person's blood or breath that exceed statutory limits. The bill also eliminates language that requires a law enforcement officer to take and send to the department a person's driver's license upon serving the written notice of revocation and right to a hearing. The bill includes a temporary provision that current driver's authorization cards are valid until expiration. The effective date of the provisions of the bill is October 1, 2019.

Chapter 170

SB 473 **ADDITIONAL INVESTMENT VEHICLES (Rodriguez)** Makes it clear it is the duty of the treasurer to bring to the Board of Finance amendments to the investment policy and receive consent before the amendments take effect. It is also clarified the investment policy must be reviewed at least every two years, but there is no requirement to amend it as part of every review and allows the State Treasurer and county and municipal treasurers to invest in securities issued by a supranational issuer. It permits the State Treasurer to invest in securities issued by all United States government sponsored enterprises. It also restricts the maturity timeframe for most investments by county and municipal treasurers, providing maximum maturity dates not to exceed 10 years from the date of purchase in many cases, five years for supranational securities (this is also a limitation for the State Treasurer), and 180 days for commercial paper. The bill adds definitions for investment policy, supranational issuer, and United States government sponsored enterprises. Effective July 1, 2019.

Chapter 177

SB 123 **PUBLIC & PRIVATE CAREGIVER LEAVE ACTS (Padilla)** Creates the Caregiver Leave Act and the Public Employee Caregiver Leave Act. The new Act would require public and private employers to allow their employees to use accrued sick leave to care for "domestic partner," as defined in the Acts. The Acts would not apply to employees whose employers do not provide sick leave; provides that the term "sick leave" as used in the Acts does not include leave to which an employee is entitled through the federal Family and Medical Leave Act. SB 123 requires the Workforce Solutions Department (WSD) to promulgate rules implementing the Caregiver Leave Act, including grievance procedures that accord eligible private sector employees recourse for violations of the Act. SB 123 requires SPO to promulgate rules implementing the Public Employee Caregiver Leave Act, including grievance procedures, for state agencies covered by the Personnel Act. Effective July 1, 2019.

Chapter 181

SB 288 **SAFE SCHOOLS FOR ALL STUDENTS ACT (Soules)** Creates the Safe Schools for All Students Act (SSASA) within the Public School Code. The bill requires the Public Education Department (PED) to develop and promulgate rules for a model policy for local school boards on bullying prevention. The SSASA would require local school boards to adopt and enforce bullying prevention policies by January 1, 2020 and establish an annual bullying prevention program for students, to be included in New Mexico's health education content standards with benchmarks and performance standards. The SSASA also requires PED to issue guidance for bullying prevention programs and policies in accordance with the Act. Effective July 1, 2019.

Chapter 202

HB 291 **EFFICIENT USE OF ENERGY ACT CHANGES (Romero)** Current requirement to fund investor-owned utility energy efficiency (EE) and load management (LM) from a set amount of 3 percent of sales for electric utilities to a minimum of 3 percent and a maximum of 5 percent of sales, and changing funding for gas utilities from 3 percent to 5 percent, (2) removing the savings requirement for electric utilities of 8 percent of 2005 retail sales by 2020 and replacing it a savings goal of 5 percent of 2020 retail sales by 2025 based on program implementations between 2021 and 2025, directing the Commission to establish subsequent savings requirements in a rulemaking, raising the threshold for achievable savings that would be necessary for the Commission to lower the savings goal, (3) directing the Commission to approve a rate adjustment mechanism which decouples the revenue per customer from the quantity of electricity actually sold, upon petition by the public utility to identify and remove regulatory disincentives, (4) establishing that regulatory disincentives inhibit the development the utilities of EE and LM resources, (5) establishing that fair returns on common equity is vital to sustain investor-owned utilities' incentive to invest in EE and to prudently invest in electric service in New Mexico, (6) directing the Commission to not reduce a utility's return on equity based on the approval of a revenue decoupling mechanism or on profit incentives pursuant to the EUEA, and (7) preventing the Commission from adjust the discount rate for taxes when considering the lifecycle costs and benefits of EE and LM programs. Effective July 1, 2019.

Chapter 203

HB 370 **CRIMINAL RECORD EXPUNGEMENT ACT (Maestas, Romero, O'Neil)** House Bill 370 creates the Criminal Record Expungement Act. The act allows a person to petition for criminal record expungement to the appropriate district attorney, the Department of Public Safety, and the law enforcement agency that arrested the person if: wrongfully identified in arrest records or public records as a result of identity theft, arrested, indicted or charged for a crime; 2. they are released without conviction for a violation of a municipal ordinance, misdemeanor, or felony; 3. they are convicted of a violation of a municipal ordinance, misdemeanor, or felony, following the completion of the sentence and the payment of any fines and fees owed to the state for the conviction.

The court is required to conduct a hearing on the petition and to issue an order, where appropriate, within 30 days of the hearing that requires that all related arrest records and public records be expunged, provided the required showings and findings are made as required by the bill. The bill requires the court to deliver a copy of the order to all relevant law enforcement agencies and courts. The order is required to prohibit the law enforcement agencies and courts from releasing copies of the related arrest records and public records to any person, except upon an order of the court. The bill requires AOC and DPS to develop rules and procedures to implement the act, including procedures to notify the accused of the person's rights under the act. Under the bill, upon entry of an order to expunge, the proceedings are required to be treated as if they never occurred, and officials and the person who received the order to expunge may reply to an inquiry for records that no record exists with respect to the person. The bill repeals Section 29-3-8.1 NMSA 1978 governing petition to expunge arrest information of a misdemeanor or petty misdemeanor offense when the arrest was not for a crime of moral turpitude. In Section 5 (G), the amendment specifically excludes embezzlement from the records expungement law pursuant to 30-16-8 NMSA 1978. The HJC amendment strikes the original repeal section provisions and instead adds the repeal of 29-3-8.1 NMSA 1978, Identification of Criminals (Petition to expunge arrest information) and 31-26-16 NMSA 1978 of the Victims of Crime Act (Expungement from police and court records). Effective July 1, 2019.

Chapter 205

HB 694 **LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND (Ruiloba)** House Bill 694 creates the local government transportation project fund. The fund would contain appropriations from the Legislature for construction of local government road projects. HB 694 requires the secretary of the Department of Transportation (DOT) to submit a proposed list of local government transportation projects identified by the department's metropolitan planning organizations (MPO) and regional transportation planning organizations (RTPO) to the State Transportation Commission (STC). The STC is authorized to provide project grants up to 95 percent of project costs for selected projects, but may grant up to 100 percent of project costs should the local government obtain a hardship waiver from the Department of Finance and Administration. Effective July 1, 2019.

Chapter 208

HB 37 **NO LEDA FUNDS FOR WATER RIGHTS PURCHASES (Garcia, M.)** House Bill B37 amends the Local Economic Development Act (LEDA) to exclude the purchase or lease of water rights as a qualified use of LEDA appropriated funds. Effective July 1, 2019.

Chapter 209

HB 98 **FINGERPRINTS TO RENEW A BUSINESS NOT REQUIRED (Rehm)** Exempts the financial institutions division of RLD from the prohibition against additional fingerprints when it is utilizing the nationwide multistate licensing system and registry; Remove existing language in a section of the School Personnel Act that grants good faith immunity to those making reports required by that section of that Act, and also remove language granting the right to sue for negligent or intentional reporting of inaccurate information based upon such a report; Add a new section to the Uniform Licensing Act that provides that applicants who have submitted fingerprints as part of the initial license application do not have to submit fingerprints again to renew a license, but shall submit to a background investigation if required; and Extend the only-upon-initial-licensure or registration fingerprint requirement to psychologists, private investigators, real estate broker and real estate appraisers, and add language clarifying the state criminal history background check to be performed by Department of Public Safety for these last two types of licensees. Effective July 1, 2019.

Chapter 210

HB 157 **EMERGENCY COMMUNICATION & MEDICAL TAXES (Dow)** Directs revenue from "the county area and countywide emergency communications and emergency medical and behavioral health services taxes" may be used for an emergency communications center. The bill restores the language "emergency medical and behavioral health services" in the recurring phrase "County area emergency communications and [emergency medical and behavioral] health services tax revenue." Effective July 1, 2019.

Chapter 211

HB 342 **CRIMINAL JUSTICE REFORM (Maestas, Onasey, Rue, Martinez)** Amends Section 31-22-14 NMSA 1978 to remove the requirement the crimes covered by the act have to be reported to the police within 30 days. The amendments do not remove the current statutory requirement the application for reparation be made within two years after the relevant injury or death from a covered or designated crime. The amendment removes the reporting within 30 days waivers for victims of domestic violence, sexual assault, and for certain crimes against children reported to CYFD. The amendments also revise the Victim's Rights Section of New Mexico law (Section 31-26-4 NMSA) to require that victims be notified by the district attorney of the availability of and procedures to apply for crime victims reparation. The SPAC amendment also amends Section 31-22-7 which governs eligibility for reparation for victims. Amends proposed language so an order for reparation can be made whether or not someone is prosecuted or convicted of a crime if the crime is reported to police or reported from “to a medical or mental health care provider, victim counselor or other counseling provider” to “to a licensed medical, mental health or counseling provider or tribal health provider.”

Requiring the Behavioral Health Services Division (BHSD) of the Human Services Department (HSD) to, subject to appropriation, create, implement, and evaluate a framework of interventions for adult and juvenile offenders incarcerated in New Mexico to address offender’s needs while they are incarcerated and continue serving their needs upon release with the aim of reducing recidivism. Creates a new section of the Human Services Department Act to create a county funding program to assist counties in providing behavioral health services to individuals incarcerated in county correctional facilities. Expands limited immunity for those who seek medical assistance for someone experiencing a drug-related overdose to include alcohol overdose. Exempts property from forfeiture and adds certain immunities. The bill also provides similar protections for the person who is experiencing an overdose who seeks assistance.

House Bill 342 also creates the limited liability for those who seek medical assistance for someone experiencing alcohol- or drug-related overdose for a violation of the statutory provisions against selling or giving alcohol to minors. Amends the procedures for post-conviction consideration of DNA evidence by mandating a petitioner has prompt proceedings, that DNA samples shall be testing according to the DNA Identification Act and that the results of the testing shall be entered in in the FBI national DNA index system, and mandates that the Rules of Evidence and Rules of Civil Procedure of the District Court shall apply to proceedings. Changes the statutory eligibility requirements for preprosecution diversion so all that is required in statute is that the defendant have no prior felony convictions for violent crime and is willing to participate in the program and submit to program requirements while allowing the district attorney to set any additional requirements. Removes the mandatory reimbursement of costs presently in statute to participate in preprosecution diversion and makes removal from a program discretionary, rather than mandatory, for failure to comply with requirements of a program. Requires that a person shall be placed on parole only for a felony conviction when a person is sentenced of imprisonment of more than one year, unless the parties agree parole should be imposed. Amends the section of the Crime Victims Reparations Act on eligibility for reparations by broadening the language and including that the act or omission constituting a crime has been reported to a medical or mental health provider, victim counselor, or other counseling provider. Under present law, the report has to have been made to the police.

Additionally, the Crime Victims Reparation Commission would need to make a finding that the claimant or victim fully cooperated with the appropriate law enforcement agencies, as in present law, or, in the new language, that they acted reasonably under the circumstances. Creates the Accurate Eyewitness Identification Act, requiring criminal justice entities that conduct eyewitness identification procedures to adopt and comply with written policies for using eyewitnesses in live lineups or showups, or in a photo lineup. These policies must be provided to the secretary of Department of Public Safety (DPS), who shall make them public. The policies shall be biennially reviewed to incorporate new scientifically supported protocols. The policies must adopt practices shown by reliable evidence to enhance the accuracy of identification procedures, and include practices to enhance the objectivity and reliability of eyewitness identifications and to minimize the possibility of mistaken identifications. House Bill 342 also requires DPS to have training programs on these procedures. Requires the New Mexico Sentencing Commission to create fiscal impact statements for bills that create new crimes or repeal existing crimes for which imprisonment is authorized; increases or decreases the period of imprisonment authorized for an existing crime; imposes or removes mandatory minimum terms of imprisonment; or modifies the law governing release of inmates in such a way that the time served in prison will increase or decrease. The fiscal impact statement shall reflect the estimated change in annual operating costs for NMCD attributable to the bill if the bill were to become law. FISCAL IMPLICATIONS The behavioral health framework to be created, implemented, and evaluated by BHSD is to be subject to appropriation by the legislature; this bill does not include an appropriation for this purpose. The bill already creates a new section of the Human Services Department Act to create a county funding program to assist counties in providing behavioral health services to individuals incarcerated in county correctional facilities. It is unclear whether the bill is creating is creating a new fund or referring to existing programs like the Community Assistance and Community Services Block Grants administered by HSD for programs including assistance for food, housing, medicine, work, and education. Effective July 1, 2019.

Chapter 212

HB 407 **ELECTION LAWS 50 YEAR TUNE-UP (Trujillo, L., Gonzales, Anderson, Ivey-Soto)** House Bill 407 revises and repeals numerous existing provisions of New Mexico's election code, as well as adding new sections to other existing laws. It defines the term "statewide elections" as used in the code to mean primary and general elections as well as regular local elections. In the Local Election Act, enacted in 2018 as Chapter 79, the existing provision requiring annual local government assessments is removed, enacts the Recall Act, and directs the SOS to take certain actions to implement the changes made in the bill and authorizes the expenditure of money in the election fund, upon a finding of sufficient funding by the SOS, to reimburse local governments for transitional costs due to the implementation of the Local Election Act in FY19 and FY 20. Effective July 1, 2019.

Chapter 222

HB 43 **BEHAVIORAL HEALTH INTERVENTIONS (Stapleton)** House Bill 43 gives the Behavioral Health Services Division authority to serve individuals incarcerated in county facilities Effective July 1, 2019.

Chapter 224

HB 427 **MOTOR VEHICLE CODE OFFENSE PENALTIES (Hochman-Vigil, Alcon, Maestas)** Amends Section 66-5-30 of the Motor Vehicle Code to distinguish between driver’s license suspensions and “administrative suspensions.” The bill provides that the Motor Vehicle Division of TRD may issue an administrative suspension of a driver’s license if it is shown that the licensee has failed to fulfill a signed promise or notice to appear in court as required by law or a court, pay a penalty assessment within 30 days of issuance, or comply with the terms of a citation issued by a foreign jurisdiction that is a party to the Nonresident Violator Compact. Under existing law, those offenses are included among those for which MVD may suspend a license. See Sections 66-5-30(A) and 66-5-26 NMSA 1978. HB 427 amends Section 66-5-39 of the Code, which provides that a person who drives a motor vehicle when the person’s privilege to do so is suspended is guilty of a misdemeanor. The bill reduces the applicable criminal penalties by reducing imprisonment from between four and 364 days to not more than 90 days, and reducing the fine from not more than $1,000 to not more than $300. The bill deletes Section 66-5-39(C), which extends the period of suspension of driving privileges for up to one year after a conviction of driving with a suspended or revoked license.

HB 427 adds a new Section 66-5-39.2 to the Code, which provides that a person who drives when the person's privilege to do so is "administratively suspended" is guilty of a penalty assessment misdemeanor and may be punished in accordance with Section 66-8-116. The bill amends Section 66-8-116 to provide a $25 penalty assessment for violations of Section 66-5- 39.2. The bill amends Section 66-8-126 to provide that a violation of a person's written promise to appear in court given to a law enforcement officer upon issuance of a traffic citation is a penalty misdemeanor, and amends Section 66-8-116 to provide a $50 penalty assessment for violations of Section 66-8-126. Effective July 1, 2019.

Chapter 226

SB 190 **INTIMATE PARTNER VIOLENCE SURVIVORS SUFFRAGE (Ivey-Soto)** Senate Bill 190 creates the Intimate Partner Violence Survivor Suffrage Act in the Election Code. The Act provides for procedures under which a survivor of domestic violence who participates in the Confidential Substitute Address Program, Sections 40-13B-1 to -9 NMSA 1978, may, if eligible, qualified and certified, vote in statewide and special elections while all personal information relating to the voter remains confidential and not accessible to the public. Under SB 190, participants in the Confidential Substitute Address Program who are qualified voters would vote by mailed absentee ballots or mailed ballots. SOS would assign each voter participant a random identifier and a verification code for use on the ballots in place of the voter's identification and signature.

SB190 includes procedures for processing voter-participant ballots by the county clerks. SB190 requires SOS to maintain voter-participant registration records in a secured module. The registration records would not appear in the voter file or the county voter list and would not be accessible by any county user or the public. SOS also is required to maintain a register of voter participants, which would serve as a supplement to the applicable county register. In a court proceeding related to an election, SB190 allows the judge to permit in-camera inspection of a voter-participant's voter registration information and information related to participation in the Confidential Substitute Address Program. SB190 makes conforming amendments to the Confidential Substitute Address Act. Effective July 1, 2019.

Chapter 237

HB 501 **INCREASE CERTAIN PERA & ERB CONTRIBUTIONS (Trujillo, Cadenz, Stapleton)** House Bill 501 reduces the employer contribution increase from 0.5 percent to 0.25 percent for PERA and ERB employers. Effective July 1, 2019.

Chapter 240

HB 512 **FIREFIGHTER RETIREMENT SERVICE CREDIT (Martinez, Allison, Small, Madrid, H. Garcia)** House Bill 512 amends the Volunteer Firefighter Retirement act to allow a one-year period, through April 1, 2020, for a volunteer firefighter member to claim service credit earned for one or more years of service credit for years on or after January 1,1984. HB 512 requires claims of earned service credit be made on a notarized form prescribed by the retirement board with and signed by the mayor or city manager (municipal fire districts) or the chair of the board of county commissioners (county fire districts). Effective July 1, 2019.

Chapter 246

SB 173 **TRANSFER OF MUNICIPAL COURT JURISDICTION (Martinez)** Amends 35-14-1 NMSA 1978 by raising the population threshold that allows municipalities to determine whether the municipality should designate the magistrate court of the county as the court having jurisdiction over the municipal ordinances from a population of 1,500 persons to 10,000 persons. It also requires any designation to occur in places where the municipality is located within 25 miles from the nearest magistrate court. Effective July 1, 2019.

Chapter 250

SB 239 **ALLOW IMPOSITION OF LANDING FEES (White)** An airport facility that receives funds under the Aviation Act can now charge a landing fee for aircraft used in commercial activity or for any aircraft that weigh over 12,500 pounds. Effective July 1, 2019.

Chapter 253

SB 328 **ORDERS OF PROTECTION & FIREARM OWNERSHIP (White)** Senate Bill 328 makes the possession of a firearm or destructive device by any person subject to an order of protection or convicted of certain enumerated state or federal crimes a misdemeanor. The bill also makes it unlawful for the following persons to receive, transport, or possess a firearm or destructive device in New Mexico: Felons; A person subject to an order of; and Persons convicted of any of the following: battery against a household member, criminal damage to the property of a household member, a first offense of stalking, a crime listed in 18 U.S.C. The bill makes the relinquishment of firearms and the prohibition of acquiring firearms by restrained persons a mandatory requirement of any order of protection entered pursuant to Section 40-13-5 NMSA 1978 with no exception for individuals required to possess firearms by virtue of their employment. Effective July 1, 2019.

Chapter 270

HB 6 **TAX CHANGES (Trujillo, J., Martinez)** The Conference Committee Amendment makes personal income tax rate and bracket changes, bringing the top rate to 5.9 percent from the current 4.9 percent. The top rate is imposed on single filers and estates with taxable incomes over $210 thousand, on married filing jointly and head-of-household filers with taxable incomes over $315 thousand, and on married individuals filing separately with taxable incomes over$157.5 thousand. These changes are contingent on FY20 general fund revenues exceeding FY19 revenues by less than 5 percent. The rates and brackets would take effect January 1, 2021.

The amendment makes changes to the distributions from motor vehicle excise tax revenues in addition to increasing the rate from the existing statutory rate of 3 percent to 4 percent in the following ways: For FY20 and FY21, the general fund will continue to receive the existing 3 percent, and the additional 1 percent will be sent to the Department of Transportation for expenditures needed to mitigate the emergency road conditions related to activity in the oil field in state transportation commission district 2; and For FY22 and subsequent fiscal years, the general fund will receive 2.5 percent

(0.5 percent less than current statute), and the remaining 1.5 percent will be split equally between the state road fund and half to the local governments road fund.

Remote Sellers and Marketplace Facilitators. Taxes remote (Internet) sales immediately and then applies local GRT increments and moves to destination-based sourcing (sourcing at the location of the buyer rather than the seller) with a two-year delay (effective July 1, 2019 and July 1, 2021, respectively); The transition to destination-based sourcing is a significant change to the structure of the GRT and will require much preparation by the Taxation and Revenue Department and taxpayers. The bill distributes $24 million annually from the general fund to local governments in FY20-FY21 until the local increments are applied to remote sales Once destination sourcing take effect, all sales will have an in-state location, so current GRT transactions coded as out of state would be shifted into counties and municipalities (if inside municipal boundaries). Remote Sellers and Marketplace Facilitators. Taxes remote (Internet) sales immediately and then applies local GRT increments and moves to destination-based sourcing (sourcing at the location of the buyer rather than the seller) with a two-year delay (effective July 1, 2019 and July 1, 2021, respectively); The transition to destination-based sourcing is a significant change to the structure of the GRT and will require much preparation by the Taxation and Revenue Department and taxpayers. The bill distributes $24 million annually from the general fund to local governments in FY20-FY21 until the local increments are applied to remote sales Once destination sourcing take effect, all sales will have an in-state location, so current GRT transactions coded as out of state would be shifted into counties and municipalities (if inside municipal boundaries).

For the first two years, the state would capture all online sellers, but local GRT increments would not yet apply due to the time needed to switch over to destination-based sourcing, which would provide for these sales to be deemed to take place at the buyer's location instead of the "out-of-state" GRT coding. In order to provide local governments with a portion of this revenue stream for those two years, $24 million would be sent annually from the general fund to local governments, apportioned on a population basis. After these two years, GRT switches to destination-based sourcing, with all such sales deemed to take place at the buyer's location, and local increments would apply. Local governments should see a significant surge in revenues due to taxing the online sales the state currently taxes, taxing all the new online sales, and taxing other sales that are currently booked as out-of-state. Compensating Tax brings the state comp tax rates for services and tangible property into alignment and applies local government GRT increments to the compensating tax to equalize the rates (effective July 1, 2021); It is important to note that while generally, and for tangible personal property specifically, the sale location is determined by delivery location, professional services are an exception and are to be reported from the location at which the services are performed. Effective July 1, 2019.

Chapter 272

HB 234 **PUBLIC SERVICE OFFICERS & DETOX FACILITIES (Johnson)** House Bill 234 adds a definition of the term “public health service officer” as a “a civilian employee within a police department who is authorized by the police department to transport intoxicated or incapacitated persons to a treatment facility or detention center.” House Bill 234 would amend the Detoxification Reform Act (Section 43-2-2 NMSA 1978) to add to those authorized to request commitment of an alcohol- or drug-impaired facility to a detoxification facility. To the current list, which includes only physicians and police officers would be added "public service officers." "Public service officer" was not defined in the original bill, but the amendment adds the definition. Effective July 1, 2019.

Chapter 274
CS/HB 479 **DE-EARMARK LOCAL OPTION GROSS RECEIPTS (Harper, Chandler, Martinez J., Dow, Ivey-Soto)** House Bill 479 removes the restricted uses of a number of municipal and county local option gross receipts taxes. In doing so, a number of restricted local option rates are repealed in favor of increasing the unrestricted countywide local option rate from 7/16 percent to 1.25 percent, the unrestricted county remainder additional local option rate would be capped at .5 percent and the unrestricted municipal local option rate increased to 2.5 percent Effective July 1, 2019.

Chapter 275
SB 566 **LEGISLATIVE AUTHORIZATION OF TIDD BONDS (Ingle)** Senate Bill 566 amends the Tax Increment for Development Act (TIDA) to clarify existing statutes related to tax increment development districts (TIDDs) and to make a few changes. Existing statute requires legislative authorization in order for a TIDD to use a portion of the state gross receipts tax (GRT) increment, but this bill restructures the flow of the language to make that requirement clearer. The bill makes the following additional clarifications that likewise do not make any substantive changes from existing statute: The state GRT increment dedicated to a TIDD may only be used to secure GRT increment bonds and to pay the principal of, interest on, and any premiums due in connection with the bonds; If the state Board of Finance (BOF) adopts a resolution to dedicate a portion of the state GRT increment to a TIDD, it must make the dedication contingent on legislative authorization of the bonds for which the increment would be used – while this specific language did not previously exist in statute, the act already required legislative authorization, so this adds clarity to the process; The bill removes from the list of local GRT increments that can be dedicated to a TIDD a municipal increment that no longer exists in statute; The bill clarifies the timing of when the state GRT increment dedication shall be effective, noting it only becomes effective on specified dates (already in statute) following legislative approval of the bonds and notice to the Taxation and Revenue Department (TRD);

Chapter 276
SB 126 **LOCAL GOVERNMENT PRIMARY CARE CLINIC FUNDING (Papen)** Senate Bill 126 amends the Primary Care Capital Funding Act to allow local government-owned primary care clinics to be eligible for funding from the primary care capital fund (PCCF). Effective July 1, 2019.

Chapter 277
SB 280 **CAPITAL OUTLAY EXPENDITURES (Cisneros, Trujillo J.)** Authorizes $933 million, including $857.9 million from the general fund and $75.1 million from other state funds to fund capital outlay projects statewide. The bill contains an emergency clause and is effective April 5, 2019.

Chapter 278
SB 536 **APPROPRIATIONS & EXPENDITURES (Smith)** Appropriates a total of $30.3 million from the general fund to various state agencies and local governments for various purposes for expenditure in FY19 and FY20. The appropriation of $15.1 million contained in this bill is a nonrecurring expense to the general fund and $15.1

million is a recurring expense to the general fund any unexpended or unencumbered balance remaining at the end of Fiscal Year 2020 shall revert to the general fund unless otherwise indicated. Effective July 1, 2019.

Chapter 279

HB 548 **APPROPRIATIONS & EXPENDITURES (Lundstrom)** Appropriates a total of $30.4 million from the general fund to various state agencies and local governments for various purposes for expenditure in FY19 and FY20. The appropriation of $15.1 million contained in this bill is a nonrecurring expense to the general fund and $15.3 million is a recurring expense to the general fund. Effective July 1, 2019.

Chapter 280

HB 568 **CAPITAL OUTLAY REAUTHORIZATIONS (Trujillo)** Reauthorizes 111 capital projects authorized in previous years from various funds. As of January 2019, the unexpended balance for the projects was approximately $44.85 million. Reauthorizations of capital outlay projects range from changing the administering agency or the original purpose of the project, extending the reversion date, or expanding the purpose of the original project. The bill has an emergency clause and is effective April 5, 2019.

Resolutions & Memorials

HM 2 **BETTER HEARING & SPEECH MONTH (Stapleton) t**he governor be requested to designate the month of May 2019 as "Better Hearing and Speech Month" in New Mexico; and BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor and the New Mexico speech-language and hearing association. **Signed**

SM 144 **RELOCATION OF FIRE MARSHAL DIVISION OF PRC (Burt)** public safety and emergency services are critical to the health, safety and welfare of the people of New Mexico; and WHEREAS, the fire marshal division of the public regulation commission is responsible for providing communication, training, investigations, inspections, code adoption and funding to municipal and county fire departments in New Mexico; and WHEREAS, the fire marshal division is currently located within the public regulation commission, and the public regulation commission chief of staff is tasked with providing oversight for the division; and WHEREAS, the public regulation commission is responsible for regulating public utilities, including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies; including telephone, telegraph and information transmission companies and other public service companies, and there is no mention of the needed focus or support to ensure adequate fire services statewide; and WHEREAS, statewide representatives with technical and operational expertise about fire services should be actively engaged in determining the needs and objectives of fire services; and WHEREAS, the fire marshal division should be relocated either as a standalone entity or as an administratively attached entity in an appropriate state department; NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the New Mexico municipal league and New Mexico counties be requested to convene a working group to evaluate relocation options for the fire marshal division of the public regulation commission; and BE IT FURTHER RESOLVED that the working group be composed of representatives of the: A.

homeland security and emergency management department; B. department of public safety; C. office of superintendent of insurance; D. public regulation commission; E. fire marshal division of the public regulation commission; F. New Mexico fire chiefs association; G. fire and emergency managers affiliate of New Mexico counties; H. New Mexico state firefighters association; I. New Mexico emergency medical technicians association; J. New Mexico fire marshal's association; K. metropolitan fire chiefs association; and L. New Mexico professional firefighters association; and BE IT FURTHER RESOLVED that the working group be requested to report its findings and conclusions to the appropriate interim legislative committee by September 1, 2019; and BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the executive director of the New Mexico municipal league, the executive director of New Mexico counties, the secretary of homeland security and emergency management, the secretary of public safety, the superintendent of insurance, the chair of the public regulation commission, the director of the fire marshal division of the public regulation commission, the president of the New Mexico fire chiefs association, the president of the New Mexico state firefighters association, the president of the New Mexico emergency medical technicians association, the president of the New Mexico fire marshal's association, the president of the metropolitan fire chiefs association and the president of the New Mexico professional firefighters association. **Signed**

2019 Vetoed Bills

PV = Pocket Veto

HB 156	COUNTY CORRECTIONAL GROSS RECEIPTS USES (Dow)	Veto
HB 167/a	PERIODIC LICENSE PLATE REPLACEMENT (Ruiloba)	Veto
HB 192/a	FIVE FEET FOR PASSING BICYCLES (Rubio)	Veto
HB 200	WINDOW SUNSCREEN RESTRICTIONS	PV
HB 411	LOCAL TAX DISTRIBUTION DEFINITIONS	PV
HB 564	PROBATION & PAROLE PROCEDURES (Maestas)	Veto
CS/SB 55/a	NO LIMITATION FOR CRIMES AGAINST CHILDREN (Steinborn)	Veto
SB 148	FORMER OFFICERS AS SCHOOL SAFETY PERSONNEL (Brandt, Craig)	PV
SB 154/a	PUBLIC PROPERTY DISPOSITION ACT (Papen0	PV
SB 174	JURY AFFIDAVIT EXEMPTION IF OVER AGE 75 (Martinez)	PV
SB 306/a	WINE & BEER SALES & PRIVATE CELEBRATIONS (Smith)	PV
CS/SB 404	3 YEAR MEDICAL MARIJUANA CERTIFICATION (O'Neil)	PV
SB 494/a	BEER & WINE LICENSES	Veto
CS/SB 472	ENHANCED E911 CONSULTATION (Stefanics)	PV

New Mexico
Municipal
League

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/20/2019 **Report No:** 17.

Submitted By: April Jones

Subject: Appointments to Boards and Committees. *(Richard Boss, Mayor)*

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation: Appoint to the Mayor's Committee on Aging.

Background: **Airport Zoning Board.** One (1) city vacancy. Staff Liaison - Cheryl Otero-Baker
No applications received.

Mayor's Committee on Aging. Two (2) vacancies.One (1) of these vacancies may be filled by a county resident. Staff Liaison - Britney Courtier.
The following individual is interested in being appointed:
Chuck Keller - If appointed, this will be his first term

Mr. Keller was put on previous agenda under Senior Volunteer Programs Advisory Council (his second choice), he should have been on Mayor's Committee on Aging (his first choice).

Senior Volunteer Programs Advisory Council. Two (2) city vacancies. Staff Liaison - Neil McFarland.

If anyone is interested in serving on a board or committee you may apply with the City Clerk's office.

Application to serve on a Board/Committee

RECEIVED
SEP 03 2019
CITY CLERK

First Name	Chuck
Last Name	Keller
Address	1818 Puerto Rico Ave
City	Alamogordo
State	NM
Zip Code	88310
Phone Number	5204606980
Email Address	chuck@casakeller.com
Is the above address within City Limits?	Yes
Present Employer:	n/a
Board/Committee you would like to serve on (1st choice):	Mayor's Committee on Aging
Board/Committee you would like to serve on (2nd choice):	Senior Volunteer Programs Advisory Council
Are you related to anyone who is presently employed by the City of Alamogordo	No
If so, what is their relation to you?	*Field not completed.*
Are you related to an Elected Official of the City of Alamogordo?	No
Is so, what is their relation to you?	*Field not completed.*
Experience and education relating to the Board/Committee:	I have served on other boards/committees in Longmont, CO where we lived for 20 years. I am a senior with interests in senior issues. I have a BS in Geology from LSU. More recently I worked for United Health Care as a Medicare specialist.
Please indicate your interest in serving on a City Board/Committee:	I am retired and available

AGENDA REPORT
CITY OF ALAMOGORDO
CITY COMMISSION

Meeting Date: 9/24/2019 **Report Date:** 9/17/2019 **Report No:** 18.

Submitted By: Richard Boss

Subject: Recess into Executive Closed Session in compliance with 10-15-1(h)(2), NMSA (as amended) to discuss Limited Personnel Matters (City Manager). **(Roll Call Vote Required)**

Fiscal Impact:
Amount Budgeted:
Fund:

Additional Fiscal Impact:

Recommendation:

Background: